



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 100/934/2018
MA 100/9/2020
MA 100/1023/2018

New Delhi, this the 10th day of January, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Vaibhav Singh, aged 38 years
S/o Shri Virendra Singh
Presently working as Director, Testing
RDSO, Lucknow,
R/o No.2/86, Vishwas Khand
Gomtinagar, Lucknow ... Applicant

(Through Shri Yogesh Sharma, Advocate)

Versus

1. Union of India through the Secretary,
Ministry of Railway, Rail Bhawan,
New Delhi
2. The Member (Rolling Stock)
Railway Board, Rail Bhawan,
New Delhi
3. The Chief Administrative Officer,
Central Organization for Modernization of Workshops,
Railway Offices Complex, Tilak Bridge,
New Delhi
4. The Chief Mechanical Engineer
Central Organization for Modernization of Workshops,
Railway Offices Complex, Tilak Bridge,
New Delhi ... Respondents

(Through Shri S.M. Arif with Ms. Shabnam Perween, Advocates)



ORDER (Oral)

Justice L. Narasimha Reddy, Chairman

The applicant is working as Deputy Chief Mechanical Engineer in the Central Organization for Modernization of Workshops. In the year 2015-16, he was attached to the organization for Modernization of Workshops, one of the units of the northern railway. In the APAR for the year 2015-16, he was graded as 'Good', which is below the benchmark, for the purpose of promotion. When it was communicated to the applicant, he made a representation to the competent authority with a request to upgrade the APAR. The same was rejected through order dated 7.04.2017 by the Chief Administrative Officer, third respondent herein. This OA is filed challenging the order dated 7.04.2017 as well as the APAR for the year 2015-16.

2. The applicant contends that the third respondent is not only the reviewing authority but also the accepting authority for the APAR of the relevant period and there was absolutely no basis for him to function as the competent authority. He



submits that the exercise undertaken by the respondents in this behalf is illegal.

3. We heard Shri Yogesh Sharma, for the applicant and Shri S.M. Arif, for the respondents.

4. It is fairly well known that in the context of writing APAR, there exist three independent authorities namely the Reporting Officer, the Reviewing Officer and the Accepting Authority. It is only in rare cases that one officer can discharge two functions, may be on account of the post being vacant or his holding another post as in charge. The APAR of the applicant was graded as 'Good' and as provided in law, he made a representation for upgradation thereof after it was communicated.

5. Invariably, the competent authority is the one, who is superior to the accepting authority. Assuming that the 3rd respondent is the highest authority in the establishment, the representation ought to have been considered by someone in the Railway Board or Ministry. There was absolutely no basis for the 3rd respondent in functioning as the competent authority, particularly when he has already acted as reviewing and accepting authority. If such a course is permitted, the entire exercise becomes futile.



6. We, therefore, allow the OA and set aside the impugned orders. The representation made shall be dealt with by a competent authority, who shall be superior to the third respondent. It is needless to mention that the competent authority shall call for the comments of the reporting authority and the reviewing authority and pass a detailed order on a consideration of the same, within a period of two months. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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