

Central Administrative Tribunal
Principal Bench

OA No. 1489/2018

New Delhi, this the 28th day of January, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)

Smt. Amita Singh, aged 56 ½ years,
w/o Dr. Sh. Raju Singh,
working as Senior Architech in CPWD,
posted in the office of ADG(Arch.), N. Delhi
r/o D-II/45, AIIMS Campus,
Ansari Nagar (East), New Delhi - Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through
the Secretary,
Ministry of Urban Development,
Govt. of India, Nirman Bhawan,
New Delhi
2. The Director General,
Central Public Works Department,
Nirman Bhawan, New Delhi
3. The Deputy Director (Admn.-II)
Central Public Works Department,
Nirman Bhawan, New Delhi - Respondents

(By Advocate: Shri R.K. Sharma)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy:

The applicant was working as Sr. Architect in the CPWD in the year 2011. Before 2011, she was working at Lucknow and on that date, she was transferred to Delhi. It is stated that she submitted self-appraisal for the period from 01.04.2011 to 31.03.2012 after she joined at Delhi, but the concerned authority has evaluated her APAR only from 01.01.2012 onwards. In the year 2014, promotion on Non Functional Upgradation has taken place. In the course of evaluation, of the APARs, of the applicant, it was noticed that her APAR for the period from 01.04.2011 to 30.11.2011 was not there on record. Accordingly, she was permitted to submit her self-appraisal.

2. When the applicant submitted the self appraisal, the Reporting Authority (RA), who was working at different place, has assessed her at 'Average'. The Reviewing and Accepting Authorities, who worked at the relevant point of time, retired, and endorsement to that effect was also made. The applicant is said to have been

denied the benefit of NFU on account of APAR being assessed as 'Average'.

2. The applicant submitted a representation to the competent authority on 11.08.2017, with a request to upgrade her APAR for the period from 01.04.2011 to 30.11.2011. That was rejected through order dated 01.09.2017 on the ground that the applicant did not submit the representation within the stipulated time. It was mentioned that the APAR of the applicant was uploaded on 17.09.2014 and since the representation was not made within 15 days from that date, it is rejected. This OA is filed, challenging the order dated 01.09.2017 and claiming other consequential benefits.

3. The applicant contends that her APAR was incomplete since it was not dealt with by the Reviewing and Accepting Authorities, and it ought to have been ignored. It is further stated that even if the APAR is to be treated as 'Average', it was required to be communicated in view of the judgment of the Hon'ble Supreme Court in the **Dev Dutt vs. UOI & Ors.**(2008)8 SCC 725 and mere uploading does not constitute a compliance.

4. The respondents filed a counter affidavit, opposing the OA. It is stated that the APAR of the applicant was uploaded in the year 2014 itself and in case she wanted to make a representation for upgradation, it ought to have been filed within 15 days. It is also stated that the prescribed procedure was followed at every level and that the impugned order does not suffer from any illegal or factual infirmities.

5. We heard Shri Yogesh Sharma, learned counsel for the applicant and Shri R.K. Sharma, learned counsel for the respondents.

6. The entire dispute is about the APAR of the applicant for a period from 01.04.2011 to 30.11.2011. During that period, she worked at Lucknow. For the remaining part of the year, her APAR was evaluated by the authorities at Delhi, and she had no grievance about it. By the time, the applicant submitted her self-appraisal for the period referred to above, the Reviewing as well as Accepting Authorities, who worked at the relevant point of time, retired. It was only the Reporting Authority, who was working at a different place, had made evaluation of APAR of the applicant as 'Average'. It

is below the benchmark for the purpose of extending the benefit under NFU. Therefore, the respondents were under obligation to communicate the same to the applicant as directed by the Hon'ble Supreme Court in Dev Dutt's case (supra). Admittedly, the APAR was not communicated to the applicant. They take shelter under the so-called uploading of the APAR. Even further, what was uploaded, is an incomplete information and did not reflect the gradation. It is a requirement under law, to communicate the below benchmark APAR. Mere uploading of the information does not suffice.

7. The applicant made a representation, once she came to know that her APAR was assessed as below benchmark. The competent authority was under obligation to consider the representation by filing remarks of the Reporting as well as the Reviewing Authorities. There are also settled principles, as to the manner in which, the APAR, that is not dealt with by the Reviewing and Accepting Authorities, is to be treated.

8. We, therefore, allow the OA and set aside the impugned order. We direct the competent authority to pass orders on the

representation of the applicant, seeking upgradation of APAR, in accordance with law, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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