

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2292/2001

New Delhi this the 8<sup>th</sup> day of November, 2002.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI M.P.SINGH, MEMBER (A)

Tushar Ranjan Mohanty  
S/o Shri Rabi Narayan Mohanty  
R/o Qr.No.38, Type -IV, Sector 3  
Sadiq Nagar  
New Delhi-110049.

...Applicant

(None )

-versus-

Union of India  
Through the Secretary  
Ministry of Statistics and Programme  
Implementation  
Sardar Patel Bhawan, Sansad Marg  
New Delhi-110001.

.....Respondents

(By Shri N.S.Mehta, Advocate)

O R D E R

JUSTICE V.S.AGGARWAL:-

Applicant (Tushar Ranjan Mohanty), by virtue of the present application, seeks setting aside of the letter of the Ministry of Statistics and Programme Implementation dated 20.6.2001 and for directing the respondents to upgrade his Annual Confidential Report for the year 1991-1992 from 'Very Good' to 'Outstanding' in terms of the judgement of the Supreme Court in the case of U.P.Jal Nigam vs. Prabhat Chandra Jain, 1996 (1) SCALE 624.

2. Applicant is a member of the Indian Statistical Service and had been appointed in Grade-IV

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of the Service as a direct recruit in 1981. From October 1989 to August 1991, he was posted as Assistant Director, National Accounts Division, Central Statistical Organisation. It is contended that for the year 1991-1992, his grading had been made 'Very Good'. He had filed OA No.451/2000 for directing the respondents to upgrade the grading of the Annual Confidential Report for the year 1991-92 from 'Very Good' to 'Outstanding'. While disposing of the said original application, it is contended that this Tribunal had directed:-

"Applicant's ACR for the year 1990-1991 and 1991-1992 shall be communicated to him within 2 months from the date of receipt of a copy of this order. If he files any representation regarding the downgrading of his remarks for the period 1991-1992, the same shall be disposed of within three months of its receipt. If as a result of such disposal there is any change in applicant's ACR for the year 1991-92 respondents shall consider reviewing the promotion order dated 31.08.98 to the extent that it affects applicant, in accordance with rules and instructions on the subject."

The applicant had made a further representation on 29.11.2000 that the matter should be disposed of by the proper authorities as per the prevalent rules. Subsequently, a contempt petition even was filed wherein a direction was issued that his representation should be disposed of. The grievance of the applicant is that the downgrading of his Annual Confidential Report is illegal and accordingly, the present application has been filed.

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3. In the reply filed, the application has been contested. It has been pointed that the issue of upgradation of the Annual Confidential Report of the applicant had been raised by him in the various applications. The same had been disposed of by this Tribunal vide various orders. OA No.2292/2001 had been filed in which the same relief had been claimed. The said application was dismissed and, therefore, the present application is barred by the principle of res judicata. The same plea cannot be allowed to be raised. It is denied that the applicant is entitled to the upgradation of his Annual Confidential Report and in this regard in seriatim as given by the applicant, details have been given of the various applications that have been filed.

4. When the matter as such had been listed, none appeared on behalf of the applicant. In these circumstances, we did not have the advantage of hearing the applicant but keeping in view the availability of facts, we deemed it appropriate not to list the matter again.

5. Perusal of the record reveals that the applicant had preferred OA No.451/2000. He was seeking a direction for upgradation of his Annual Confidential Report for the year 1991-1992. The relevant portion of the directions given by this Tribunal has already been reproduced above. The

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applicant had also preferred OA No.2816/1999 which was decided by this Tribunal on 27.11.2001. While disposing of OA No.2816/1999 referred to above, this Tribunal indeed had taken note of the decision rendered in OA No.451/2000 because the same had been decided earlier. Thereupon, the contention that his Annual Confidential Report for the year 1991-92 should be upgraded had been rejected holding:-

"15. Thus the question of upgrading of applicant's ACR entries for 1991-92 from Very Good to Outstanding has already been adjudicated and disposed of by the Tribunal's order dated 17.11.2000 and cannot again be agitated in the present O.A. Applicant also cannot at this stage claim upgrading of any other ACR entries from the relevant period 1989-90 to 1990-94, not having pressed such a claim earlier. Both these claims in the present O.A. are hit by Res Judicata/Constructive Res Judicata in view of the provisions of Order 2 Rule 2 CPC and Section 11 Explanation IV CPC. We are supported in our view by the Hon'ble Supreme Court's ruling in Commissioner of Income Tax, Bombay vs. T.P.Kumaran ATJ 1996 92) Page 665."

6. When the said contention had been considered and decided and the prayer had been so rejected, we find no reason to again go into the same controversy. As held above by this Tribunal, it has only to be repeated that it should be barred by the principle of res judicata.

7. Pertaining to the question of deciding the representation as had been directed by this Tribunal on the earlier occasions, the applicant himself has placed on the record the reasons given for rejecting

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his representation and we take liberty in reproducing the relevant texts of the same which are:-

"4. The Principal Bench of the CAT had directed that mention shall be made of applicant's acquisition of Bachelor of Law Degree and about his participation in the training programme in LSE, London, giving brief particular of the same at the appropriate place in the applicant's ACR. It is observed from the ACR of Shri T.R.Mohanty for the year 1991-92 that in Part-I the fact of his holding the L.L.B Degree and the Certificate on the Course of Computer Programming had been mentioned at the appropriate place. Additionally, in Part II of the report, Shri Mohanty had himself mentioned against column (3) that:

"Sponsored under Colombo Plan to UK for M.Sc.in Social Policy and Planning in Developing Countries at the London School of Economics, London."

5. The fact of his being sponsored under the Colombo Plan to UK, as mentioned by Shri Mohanty in his ACR for 1991-92, has been noted and accepted by the Reporting Authority in Part III of the ACR for 1991-92 and hence this particular direction of the Principal Bench of a the CAT already stands implemented.

6. It has been found that there is no change in the gradings accepted/given by the Reviewing Officer in respect of ACRs of Shri T.R.Mohanty (ISS) for the years 1990-91 and 1991-92. The gradings have not fallen below the 'Bench Mark' prescribed for promotion to JAG level posts."


In other words, the directions have been complied with and it has been held already that the applicant is not entitled to the upgradation of his Annual Confidential Report for the year 1991-92. As a result thereto, at this stage, the applicant is not entitled to the relief claimed.


8. Application being without merit must fail

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(21)

and is dismissed. No costs.

  
(M.P. SINGH)  
MEMBER (A)

  
(V. S. AGGARWAL)  
CHAIRMAN

/sns/