

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1992/99

New Delhi this the 17th day of February, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN

Shri M.M. Singh,
S/o Shri Kedar Narain Singh,
Dy. Director (Admn.),
CPWD, Nirman Bhavan,
New Delhi-110 001.

...Applicant

(By Advocate Shri K.K. Rai)

-Versus-

1. Union of India,
through its Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi-110001.

2. Shri A.P. Sinha,
Managing Director,
Maharashtra State Tourism Development
Corporation Ltd., 9th Floor,
Express Towers, Nariman Point,
Mumbai.

...Respondents

O R D E R (ORAL)

The only question that is involved in this case is, whether the adverse entries made in the ACR for the year 1996-97 of the applicant, are unsustainable. The applicant made a representation against the adverse entries on 23.3.98 but the same was rejected by the order dated 11.1.99 (A-2).

2. Learned counsel for the applicant contends that the adverse entries are baseless and unreasonable and not supported by any previous comments or a memo and are, therefore, liable to be expunged. He also contends that the respondents ought to have supplied the remarks made by the reporting officer. Learned counsel for the respondents is absent. However, the departmental representative has produced the records.



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3. I have heard the learned counsel and perused the records.

4. A perusal of the adverse entries communicated to the applicant makes it clear that the reviewing officer has made certain adverse remarks against the applicant. The reviewing authority has disagreed with the report of the reporting officer and certain remarks were passed adverse against the applicant. After considering the representation made by the applicant the competent authority rejected it.

5. The comments of the reporting officer as well as reviewing officer are made available. I have also seen the records. The representation made by the applicant was sent to the reporting officer and the reviewing officer. I have also seen the Note sent by the reporting officer and the letter sent by the Reviewing Officer. In his letter dated 24.12.98 the reviewing officer has considered the representation and made his comments exhaustively. The competent authority having considered all the relevant material on record rejected the representation made by the applicant for expunction of the adverse remarks. It is not open for this court to consider the validity or otherwise of the remarks made by the reviewing officer or whether there is sufficient material in support of the same. Admittedly, the applicant used to be in touch with the reviewing officer regularly. Hence the reviewing officer has sufficient opportunity to assess the work of the applicant. No material is placed before me to demonstrate that the entries are wholly inconsistent or untenable. It is also

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not open to the applicant to look into the comments made by the reporting officer or the reviewing officer to the representation of the applicant since they are confidential in nature and intra-departmental proceedings.

6. It is contended that the order dated 11.1.99 is a non-speaking order and passed after considerable delay. I have looked into the records and found that the representation made by the applicant has been thoroughly considered and rejected by the competent authority. In Union of India v. E.G. Nambudri, AIR 1991 SC 1216 it was held that reasons for rejecting representation against adverse remarks need not be recorded or communicated but if such a decision is challenged before a court of law, the reason for decision have to be placed before the Court.

7. The decision in State of Haryana v. P.C. Wadhwa, AIR 1987 SC 1201 is wholly inapplicable to the facts of the case. In the above case question of communication of the adverse remarks came up for consideration and it was held that the adverse remarks should be communicated without an inordinate delay. In the instant case this question of communication of adverse remarks did not arise. In N. Pandian v. The Director General Ordnance Factories (CAI: Madras), 1989 (1) SLR 706 it was held that the reviewing officer could not sit in judgement and dispose of the representation of the Government servant, even though it was addressed to him. It has to be examined by the superior authorities in accordance with the instructions. Hence, the order rejecting the representation against the adverse remarks

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was held not proper. In the instant case there was no grievance that the reviewing officer himself had considered the representation and rejected. The competent officer after considering the comments made by the reporting officer as well as reviewing officer rejected the representation. In the circumstances the decisions cited by the learned counsel have no application to the case in hand.

8. Mere delay in disposing of the representation by the order dated 11.1.99, in the absence of any prejudice shown to the applicant, would not vitiate the order. No decision is shown to the contra.

9. As to the allegation of malafides against the reviewing officer, I am not satisfied that the applicant had made out malice against the reviewing officer. The views of the reviewing officer are not amenable to judicial review unless the remarks made by him are shown to have been made arbitrarily and maliciously. No such material is placed before me.

10. The O.A., therefore, fails on all counts and is accordingly dismissed. No costs.

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman (J)

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