

Central Administrative Tribunal
Principal Bench

O.A. 3/98

New Delhi this the 25th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

M. S. Mandhaiya,
S/o Shri Harphul Singh,
Embassy of India,
Tashkent,
C/o Min. of EA/New Delhi-11. **Applicant.**

(By Advocate Dr. D.C. Vohra)

Versus

1. Union of India through
the Foreign Secretary
to the Govt. of India,
C/o Ministry of External Affairs,
South Block,
New Delhi-110011.
2. The Director (CNV)/Jt. Secy (CNV),
Ministry of External Affairs,
South Block,
New Delhi-110011.
3. Head of Chancery
Embassy of India,
Tashkent C/o Ministry
of External Affairs,
South Block,
New Delhi-110011. **Respondents.**

(By Advocate Shri N.S. Mehta, Sr. Counsel)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has impugned the validity of the memorandum passed by the respondents dated 8.9.1995 and 13.10.1997 (Annexures A-I and A-II). While the applicant was working as Section Officer in the Embassy of India at Washington, he had been conveyed certain adverse remarks in his Confidential Report for the period from September, 1993 to March, 1994. He made a representation to the competent authority dated 27.2.1995 to which the aforesaid memo. dated

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8.9.1995 was issued by the respondents. Para 2 of the memo dated 8.9.1995 reads as follows:

"In case he wishes to represent against this decision he can submit a memorial to the President. Such memorial should be submitted through Foreign Secretary, within six months of the date of issue of this memorandum".

2. According to Dr. D.C. Vohra, learned counsel, as the applicant was not sure whether the Memorial to the Hon'ble President, as advised by the respondents was necessary under the Rules, he had sought certain clarifications from the respondents. Finally, without getting any further clarification to the advice given by the respondents in their memo dated 22.9.1995, he decided to submit a Memorial to the President of India vide his letter dated 20.5.1997 praying for an order to be issued by him to the concerned authorities in the Ministry of External Affairs to expunge the adverse remarks in his ACR for the period, in question, between the years 1993 and 1994. Thereafter, the respondents have issued memo dated 13.10.1997. Para 2 of this Memorandum reads as follows:

"Shri Mandhaiya may please note that the final order of the Ministry has already been conveyed to him vide Director (CNV)'s note of even number dated 22.9.95. He is also advised to note that any further request in this regard will not be entertained".

3. From the above facts, it is, therefore, seen that even after the applicant had submitted his Memorial to the President of India, as advised by the respondents, instead of placing the papers before the President, i.e. the concerned Minister, the respondents have merely given a reply to the applicant placing him in the same position as

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he was in September, 1995, namely, advised him to submit his Memorial to the President. The last sentence in the memorandum dated 13.10.1997 would appear to be otiose in view of the earlier reference to memorandum dated 22.9.1995.

4. In the above facts and circumstances of the case, O.A. is disposed of with a direction to the respondents to place the facts of the case before the competent authority, i.e. the President, as already advised by them, for appropriate decision as early as possible. The same shall be conveyed to the applicant by a reasoned and speaking order. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'