

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1755/1996

New Delhi, this 1st day of March, 2000.

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

L.S.Nimbal
Assistant, Dte. of Naval Architecture
Sena Bhavan, New Delhi .. Applicant

(By Shri K.B.S.Rajan, Advocate - not present)

versus

Union of India, through

1. Joint Secretary(Trg) & CAO
Ministry of Defence
C-II Hutmants, Dalhousie Road
DWQ Post Office, New Delhi
2. Director of Naval Architecture
Naval Hqrs. Sena Bhavan
New Delhi .. Respondents

(By Shri J.S.Joshi, Deptl. Representative - not present

ORDER(oral)

Hon'ble Smt. Shanta Shastry

Neither the applicant nor his counsel is present.

On behalf of respondents Shri Trilochan Rout, SAO is present. Since the matter pertains to 1996, we proceed to dispose of the same on merits after perusing the pleadings on record.

2. The applicant has approached this Tribunal against order dated 25.7.1996 whereby the applicant has been reverted to the post of UDC on the ground that he has not been found fit for removal from probation by the competent Departmental Promotion Committee (DPC for short).
3. The applicant, a scheduled caste, was promoted to the post of Assistant on 1.4.1992 in the office of the

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Director of Naval Architecture, New Delhi. As per the extant rules, he had to undergo probation for a period of two years. His probation period ended on 20.4.1995. His probation period was extended by one more year with effect from 21.4.1995 vide order dated 28.9.1995. Thereafter again since his performance during the extended period of probation was not found satisfactory, the applicant has been reverted.

4. The applicant submits in the OA that in the year 1994-95 the reporting as well as the reviewing officer had given mixed reports. While the applicant was described as "a very intelligent and capable Assistant. He can be an asset if he only becomes punctual", further adverse remarks were that "he is a habitual absentee and has been warned both verbally and in writing". These were communicated to him vide memorandum dated 8.6.1995. The applicant had given his representation on 12.7.1995. The same was considered and rejected on 11.9.95. Further adverse remarks contained in the assessment report for the extended period of probation were communicated to him on 16.7.96 and he represented against the same on 12.8.96. His explanation was not accepted and the representation was rejected on 3.9.96. The applicant has pleaded that he was made a victim of erroneous circumstances under which the applicant had to take frequent leave. The applicant has also pointed out that the authorities had started harassing him by issuing memos even for minor lapses and for inadvertence. In the meantime before he could represent against the adverse remarks, he was served

with one month's notice dated 25.7.1997 for reversion from the grade of Assistant in AFHQ Civil Services (Group 'B' non-gazetted) to the grade of UDC in the AFHQ Civil Services with effect from the date of expiry of the period of one month.

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5. The applicant approached this Tribunal for interim relief against the show cause notice of reversion dated 25.7.1996. The Tribunal granted interim relief not to revert him. Thereafter when the Tribunal vacated the interim relief by order dated 16.9.1996 on the ground that the representation of the applicant dated 12.8.1996 had been disposed of by order dated 3.9.1996, he was

reverted on 20.9.1996.

6. The departmental representative on behalf of the respondents has submitted that the action of the respondents is strictly according to the rules governing probation period of the employees. The applicant was promoted from the grade of UDC to Assistant on 21.4.1993 and he was placed on probation for a period of two years, As per Rule 13(2) of the AFHQ Civil Services Rules, 1968. On expiry of the said period, the DPC recommended extension of probation by one year as provided for under Rule 13(3) of the said rules based on his record of service including the ACR for the year 1994-95. His probation was extended with effect from 21.4.1995 for a period of one year. The DPC met again on 16.7.1996 to consider the case of the applicant for removal of the probation period from the date of the expiry of the extended period. However based on record of service of the applicant including the Assessment Report for the extended period, i.e. from 21.4.1995 to

20.4.1996, the DPC assessed the applicant as unfit for removal of his probation period and therefore one month's notice was issued to the applicant that he would stand reverted to the grade of UDC on expiry of one month from the date of receipt of the notice.

(A)

7. The departmental representative made available the relevant confidential reports and the assessment report of the applicant. He submits that after considering the representation of the applicant against the show cause notice the decision to revert was confirmed. According to the departmental representative the applicant was found to be a habitual absentee ever since he was posted to Naval Headquarters in January 1993. In spite of extending his probation period he had not shown any improvement.

8. We have perused the confidential reports and the assessment report. We note that the DPC has rightly adjudged the applicant as not fit to continue him in probation further. It is not only that the applicant has not been punctual but there are adverse remarks about his actual work also. He has also been served with memos and show cause notice for indifferent work. The applicant's representation dated 12.8.1996 against adverse remarks in the assessment report was considered by the respondents and the same was rejected as not meriting deletion or modification of the remarks made by the reporting/reviewing officer vide letter dated 3.9.1996.

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9. According to the rules the probation period is of two years. According to Rule 15(3) a probationer who is not considered suitable for confirmation at the end of the period of probation prescribed in sub-rule (2) of rule 13 or at the end of the extended period of probation, if any, under sub-rule (3) of that rule shall be reverted to the next lower grade. The respondents gave reasonable opportunity to the applicant by extending his period of probation for one more year to show improvement in performance. But even during the extended period the applicant did not show any improvement. Therefore, the respondents have rightly reverted the applicant in accordance with the extant rules. The applicant has no case. We do not therefore find any merit in the OA and the same is dismissed. We, however, do not order any costs.

Shanta Shastray
(Smt. Shanta Shastray)
Member(A)

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

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