

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 94 of 1997 decided on 25.11.1997

Name of Applicant: Smt. Ragini

By advocate: Shri B.S. Mainee

Versus

Name of Respondents: UOI THROUGH GM NORTHERN RAILWAY & Ors

By advocate: Shri O.P. Kshatriya

Coram

Hon'ble Mr. N. Sahu, Member (A)

1. To be referred to the Reporter or not?

2. Whether to be circulated to other Benches of the Tribunal?

(N. Sahu)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.94 of 1997

New Delhi, this the 25th day of November, 1997

Hon'ble Mr. N. Sahu, Member (Admnv)

Smt. Ragini, W/o Shri Ashok Kumar,
Confidential Assistant, under Chief
Administrative Officer (FOIS), Northern
Railway, Tilak Bridge, New Delhi. - APPLICANT

(By Advocate - Shri B.S. Mainee)

Versus

Union of India through :

1. The General Manager, Northern Railway,
Baroda House, New Delhi.

2. The Chief Administrative Officer
(Construction), Northern Railway,
Kashmere Gate, Delhi.

3. The Deputy Chief Personnel Officer,
Headquarters' Office, Northern Railway
Baroda House, New Delhi.

4. Shri V.P. Kaushik, Senior Civil Engineer
(Survey), Northern Railway, Tilak Bridge
New Delhi.

5. Shri M.K. Garg, Dy. Chief Engineer (Survey),
Northern Railway, Tilak Bridge,
New Delhi. - RESPONDENTS

(By Advocate - Shri O.P. Kshatriya)

J U D G M E N T

By Mr. N. Sahu, Member (Admnv) -

This Original Application is directed
against the communication dated 23.7.1996
(Annexure-A-1) issued by the Deputy Chief Personnel
Officer conveying the following remarks -

"Section-I :-

1. Character and habits to include comments on : -
(a) Attendance - Punctuality needs the
improved(sic)

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Section-II :-

1. Do you agree with the assessment of the officer given by the Reporting Officer?

The employee is slow in typing.

2. General remarks with specific comments about the general remarks given by the reporting officer and remarks about the meritorious work of the officer including the grading :-

The employee does not take initiative i.e. to learn typing on computer (word pronouncing) the employee never made efforts even after insisting. The employee is not punctual and takes too much time in typing the work. Technical vocabulary is also average."

A representation against the same was rejected vide order dated 27.11.1996 (Annexure -A-2).

2. The applicant worked from 24.8.1995 as Confidential Assistant in the Office of the Deputy Chief Engineer (Survey), Northern Railway, Tilak Bridge. She contests the above remarks on the ground that those remarks were motivated by bias. She alleges that because she spurned the sexual advances of Shri V.P.Kaushik, Senior Civil Engineer (Civil) under whom she worked these adverse remarks were written. Secondly, she states that no written warning was communicated to her before the adverse remarks were recorded. She next states that other favourable remarks in the CR were not communicated to her. She alleges that the appellate authority did not apply his mind before rejecting her representation.



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3. The respondents state that she was irregular in attendance and left the office early without permission. They state that she was several times warned verbally. The attendance register, extracts of which were filed showed that she came habitually late. She took considerable time in typing. She was issued two letters for improving herself - No.52-E/Survey/TKJ dated 27.5.1996 and No.52-E/Survey/TKJ dated 27.5.1996 (Annexures R-V and R-VI). With regard to the alleged sexual advances of Shri V.P.Kaushik Senior Civil Engineer it is stated that the Deputy Chief Engineer Survey made all the adverse entries and Shri V.P.Kaushik recorded only an adverse entry on punctuality stating "needs to improve punctuality". In fact an enquiry was conducted against the allegations made by her about the alleged attempts of Shri Kaushik. This enquiry was conducted by the Chief Engineer Survey, Tilak Bridge through Assistant Engineer Survey. The Deputy Chief Engineer also himself enquired from the office staff and other class-IV employees. They found no truth in the allegations of the applicant. She was accordingly warned. Her deficiencies in typing were noticed by the Chief Engineer Survey who dictated two letters to her Annexures R-VII and R-VIII when he visited the Office of the Deputy Chief Engineer Survey. A warning letter was issued to her under his instructions. As regards her complaint that she was intentionally excluded from two batches of training for computer program, in the counter it is stated as under -



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"4.24. The averments as made in this para are wrong and denied. This is not correct as her name was sent to Dy CPO/Const, Kashmere Gate, Delhi for computer training vide letter No.23-E/Survey/TKJ dated 19.10.95 (Annexure R-X). But on her verbal refusal, giving the reason that working on computer put strains on her eyes, Dy CPO/C was told at the last moment to cancel her name. Even CE/C(Survey) told her many times to learn computer. Moreover she was told to start typing on computer with the guidance of her office colleagues Shri Tilak Raj, Head Typist and Sanjay Aggarwal, Head Estimator, who used to work on computer. But she never tried to work with the aim to shirk away from the work. As a result, Dy CE/Survey had to dictate many letters to Shri Tilak Raj while sitting on computer monitor. It is worthwhile to mention here that these employees started working on computer without any basic training since July, 95. Of course, to further increase their computer knowledge, they were given systematic training in computer training institute later on."

4. In the rejoinder filed, the applicant denied that she had ever refused. In the additional affidavit the respondents have stated that the applicant was in the habit of availing leave without permission of the competent authority and then applied external political pressure to get her leave sanctioned for which she was warned by letter dated 17.9.1990. The warning clearly shows that she violated Rule 20 of the Railway Servants (Conduct) Rules, 1966 because she ventilated her grievance through a Member of Parliament. It is also mentioned that she refused to accept this warning letter.



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5. I have carefully considered the rival submissions. The learned counsel for the applicant has taken great pains to argue that in a case of harassment by the immediate superior on account of a subordinate's spurning advances to her, there can be no evidence or witnesses. He tried to explain that adverse remarks were inspired by prejudice and malice. It is not necessary for me to elaborate the details of his arguments. I do not also consider it necessary to discuss the citations made at the bar.

6. This case has to be examined from one important angle. It is to be noted that the Reviewing Officer had made more specific remarks in Section-II whereas the Reporting Officer only commented adversely on the applicant's punctuality. It is not the applicant's case that the Reviewing Officer also had developed a bias towards her or was also a party to the harassment allegedly caused to her. It is necessary to view the remarks made in respect of the professional proficiency of the applicant as a Stenographer. On this aspect there are on record letters conveying warnings to her to improve her performance. It appears to me that she showed no enthusiasm to improve her skill. From the evidence on record it appears clearly that she refused the offer to take computer training on account of personal difficulties. The Chief Engineer himself observed that she was slow in typing. Her technical vocabulary was stated to be average. These aspects of reporting have to be viewed on the basis of whether they are supported by objective material.

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I find that the authorities other than Shri V.P.Kaushik like the Deputy Chief Engineer and Chief Engineer have found that the applicant was slow in typing and does not have a good technical vocabulary. To this effect they have addressed a letter to her on 30.10.1996 in which they stated that for a short letter she took about 50 minutes to type. They showed that by letter dated 19.10.1995 she was specifically nominated for computer training which she declined. On a careful consideration of the material on record I am satisfied that besides the reporting officer two other senior officers were also satisfied about her deficiency in performance as a Stenographer. They also informed her to improve her vocabulary. There is no material to doubt the correctness of this assessment on the technical performance of the applicant. The letter dated 27.5.1996 issued to her about the mistakes committed by her in typing work at Annexure-R-VI are instances of the warning given to her. No doubt these warnings were issued during the financial year 1996-97 but they are observations based on experience of the officers who would not have made such observations if the applicant was really proficient in her work.

7. With regard to her punctuality it is a question of fact and the extracts of the attendance register show that she has been attending office late quite frequently. About her late coming she has been informed several times. She was also warned of leaving office early without permission. Thus, these adverse reports were recorded after observing her




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conduct over a period. These adverse remarks in this CR are not the only instance. It is not as though the applicant had a blemishless record earlier. In fact the Chief Project Administrator by a letter dated 4.6.1990 informed that she absented herself from duty w.e.f. 2.5.1990 to 1.6.1990 for a period of 31 days without prior sanction of her leave by the competent authority and secondly, there was also the instance of her less than cordial relationship with other members of the staff e.g. Sri Bhattacharya, the office supervisor.

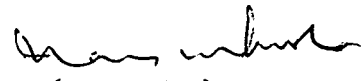
8. The applicant made allegations that the officers concerned dictated to her their personal work. She had enclosed copies of those letters along with her rejoinder. In respect of this as well as the alleged harassment caused to her I would hold that if her allegations of harassment were true then it was really a matter to be deprecated and even condemned. Of course, the matter was enquired into by two senior officers and they did not find any substance in those allegations and informed her accordingly.

9. Before parting with the case, I would direct respondents nos. 2 and 3 to ensure that she is not posted under respondent no.4 in future. It is important also to note that a girl working in the office can only complain of such harassment when she finds no other avenue of redressing her grievances. The respondents should in the minimum have taken her



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out of the jurisdiction of respondent no.4 immediately and put her into any other unit in the same place. However, the adverse remarks as observed by me are on account of professional deficiency as a Stenographer. The remark about unpunctuality is also a question of fact and can always be objectively ascertained, I do not think there is any scope or justification to interfere with those adverse remarks. With the above observations, the application is dismissed. No costs.


(N. Sahu)
Member (Admnv)

rkv.