

his appraisal in respect of 1997 seven months after the due date. According to the learned counsel, it is the delayed submission of appraisal which has led to delay in the recording of adverse remarks and communication of the same to the applicant. He has further submitted that during the period in question the applicant was directly working under Commander Dixit. The applicant had submitted his appraisal to the same Commander Dixit and it is he who is likely to have entered his remarks, and forwarded the same together with applicant's appraisal report thereafter to the reviewing authority, namely, Group Captain Kalia. The fact that the adverse remarks have been communicated by Group Captain Kalia cannot mean that the adverse remarks in question have been entered all by himself and directly. What is likely is that the remarks given by Commander Dixit have been taken into account and the total picture which has emerged after Group Captain Kalia has, in his turn, recorded his own assessment, has been communicated by Group Captain Kalia on 1.12.1998 (P-3). In the circumstances, I do not find anything wrong in the way the adverse remarks in question have been conveyed. Group Captain Kalia admittedly occupies a place higher than Commander Dixit in the same hierarchy. I cannot, therefore, find fault with Group Captain Kalia having acted as reviewing officer. In any case, nothing has been shown by the applicant to convince me that Commander Dixit and Group Captain Kalia had no role to play at all insofar as the recording of annual remarks in the applicant's ACR for 1997 is concerned.

5. The learned proxy counsel appearing on behalf of the applicant submits that in addition to the aforesaid

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adverse remarks for 1997, the applicant has been similarly and adversely judged for 1998 as well as for 1999. The adverse remarks in respect of the latter two years have not been challenged so far before any judicial forum. In view of this, in order to prevent a possible harm coming to the applicant, he is required to challenge the aforesaid adverse remarks as well firstly before the departmental authorities and thereafter, if necessary, before this Tribunal. In what way the aforesaid remarks under challenge in this OA are likely to affect the applicant, who has already retired on 31.10.2001, has also not been shown. In any case, as stated, in order to safeguard his position, if at all such a course is necessary, the applicant will no doubt proceed to challenge the aforesaid adverse entries of latter years also.

6. For all the reasons mentioned in the preceding paragraphs, the OA is dismissed without any order as to costs.

/sunil/

  
(S.A.T. Rizvi)  
Member (A)