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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 451/2000

New Delhi: this the 17<sup>th</sup> day of November, 2000.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Tushar Ranjan Mohanty,

S/o Shri Rabi Narayan Mohanty,

Director (Statistics and Records),  
Directorate of Statistics and Records,

Directorate General of Resettlement,

Ministry of Defence,

West Block No. 4, Wing No. 5, First Floor,

R.K. Puram,

New Delhi-66

.....Applicant

(In person)

Versus

Union of India ,  
through the Secretary,

Ministry of Statistics &

Programme Implementation,  
Sardar Patel Bhavan,

Sansad Marg,

New Delhi-1

.....Respondents.

(By Advocate: Shri H.K. Gangwani )

ORDER

S.R. Adige, VC(A).

Applicant impugns respondents' letter dated 1.2.2000 (Annexure-A-1) rejecting his representation. He seeks a direction to respondents to get his ACR for the year 1991-92 reevaluated by the competent reporting/reviewing authority to take into account the acquisition of the Degree of Bachelor of Law by him and his performance in LSE London. He also seeks a direction to upgrade his ACR for the year 1991-92 from Very Good to Outstanding in terms of the principles laid down in the U.P. Jal Nigam's case 1996(1) SCALE 624 and to review the promotion order dated 31.8.98 promoting officers of ISS from Grade III to Grade II.

2

2. Heard both sides.

3. In so far as applicant's prayer for reevaluation of his ACR for the year 1991-92 on the basis of training/courses having been successfully completed, respondents have pointed out that in terms of DOPT's instructions, study report of the training is not required to be evaluated by the Reporting and Reviewing Officer, while writing his ACRs. In accordance with DOPT's instruction, whenever an officer attends an approved course of training, the facts of having done so should be mentioned in his CRs. The overall performance of the officer is to be graded on the basis of the assessment made under different attributes. Further, it is beyond the jurisdiction of the Tribunal to direct reevaluation of an officer's ACR for a particular year as this is a purely executive function. However, the fact of applicant having acquired the degree of Bachelor of Law and his participation in the training course in LSE London with other relevant details should be mentioned by respondents at the appropriate place in his ACRs, if not done already.

4. We are then left with the application of the ruling in the Up Jal Nigam's case (supra) to the facts of the present case.

5. Applicant contends that for the year 1990-91 he had received 'Outstanding' grading in his ACR and the grading of 'Very Good' in 1991-92 by comparison was adverse and the ruling in the Up Jal Nigam's case (supra) is therefore attracted.

6. Respondents' counsel has contended that the Up Jal Nigam's case (supra) is applicable to the facts

and circumstances of that case alone, which related to the application of the UP Jal Nigam Rules. It is contended that as the present case is not covered by the UP Jal Nigam Rules, that ruling is not applicable.

7. We are unable to agree with this contention. As observed by the Hon'ble Supreme Court in the UP Jal Nigam's case (supra), its rules provide that only adverse entries be communicated, but not downgraded entries. There is no doubt that the rules and instructions governing the present case also require only adverse entries to be communicated, but not downgraded entries. The Hon'ble Supreme Court however observed in the U.P. Jal Nigam's case (supra) that even a positive confidential entry in a given case can perilously be adverse, in as much as the downgrading is reflected by comparison. In such a case the change in the grading has to be intimated to the concerned officer in the form of advice.


8. If, as applicant contends, he received Outstanding grading in 1990-91, and for the year 1991-92 he received 'Very Good', then applying the ruling in the Jal Nigam's case (supra), the change in the grading should have been intimated to applicant.

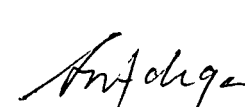
9. In the result this OA is disposed of with the following directions:

- i) Mention shall be made of applicant's acquisition of Bachelor of Law Degree and of his participation in the training programme in LSE London, giving brief particular of the same, at the appropriate place in applicant's ACR in accordance with rules and instructions if not done already.

ii) Applicant's ACR for the year 1990-91 and 1991-92 shall be communicated to him within 2 months from the date of receipt of a copy of this order. If he files any representation regarding the downgrading of his remarks for the period 1991-92, the same shall be disposed of within 3 months of its receipt. If as a result of such disposal there is any change in applicant's ACR for the year 1991-92 respondents shall consider reviewing the promotion order dated 31.8.98 to the extent that it affects applicant, in accordance with rules and instructions on the subject.

10. The DA is disposed of in terms of para 9 above. No costs.

  
( KULDIP SINGH )  
MEMBER (J)

  
(S.R. ADIGE )  
VICE CHAIRMAN (A)

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