

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A.1391/88

Date of decision: 4/1/93

A.Das Gupta

.. Applicant.

versus

Union of India
& others

.. Respondents.

Sh.G.K.Aggarwal

.. Counsel for the applicant.

Sh.P.P.Khurana

.. Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Sh.I.P.Gupta, Member(A).

JUDGEMENT (ORAL)

In this application the applicant has requested for quashing annexures A-1, A-2, A-3 regarding communication of adverse remarks in his A.C.R. for the years 1984-1985. The applicant has filed a case before this Tribunal against the rejection of his representation against the adverse remarks for 1984-85. The Single Bench of the Tribunal considering all aspects of the case decided not to interfere with the adverse remarks and the application was dismissed. The applicant went before the Apex Court and the Apex Court by its order dated 22.7.92 observed that the order under appeal was set aside and the matter was transferred to the Central Administrative Tribunal for fresh disposal in accordance with the guidelines set out in the order in civil appeal No.2381/91 (Mahabalram Versus Indian Council for Agricultural Research and others). The matter was therefore listed before the Division Bench.

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2. We have heard both the counsels and perused the records produced by the respondents. We find that the adverse remarks of the year 1985 were examined by the respondents by a note dated 22.6.88. The Dy. Director of Personnel had observed in regard to adverse remarks of 1985 that the request of the Officer in view of the facts enunciated in the note for expunction of the adverse remarks might be rejected and accordingly it was finally decided to reject the representation. While examining the representation of 1985 on 22.6.88 the representation of the Officer in regard to 1984 adverse remarks was also considered. While his representation against 1984 adverse remarks were considered earlier on 15.5.86 ~~and~~ it was decided that the court's verdict might be awaited. In June, 1988 it was noted that in this particular case also there was no need to await the decision of the court and a decision might be taken based on merits and the representation of the Officer might be rejected.

3. In the counter, filed by the respondents, it has been observed that, "the competent authority ~~should~~ considering the case T-213/86 was getting delayed decided on the applicants' representation not to expunge adverse remarks".

4. The learned counsel for the applicant contended that the above observations in the counter coupled with the fact that in respect of 1984 adverse remarks it was first decided to await the court's verdict and then there was no detailed examination of the case and even in respect of 1985 adverse remarks, the representation was considered only after a lapse of two years implied thereby that the awaited verdict of the court was very

much in the mind of the respondents while disposing of the representations, and the representations were not disposed of in a very fair and impartial manner on merits.

5. We see the weight in the arguments of the learned counsel for the applicant and in view of the stress given by the learned counsel for the applicant in regard to the fair consideration of the representations, we direct that the earlier rejection of the representations of the applicant in regard to adverse remarks of 1984 and 1985 ^{be} set-aside and the respondents should consider afresh the representations in regard to adverse remarks for both the years (1984-85) and take a view after proper application of mind and on merits of the case. With these directions the case is disposed of, with no order as to costs.

S. P. GUPTA
(I.P. GUPTA) 4/1/93
MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN(J)