

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI.

REGN. NO. O.A. 410/88

Date of Decision:- 24.4.89.

Shri R.K. Saini

....

Applicant

Vs.

Union of India & Others

....

Respondents

CORAM:- Hon'ble Shri B.C. Mathur, Vice Chairman

For the applicant

...

Shri N.L. Duggal, Advocate

For the Respondents

...

Mrs. Raj Kumari Chopra  
Advocate.

This is an application under Section 19 of the Administrative Tribunals Act filed by Shri R.K. Saini against stoppage of increments at Efficiency Bar stage due in May 1983, due to adverse remarks in his confidential report. The case of the applicant is that he was due to cross Efficiency Bar in May 1983 in the scale of Rs. 425-15-500-EB-15-560-20-700. His case should have been referred to the Departmental Promotion Committee in April, 1983 as prescribed under F.R. 25, but his E.B was not allowed to be crossed by the DPC held in August, 1985 and December, 1986, due to adverse remarks in his confidential reports. The applicant had not been informed of the grounds of unfitness to cross the efficiency bar, except saying that his C.R. was not good. From the impugned order dated 29.9.1987 it appears that DPC held in December 1986 had taken into account adverse remarks in the confidential report for the period 22.7.82 to 6.11.82 besides three other subsequent periods. The applicant states that no adverse remarks relating to this period were communicated to him. He has also stated that the question

contd....P/2

*Don*

: - 2 - :

of adverse remarks for this period does not arise as the applicant was on regular leave during this period. The applicant has produced a copy of the office order dated 18.11.1983 sanctioning leave to the applicant for the relevant period (Annexure-G). There should have been <sup>no</sup> remarks for the period 22.7.82 to 6.11.82 as the applicant was on leave in Iraq during that period. The other adverse remarks communicated on three different occasions were dated 19.3.84 (Annexure-B) pertaining to the period 26.5.83 to 31.12.83; the second one dated 7/15-2-85 (Annexure-C) pertaining to the period 1.1.84 to 31.5.84 and third dated 20.5.86, (Annexure-D) pertaining to the period 23.5.85 to 31.12.85. All the three adverse remarks were not at all relevant to the consideration of EB which was due in May 1983.

2. The respondents in their reply have stated that there were adverse remarks in the CR of the applicant for the period from 22.7.82 to 6.11.82, 26.5.83 to 31.12.83, 1.1.84 to 31.5.84 and 24.5.85 to 31.12.85. The D.P.C. which considered the case of crossing the E.B. in respect of the applicant w.e.f. 1.5.83 did not recommend his crossing of E.B.. It has also been mentioned in the reply of the respondents that there was no requirement to intimate the grounds of unfitness for crossing E.B. to the applicant. They have denied that there was any arbitrariness in stopping the E.B. and the same was done according to law. It has also stated that since communication of adverse remarks in the C.R. for the period 22.7.82 to 6.11.82 was under process, the case of crossing the E.B. at the stage of Rs. 500 w.e.f. 1.5.83 could not be considered in April, 1983. However the same was considered on 30.8.85.

3. The A.C.Rs of the applicant alongwith D.P.C. proceedings were produced before the Court. I have examined the A.C.R for

contd...P/3

fin

: - 3 - :

the period 22.7.82 to 6.11.82 where the resume of the work done by the applicant has not been written as required under rules. Reporting Officer has given his comments against each item for reporting and given entries like "in-different to these aspects", "good" "average" etc. The remarks against amenability to discipline are given as "very good". The remarks of the Reporting Officer have been accepted by the Reviewing Officer Shri A.S. Bhatia, Deputy Director, Central Water Commission, who ordered that the adverse remarks should be communicated to the applicant. However, the most remarkable thing is that the officer has written the report mentioning the quality of work of the officer without realising that the officer had actually not worked during that period and was on leave during the entire period as sanctioned by the Competent Authority (Annexure-G). It is very strange that when the applicant did not work under the Reporting or Reviewing Officer during the period 22.7.82 to 6.11.82 there should have been any entries in his C.R. commenting on his work under different headings. As such the adverse remarks on the work of the applicant during this period can only be held <sup>as</sup> irresponsible. Similarly remarks for the subsequent period are also not relevant for judging the suitability of the officer for crossing the E.B. in May 1983. The C.Rs for the period 1982-83 or those written earlier alone would be relevant. The findings of the D.P.C., therefore, declaring the applicant as unfit to cross the E.B. w.e.f. 1.5.83 cannot be accepted and are, therefore, quashed. Under the normal circumstances, it would be proper to direct the respondents to reconsider the case of the applicant for crossing the E.B. by holding another D.P.C. taking into account these records for the relevant period only but in the peculiar circumstances of this case, <sup>in appeal for promotion</sup> and grant


contd....P/4

10/11/82

the relief prayed for by the applicant. It would be in fitness of things to quash the order denying the applicant to cross the E.B. on the due date. The respondents are directed to re-fix the salary of the applicant as if he had crossed the E.B. on 1.5.83 and give him all consequential benefits within three months from the date of receipt of the order.

There will be no orders as to costs.

Dated:- 24.4.1989.

  
( B.C. MATHUR, )  
VICE CHAIRMAN