

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 81 of 1988
T.A. No.

DATE OF DECISION 24.5.1988

R.R. Goyal Petitioner

S.C. Luthra Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Shri P.H. Ramchandani Advocate for the Respondent(s)
Shri M.L. Verma

CORAM :

The Hon'ble Mr. Ch. Ramakrishna Rao, Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*

Ch. Ramakrishna Rao
(Ch. Ramakrishna Rao)
Member (J)

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

REGN No. O.A. 81/1988

Date of decision : 24.5.1988.

Sri R.R. Goyal

- Petitioner

vs

Sri Union of India & others

- Respondents

Coram : Hon'ble Sri Ch. Ramakrishna Rao, Member (J)

For the Petitioner

Sri S.C. Luthra, Advocate

For the Respondents

Sri P.H. Ramchandani,
S.C.G.S.C.

Sri M.L. Verma, counsel.

JUDGEMENT

The applicant has been working as Senior Field Officer (Cipher Computer) in the SSB, Directorate General (Security) since 14-10-1971. Earlier, he was working in Intelligence Bureau and Aviation Research Centre under Director General (Security). The grievance of the applicant is in respect of the following adverse remarks in his Annual Confidential Reports (ACRs) :

(i) Remarks in ACR for 1985-86

"He is not found on his seat."

(ii) Remarks in ACR for 1986-87

(a) "You have been graded as an officer of average merit."

(b) "You are habitual late comer and you are not prepared to shoulder any responsibility."

(c) "You are advised to take the remarks in the spirit of remedying them and improve working during the current year."

He represented in vain to the respondents for expunction of the adverse remarks from the ACRs. Hence this application.

2. Sri S.C. Luthra, learned counsel for the applicant, contends strenuously that the adverse remark in the ACR

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for 1985-86 of his client that he is not found on his seat' is very vague since neither the date on which and time at which he was not found on his seat was not mentioned and the remarks may, therefore, be expunged.

3. Sri P.H. Ramchandani, Senior Central Government Standing Counsel, appearing for the respondents submits that the adverse remarks do not suffer from any ambiguity and sufficiently bring out the laxity in the performance of the applicant for the year 1985-86. Shri Verma reiterates this submission

4. I have considered the rival contentions. A division bench of this Tribunal has taken a view in two decisions in P. Puttarangappa v. State of Karnataka & ors (A.No.1708/86) and Tejinder Singh v. Union of India & ors (O.A. No. 799/86) to which I was a party. The ratio of these decisions have been followed by me sitting as a single member Bench in Smt. Illa Chatterjee v. Union of India & ors (O.A. No. 508 of 1987) decided on 24.5.1988. I have no doubt in my mind that the Reporting Officer has not cared to specify the date on which and the time at which the applicant was not found on his seat and in the absence of these details the adverse remarks cannot but be characterised as vague.

5. Turning to the adverse remarks in the ACR for the year 1986-87 extracted at paragraph 1(ii)(a) supra, the remark is subjective and impressionistic and in view of the same Sri Luthra did not rightly press for the expunction of this remark. He has also brought to my notice that a part of the adverse remark at paragraph 1 (ii)(b) namely, 'you are not prepared to shoulder any responsibility' has already been expunged by the respondents and what survives for consideration is : 'you are habitual late comer' ~~xxx xxx~~

~~xxx x~~ According to Sri Luthra, his client has not been

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served with any notice from time to time regarding his late attendance and unless the Reporting Officer comes to a conclusion after serving notice on a few occasions and finds no improvement in the conduct of the applicant, it is not open to him ^{to} animadvert on the late attendance.

5. Sri P.H. Ramchandani maintains that ~~the~~ habitual late coming is also impressionistic in nature; that the applicant has been warned several times verbally and also put on notice of his late attendance but to no purpose. He, therefore, submits that the adverse remarks regarding late attendance is justified. Shri Verma also adopts this argument.

6. I have considered the rival contentions carefully. The meaning of the word 'habitual' as given in Chambers 20th Century Dictionary (New Edition 1983) is :

'customary'; 'usual: confirmed by habit - one who has a habit'.

To demonstrate that a person has a habit -- such as, late coming to office, in the present case, it is necessary not only to issue oral but also written warning on, say, three or four occasions. In the light of such oral/written warning the Reporting Officer should also examine the reasons given by the concerned officer for his late attendance on the dates specified. If the reasons are convincing, the Reporting Officer should not take any adverse view of the late coming because for reasons beyond human control, it may so happen on consecutive occasions late coming might take place. If, however, the Reporting Officer is ^{not} satisfied about the late coming, he should serve a notice on the officer and pass appropriate order regarding the habitual late coming.

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This procedure has been outlined by the Deptt of Personnel & A.A.R. in their O.M. No. 21011/1/81-E-Estt(a) dated 5.6.1981, paragraph 2, which is extracted below :

"There may be occasions when a superior officer may find it necessary to criticise adversely the work of an officer working under him or he may call for an explanation for some act of omission or commission and taking all circumstances into consideration, it may be felt that while the matter is not serious enough to justify the imposition of the formal punishment of censure, it calls for some formal action such as the communication of a written warning, admonition or reprimand. Where such a warning/displeasure/reprimand is issued, it should be placed in the personal file of the officer concerned. At the end of the year (or period of report) the reporting authority, while writing the confidential report of the officer, may decide not to make a reference in the confidential report to the warning/displeasure/reprimand, if, in the opinion of that authority, the performance of the officer reported on after the issue of the warning or displeasure or reprimand, as the case may be, has improved and has been found satisfactory. If, however, the reporting authority comes to the conclusion that despite the warning/displeasure/reprimand, the officer has not improved, it may make appropriate mention of such warning/displeasure/reprimand, as the case may be, in the relevant column in Part.I II of the form of Confidential Report relating to assessment by the Reporting Officer, and in that case, a copy of the warning/displeasure/reprimand referred to in the confidential report should be placed in the C.R. dossier as an annexure to the confidential report for the relevant period. The adverse remarks should also be conveyed to the officer and his representation, if any, against the same disposed off in accordance with procedure laid down in the instructions issued in this regard."

This procedure has, obviously, not been followed in this case and ~~xx~~ vi therefore the adverse remarks made in the ACR for 1986-87 cannot be allowed to remain.

7. In the light of the foregoing, I direct the respondents to expunge the adverse remarks referred to above and inform the applicant of the same within one week.

8. In the result the application is allowed. There will be no order as to costs.

Ch. Ramakrishna Rao
(Ch. Ramakrishna Rao) 24.5.88
Member (J)