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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA 1115 of 1988

Date of decision: 11.1.1989.

Shri C.L. Verma

Applicant

Vs.

Union of India

Respondents

PRESENT

Applicant in person.

Shri Inderjit Sharma, Counsel for the respondents.

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

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri C.L. Verma, Assistant Engineer (SLP), Northern Railway, against impugned order No. E-106/3551 dated 8.3.88 (Annexure A-5 to the application) passed by the General Manager, Northern Railway, and communicated to him by Shri Ganesh Dayal, Asstt. Secretary (Confidential), Northern Railway, rejecting his representation against the adverse remarks recorded in his C.R. for the year ending 1986-87.

2. The brief facts of the case, as stated by the applicant, are that the applicant is an outstanding Asstt. Engineer of Northern Railways inasmuch as under the rules (Railway Board's letter No. E(NC) 1-69 DM 1/66 of 14.8.70), the job of imparting training is entrusted to persons having outstanding merits and special aptitude and applicant was entrusted such job first from year 1970 to 1975 as Senior Instructor in Northern Railways Zonal Training School, Chandausi, and again for imparting training in the latest techniques of civil engineering to the Senior Supervisors, Junior Engineers and other Engineers in the field on important jobs from 24.1.1986 to 12.6.1987. Prior to 24.10.86, the applicant was posted as Asstt. Engineer (Microwaves), Delhi, where the job related to planning for computerisation of trains operation i.e. office job. As such, the applicant had no occasion to work in field and to get any work executed in field during the year 1986-87 i.e. the period covered under the said assessment report.

3. During the assessment period, the applicant was constantly attached with the Chief Engineer, New Delhi, who had never expressed any dissatisfaction about the applicant's work and had rather appreciated the same in the monthly meeting in the Chamber of the Chief Engineer. On 4.1.88 the applicant was communicated Notice dated 27.11.87 (Annexure A-3 to the application) conveying the adverse remarks: "He lacks devotion to duty and had not got the work done according to the specifications". The application made a representation (Annexure A-4) on 28.1.88 which was rejected by the competent authority on 8.3.88 (Annex. A-5).

4. The grounds urged by the applicant are that the impugned orders are passed without application of mind and/ non-speaking, cryptic and sketchy; that the adverse remarks are colourless, vague and unspecific; that the adverse remarks are not related to the performance of the applicant in the assessment year and are contrary to item No.10 of the instructions (Annexure A-2) and that there is absolutely no basis for the adverse remarks and the same are communicated at the fag end of the next year and as such the adverse remarks are time barred. He has prayed that the impugned order be quashed and the adverse remarks conveyed to him through notice dated 27.11.87 be expunged.

5. The respondents in their reply have denied that the applicant is an outstanding engineer of Northern Railway. The work and conduct of the applicant for the years ending 31.3.83, 31.3.85, 31.3.86 and 31.3.87 were assessed as 'average'. The respondents have submitted that since the applicant was not found suitable for any other job, he was posted as AEN/Training to impart training to senior supervisors Class III. The remarks of the Chief Engineer (C)/North for the year ending 31.3.87 are relevant:

"I do not agree with the remarks relating to targets/ achievements etc. Since he was not found suitable for any other job, he was posted as AEN/Training".

The respondents have also submitted that the Addl. Chief Engineer (C) had on 31.3.86 sent a note to the Chief Engineer recording

inter alia as under:

"The then A.E.N. Shri C.L. Verma is responsible for not getting the work done to the specifications and misbehaviour to his superior officer viz. Dy. C.E.(C)/NLDM. Earlier, he worked under Dy. C.E. (C)/JUC who had also complained against Shri C.L. Verma.

It is recommended that Shri C.L. Verma, the then A.E.N. (C), Ropar should be taken up under D & A Rules."

On the basis of this note, the Chief Engineer (C), North, recorded in the C.R. of the applicant for the year ending 31.3.1987 as under:

"A charge-sheet for major penalty for his unbecoming/insolent behaviour and lack of devotion to duty in early 1986 towards his superior officers and for having disturbed peace at site of work was contemplated. He had also not got the work done according to the specification."

The respondents have denied the contention of the applicant that the Chief Engineer, New Delhi, had never expressed any dissatisfaction about the applicant's work and had rather appreciated the same in the monthly meeting in the Chamber of the Chief Engineer. In para 4 of Part IV of the C.R., the Chief Engineer (C) has recorded "verbal counsel to improve his working and behaviour were communicated to him." The respondents have stated that there is no delay in communicating the adverse remarks to the applicant especially when the applicant knows his service record for the preceding 3/4 years fully well. The following remarks for the year ending 31.3.85 were communicated to the applicant :

"He has quarrelsome behaviour both with his seniors and juniors."

but he did not make any representation against these remarks.

The following adverse remarks for the year ending 31.3.86 were communicated to the applicant vide letter dated 8.7.86:-

"He was not able to get the work executed as per specifications. He is quarrelsome by nature."

He made a representation on 12.8.86 and the Deputy Chief Engineer (Construction) vide his letter dated 3.11.86 gave his comments to the effect that Shri Verma did not get the work done as per specifications and when these discrepancies were pointed out to him he quarralled with him and used abusive language and disturbed the peace at site and tried intimidatory tactics. His representation was considered by the competent authority and rejected on 19.11.86. The respondents have submitted that in view of the above, the applicant is not entitled to relief claimed for and have prayed that his application be dismissed.

6. I have gone through the pleadings and heard the applicant and the learned advocate for the respondents. The relief sought by the applicant is against the adverse remarks to him for the year ending 31.3.1987. These remarks are that "He lacks devotion to duty and had not got the work done according to the specifications". I have gone through the confidential reports of the applicant and also the papers dealing with his representation against these adverse remarks. The Chief Engineer while examining the representation of the applicant has observed as:

"In view of specific shortcomings pointed out by Dy. CE concerned vide his letter dated 3.11.86 which were responsible for the adverse comments and the fact of further positive confirmation by the then CE (C) personally, there is no case for condoning the above adverse remarks".

The shortcomings pointed out by the Deputy C.E. relate to the year 1985-86 and, therefore, they should not have been mentioned in the report for 1986-87. It is, however, true that the entries in the CRs for various years are of an average nature and the applicant cannot say that he has had a very good record. The remarks that the applicant was not found suitable for any other job, he was sent to the training institution is also unfortunate because normally unsuitable officers should not be sent on training assignments as instead of doing any good, they are likely to provide poor training which is not the purpose of training. In any case, this is not the ^{subject} matter before the Tribunal at this stage.

7. Incidentally, the accepting authority in the general remarks for the year 1986-87 has categorised the applicant as "a very average officer". It is not clear what is meant by "very average". If the intention is that it is an adverse remark, it should have been conveyed to the officer, but as "average" is not considered as an adverse entry, I take it that "very average" is also not an adverse entry. There are adverse remarks in the C.R. of the applicant during the year 1985-86; some of which have been conveyed to him, but I notice that the Head of the Department has given a very adverse entry which does not appear to have been conveyed to the applicant. Naturally, any adverse entry which has not been communicated to him cannot be taken into consideration by the authorities while dealing with the cases of promotion etc. of the applicant. Normally I need not have touched on the C.R. for the year 1985-86 as that is not before me for consideration, but having gone through the C.R. of the applicant, I noticed this entry and I felt that no notice could be taken of any adverse entry not communicated to the applicant.

8. I am not going into the merits of the remarks during 1986-87 that the applicant "had not got the work done according to the specification" as it is for the supervisory officers to go into this, but as these remarks do not relate to the period 1986-87, it is directed that part of the adverse remarks, namely, "and had not got the work done according to the specification" should be expunged. I see no reason to interfere with the other part of the adverse entry. In the circumstances, the application is partly allowed. There will be no order as to costs.

B.C. Mathur

(B.C. Mathur)
Vice-Chairman