

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH



O.A./350/637/2020

Date of Order: 23.09.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. Tarun Shridhar, Administrative Member



Sushil Kumar Biswas,
Son of Late N.K. Biswas,
Aged about 59 years,
Working for gain as Accounts Assistant
under the overall control of
Principal Financial Advisor, Eastern Railway,
at present residing at 403/53,
Bharat Housing Shyamnagar,
Dist. 24 Parganas (N), Pin-742731.

..... Applicant

- VERSUS -

1. Union of India,
Service through the General Manager,
Eastern Railway, Fairlie Place, Kolkata-700001.
2. Principal Financial Advisor,
Eastern Railway, Fairlie Place, Kolkata-700001.
3. Financial Advisor and Chief Accounts Officer,
(Finance & Budget) Eastern Railway, Fairlie Place,
Kolkata-700001.
4. Dy. Chief Accounts Officer (G),
Eastern Railway, Fairlie Place, Kolkata-700001.

..... Respondents

For the Applicants : Mr. C. Sinha, Counsel

For the Respondents : Mr. P. Bajpayee, Counsel

ORDER (Oral)Tarun Shridhar, Administrative Member:

Heard Ld. Counsel for the parties and examined the record of the case.



2. The applicant has preferred this O.A. to seek the following relief:

"a) To set aside and quash impugned letter no. DCAO(G)/APAR/Rep./SKB/2018 dated 15.07.2019 issued by Secretary to PFA/Eastern Railway.

b) To expunge the impugned adverse remark and down gradation (Average) as made by the Reporting Authority and as accepted by the Reviewing Authority for the period of 5 ½ months for 2016-2017.

c) To direct the competent authority to reconsider and review the ACR/APAR of the applicant for 5 ½ months in 2016-17 and upgrade the grading from Average to Very Good.

d) To direct the respondents to grant the financial upgradation under MACP Scheme as due to your applicant in G.P. of Rs. 4800/- w.e.f. 01.09.2018 with all consequential benefits in the event the adverse remarks gets expunged and the ACR/APAR is upgraded.

e) Any other order....."

3. The applicant is aggrieved by the grading recorded in his APAR for the partial period of the year 2016-17 by the Reporting Officer, which has been further accepted by the Reviewing Officer. This grading has not been placed before the Accepting Authority and the record does not indicate whether it has been accepted by the Competent Authority. Ld. Counsel for the applicant has also brought to our notice that the Reporting Officer has not indicated the date on which he has recorded his remarks while the Reviewing Officer has also expressed his agreement with the Reporting Officer after a period of one and a half years of the closure of the relevant financial year, to which the APAR pertains.

As a consequence of these adverse remarks the applicant stood overlooked for the financial upgradation under the MACP. His contention is that these adverse observations by the Reporting Officer, further agreed to by the Reviewing Officer, are otherwise also bad in law as they were not communicated to him within the stipulated period and he got to know of them only when he obtained photocopy of the same by way of representation. Further, his representation for ignoring these remarks and giving him financial upgradation was also not accepted.

Ld. Counsel for the applicant has drawn our attention to the fact that all through the applicant has been assessed as "very good" during the course of his career and it was only for a period of five months or so during the year 2016-17 that an adverse grading has been accorded to him.

He has alleged *mala fide* on the part of the Reporting Officer on account of some unsavoury incident, which had taken place.

4. Having heard Ld. Counsel for both the parties, without going into the allegations of *mala fide* against the Reporting Officer, we find that the adverse remarks reported are cryptic as no reasons have been assigned for such observations either by the Reporting Officer or the Reviewing Officer.

We expect the Accepting Authority of the APAR of the applicant to take a fair and judicious view on the representation of the applicant dated 29.10.2019 (Annexure-A/6) in the light of the averments made by him that except this short period of five months, his APAR has been constantly "very good" and the laid down provisions of the rules have not been adhered to while considering these adverse remarks for denial of financial upgradation under MACP to him.



The Accepting Authority/Competent Authority shall take a decision in this matter within a period of four weeks from the date of receipt of this order and communicate the same to the applicant.

5. The present O.A. stands disposed of with the above directions. No costs.



(Tarun Shridhar)
Member (A)

(Bidisha Banerjee)
Member(J)

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