

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 942/  
T.A. No.

1986.

DATE OF DECISION April 17, 1990.

MS. K.P. SAROJINI

Petitioner

Shri G.D. Gupta

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri N.S. Mehta

Advocate for the Respondent(s)

CORAM.

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal? ✓

23

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.

O.A. No. 942/1986. Date of decision: April 17, 1990.

Ms. K.P. Sarojini ... Applicant.

Vs.

Union of India ... Respondent.

CORAM:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. I.K. Rasgotra, Member (A).

For the applicant ... Shri G.D. Gupta, counsel.

For the respondent ... Shri N.S. Mehta, Senior Standing Counsel.

(Judgment of the Bench delivered by Hon'ble Mr. Justice Amitav Banerji, Chairman).

The applicant, who was a Joint Secretary and Legal Adviser in the Department of Legal Affairs, Ministry of Law and Justice, New Delhi has filed this Original Application (O.A.) against certain entries in the Annual Confidential Report (ACR) for the years 1984 and 1985. She had challenged these A.C.R. entries and has prayed that they be expunged. It is not disputed that the applicant reached the age of superannuation in December 1987 and currently, she is a Member in the Foreign Exchange Regulation Appellate Board (FERA Board).

The applicant's case is that she received a letter dated 13.1.1986 communicating certain entries relating to ACRs of 1984 and 1985. The D.O. letter No. Law Secy-CR/ 84-85/3737-I dated January 13, 1986, from the then Law Secretary

24

-2-

to the applicant reads as follows:

"Dear Miss Sarojini,

With respect to appraisal of your performance as Joint Secretary and Legal Adviser for the year 1984, the Reporting Officer has made the following remarks:-

"Just an average officer. Integrity certified. Room for improvement."

2. Similarly, for the period 1.1.1985 to 31.10.1985, while the Reporting Officer has stated that you are an officer of undoubted integrity and have cordial relations with colleagues, you are "as a Legal Adviser, just good".

3. In case you wish to make any representation with reference to the above-mentioned remarks, you may please do so within one month from the date of receipt of this letter.

With kind regards,

Yours sincerely,

Sd/-  
(P.K.KARTHA) "

The applicant filed representation against the above entries as well as the entries for the year 1983.

The applicant received a letter No.Law Secy-CR-5350-I/86 dated June 5, 1986, from the <sup>then</sup> Law Secretary which indicated that the competent Authority has taken decision on the representation and it will be relevant to quote paragraphs 2 and 3 of the above letter:

"Dear Miss Sarojini,

.....

2. After considering your representation, the competent authority has been pleased to decide as follows:-

(i) In the ACR for the period from 25.6.1983 to 31.12.1983, the following remarks are to be substituted:-

"For the better part of the year 25.6.1983 to 31.12.1983, Kum.K.P. Sarojini was indisposed and it will not be possible to make any assessment regarding her work."

(ii) In respect of the ACR for the year 1984, the words "The Officer toned up the administration in the Branch Secretariat at Calcutta" may be added in the ACR without expunging any words.

(iii) In the ACR for the year 1985, the following remarks may be added without expunging any words:-

"She is good at quasi-judicial work".

3. The ACRs for the years 1983, 1984 and 1985 have been modified to the extent mentioned above and your representation has been disposed of accordingly.

With kind regards,

Yours sincerely,

Sd/-  
(P.K.KARTHA)

Miss. K.P.Sarojini,  
Member, Foreign Exchange Regulation  
Appellate Board, New Delhi."

It may be mentioned that we are not concerned here with the ACR of 1983, for the modification completely substituted the entry given earlier.

The applicant is aggrieved by the fact that the original entries given in the ACRs of 1984 and 1985 were not deleted or expunged. Learned counsel for the applicant contended that the subsequent modifications in the entries run contra to the original entries and these are likely to affect the future career of the applicant.

Learned counsel further contended that in the entries for the year 1984 it was mentioned that she was "Just an average Officer. Integrity certified. Room for improvement." On representation, additional entry given for the year 1984 showed that "The Officer toned up the administration in the Branch Secretariat at Calcutta." The contention was that if she was termed as just an

average Officer, she was not given the credit for toning up the administration in the Branch Secretariat at Calcutta. Learned counsel further contended that when the applicant has been found to have toned up the administration in the Branch Secretariat at Calcutta, the observation 'Room for improvement' should have been expunged.

In regard to the 1985 entries, learned counsel argued that in the terminology used for assessing an officer, there is no term as "just good". As a matter of fact, the word "Good" is qualified by the word "Just". It appeared that even the quality of the word "Good" was being classified into separate compartments. The words "Just Good" meant something derogatory and in any case, qualified the word "Good" and in the process took away the basic qualities of the word "Good". The words added after considering her representation against the entries, gave her credit "She is good at quasi-judicial work". He argued that if she was good in her work which included giving of opinions, deciding disputed and complicated questions referred to the Ministry, her overall assessment could not be "Just Good".

Shri G.D. Gupta, learned counsel for the applicant prayed that the original entries as given were liable to be expunged.

We have heard learned counsel for the respondent Shri N.S. Mehta also and perused the material on the record.

It is well settled that when adverse entry is given in the ACR, it has to be conveyed to the Government servant.

The adverse entries in the ACRs are primarily meant to draw the attention of the Government servant to improve his/her shortcomings and to improve his/her performance. Furthermore, whenever there is an adverse entry, it has to be communicated to the Government servant and he/she should be informed that he/she may make a representation against the same to the superior authority. It is well settled that Government servant must be afforded an opportunity to represent against the adverse entries. The representation has to be considered by a superior authority and that authority ought to consider the grievances of the representationist and thereafter pass order thereon. It is further well settled that these orders cannot be challenged before a Court of Law unless such an order suffers from mala fide action on the part of the reporting officer and the competent authority, or is against any law or procedure or is manifestly perverse.

In the present case, the applicant desires that the Tribunal should appraise the entries and see the contradiction between the original entries and those subsequently added while disposing of the representation. Further, since according to the applicant these are contradictory, the original entries are liable to be quashed. We do not intend to enter into the question of appraisal of the entries given. We cannot equate ourselves with either the Reviewing Authority or with the competent Authority. The powers of the Tribunal in this regard are the same as that of the High Court under Article 226 of the Constitution and in the matter of the issue of Writ of Certiorari. There has to be an error of law apparent

on the face of the record which would justify our interference. We can neither enquire into the merits of the entries given nor express an opinion whether the original entries in the ACRs were justified or not. This Tribunal can only enquire whether there is any such error of law which is apparent on the face of the record and calls for interference. However, if the entries are as a result of malice, the Tribunal can interfere. We do not find any case of malice or mala fides of the Reporting Officer in giving the entries of the years 1984 and 1985. The original entries of 1983, were set aside by the A.C.C. on representation, when it was seen that during the relevant period the applicant had not worked and was on leave due to illness.

We have noticed the fact that the representation was considered and disposed of by the Appointments Committee of the Cabinet (ACC). It was not decided by any single member authority. ACC gave certain entries to the applicant for the years 1984 and 1985 which were laudatory in nature and we infer that the said entries are not really adverse against the applicant. The very fact that the applicant had been selected as a Member of the FERA Board from 2.6.1986 indicates that even the original entries have not been deemed to be against her interest and rightly so. We are also of the view that the said entries if read as a whole, will also not be read as adverse against the applicant in future too. The A.C.R. entries are relevant for the service career of a Government servant. These may also be necessary for the Government servant when he/she is considered for further

assignment, even after superannuation.

As seen above, the applicant had already been appointed to an important position even before her superannuation and the entries in the ACR 1984, 1985 have not acted adversely against her. Consequently, we do not see any ground to interfere in this case.

In view of the above, the present O.A. is disposed of with the above observations. The parties are left to bear their own costs.

*Subhashini*  
(I.K.RASGOTRA)<sup>17/4/90</sup>  
MEMBER (A)

*AB*  
(AMITAV BANERJI)  
CHAIRMAN

SKS