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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 1353/87

New Delhi this 28 day of January 1994

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

THE HON'BLE MR. B.K. SINGH, MEMBER (A)

Shri Tara Nand Singh,
Qr. No. 26C, Type III,
CMRS Colony,
Barwa Road,
Dhanbad-826 001 (Bihar)

... Applicant

(By Advocate Shri K.K. Rai)

Versus

1. Director General,
C.S.I.R.,
Rafi Marg,
New Delhi-110 001.

2. Director,
C.M.R.S.,
Barwa Road,
Dhanbad-826 001.

3. Dr. Tribhuwan Nath Singh,
Scientist F,
C.M.R.S.,
Barwa Road,
Dhanbad-826 001.

... Respondents

(By Advocate Shri A.K. Sikri)

ORDER

HON'BLE MR. J.P. SHARMA, MEMBER (J)

The applicant is employed as Scientist 'C' in the Central Mining Research Station, Dhanbad (CMRS), the Respondent No. 1. The applicant has assailed the order of 7.9.1983 by which Dr. T.N. Singh, Scientist 'F', the Respondent No. 3 was appointed as Controlling Officer of the Applicant (Annexure I). The applicant has also assailed the confidential report, so far, as it is adverse to the applicant for the period ending 31.3.1986, (Anne.10).

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The adverse remarks in Item No. 20 of the C.R. is "Lacks sense of responsibility and constructive approach. Exploits fellow officers and is not very amenable to discipline."

The present application was filed on 18.9.1987. The applicant has prayed for the grant of the following reliefs:

- a) A direction to the respondents to formulate guidelines in respect of criteria for putting one scientist under the control of another scientist and rights, duties and responsibilities of the controlling officer towards his subordinate;
- b) To declare the C.R. of the applicant written by Dr. T.N. Singh, the respondent no. 3, for the period ending 31.3.1986 be declared void as the same is opposed to the directives issued by the Government of India and the details admitted by the applicants have not been given to him.

3. The applicant by M.P. No. 3040/93 has sought certain amendments to the relief prayed for and the amendments have been pressed only for relief (a) of the prayer in the aforesaid M.P. That relief is that assessment promotion to Scientist 'C' to Scientist 'EII' for the assessment year ending on 31.3.1986 be quashed in view of the fact that remarks to the applicant under C.R. Head has not been correctly evaluated in view of the opinion of fact that proper genuine person have not been obtained.

4. The case of the applicant is that he was under the control of Respondent No. 2 i.e. Dr. B. Singh, Director, CMRS from 1964 to 1983 and he was placed under Respondent No. 3 i.e. Dr. T.N. Singh with effect from 7.11.1983. It is said that the change of control has been malafide.

5. It is further stated that since Dr. T.N. Singh, dis-associated with the work assigned to the applicant, the C.R. should have been called from other Scientists Dr. N.C. Saxena and Dr. B.R. Sheorey who were the actual working partners on other research project of the applicant. The applicant has also sought certain clarifications regarding the duties and responsibilities of the controlling officer but the respondent No. 1 did not inform the applicant. Even the CR of the applicant written by the respondent No. 3 Dr. T.N. Singh is based ^{against} on all principles of natural justice as well as various circulars issued by the Government of India from time to time in this connection. The applicant has also referred to Ministry of Home Affairs O.M. dated 31.10.1961 in regard to writing of the C.R. It is further averred that respondent no. 3 wanted a junior colleague of the applicant to supply him research data clandestinely without the knowledge of the applicant while the jr. colleague was engaged in another project of the applicant. Further the adverse entry was not communicated in time and the time given for making representation against the same was too short, as the same was given on the last date. However, the applicant was subsequently given time to make a representation against the CR but he wanted to have details of particulars of respondent No. 2 i.e. the Director, CMRS on the basis of which the adverse entry was made in the CR of the applicant. Since no reply was given he approached the respondent no. 1 but no reply to that was also, given which is also the grievance of the applicant that according to the promotion rules pertaining to the grade of the applicant only 75% of qualifying candidates will be promoted to the next higher grade. Those failing due to percentage restriction or otherwise will be carried over to the next year ~~in the~~ and will be clubbed with the incumbent of the grade in the next session year. Thus, according to the applicant the CR has been recorded by a person not competent to do so without taking into account the report of the other scientists under whom the applicant worked and thereby

the marks awarded to the applicant out of the total of 25 marks under CR Head has not been correctly evaluated in view of the fact that opinion of the genuine proper person have not been obtained.

6. The respondents contested this application and filed a detailed reply, no reply has been filed to the amended relief. In the reply the respondents have stated that C.S.I.R. has got a chain of National Institute throughout the country and one such Institute is Central Mining Research Station (CMRS) for research in mining in the facets/aspects. Certain projects are undertaken by the institute for doing research on these problems. For each project, a Project Leader is chosen who will conduct the research on those projects with the assistance of other officers of the CMRS. Over the Project Leader, Sr. Scientist, who supervises the research work conducted by the Project Leader and is also the Coordinating Scientists/Controlling Officer. He supervises the day-to-day work of the Project and monitors the progress. Dr. T.N. Singh, Respondent no 3 was made the Controlling Officer of the applicant on the basis of work-relationship. Since Dr. B.S. Singh, Director, CMRS), Dhanbad was pre-occupied in other activities he appointed Dr. T.N. Singh as the Controlling Officer of the Applicant who was second in command at that time. Dr. N.C. Saxena was working as Scientist EI below the rank of Dr. T. N. Singh, who was working as Scientist 'F'. It is further stated that instead of making progress in the project allotted to him, the applicant allegedly associated with Dr. N.C. Saxena and Dr. P.R. Sheorey and even the said allegations are not correct. Respondent No. 3 i.e. Dr. T.N. Singh assigned him an important work relating hydrojet cutting which he did not do in spite of several written instructions in the matter both by Dr. Singh as well as by the Director, CMRS. Respondent No. 3, Dr. T.N. Singh was the only competent controlling officer to write the

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ACRs of the applicant, as the Reporting Officer to write his CRs on or after 7.11.1983, on his own request made on 13.11.1985 on account of some ailment he was disassociated from the said National Priority Project (namely GAP III/ III-B) by the order dated 9.12.1985. Thus, the CRs were rightly written by Respondent No. 3 who was responsible to coordinate and supervise all that was needed for the execution of the work relating to the main project assigned to the applicant.

7. The respondents have also stated that during the period from 1.4.1985 to 31.3.1986, ^{he} was twice proceeded with under CCS(CCA) Rules 1965 each of which resulted in imposition upon him the penalty of censure by the order dated 23.12.1985 and 20.1.1986 respectively. Since by the time the entries were made in the C.R. no appeal was filed so the sum and substance of the penalty order was recorded by Dr. T.N. Singh under Col. 20 of the ACR and the same was communicated to him by the Memo. dated 10.6.1986. He was on EL from 10.6.1986 to 20.6.1986. In view of this there was a delay in service of O.M. dated 10.6.1986 upon the applicant which was ultimately served on 9th July 1986. On 10th July 1986 the applicant filed an appeal to DG,CSIR against the disciplinary, ^{punishment} orders of December 1985 and January 1986 where under two separate penalty of censure were imposed upon him. It is further stated that the Assessment Committee has met on 6.10.1987 and has made assessment of three candidates including the applicant for assessment promotion to the post of Scientist EI. However, the CR for the year in question was not at all relevant. The case of the respondents, therefore, is that the applicant has been directly assessed on his performance during this period.

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8. We have heard the counsel of both the parties at length and perused the record. It is a fact that the respondent no. 3 while recording the CR of the applicant has taken into account the shortcomings which were observed by him. Taking the point of appointment of the controlling officer, the applicant cannot question the appointment of the immediate superior because for each Project, a Project Leader is chosen who conducts the research data on those projects with the assistance of other officials of the CMRS and over the Project Leader, the Sr. Scientists known as 'Discipline Head' is made Supervisor to supervise the research work/data conducted by the Project Leader. The applicant have been working on Rock Mechanism's Problems and Respondent No. 2 Dr. T.N. Singh is specialised in this field. He, therefore, a qualified expert in mining technologies and has a doctorate degree on the subject. He is also Scientist 'F'. Dr. N.C. Saxena ^h was only worked as Scientist EI who is below the rank of Scientist 'F'. Dr. Sexena was associated with the applicant for drafting the project proposal but after the project was sanctioned there had to be some controlling officer and Director, CMRS has appointed respondent no. 3, Dr. T.N. Singh, as a Controlling Officer. The learned counsel for the applicant couldn't point out any ^u illegality in that respect. The project sanctioned under the leadership of the applicant was handed over to respondent no. 3 by respondent no. 2 only when the applicant failed to achieve the desired result and the project was not at all progressing instead of the fact that much time has been lapsed and the project was getting delayed. It is open to the Director, CMRS to re-allocate the project assigned to one particular project Leader when the project is not progressing. The applicant,

therefore, cannot take the plea that respondent no. 2 acted in a malafide manner in directing the Project Leader, respondent No. 3. The respondents have also taken the stand that the applicant had proceeded on Study Leave from 24.7.1978 to 30.4.1980 for doing his B.Tech. After completion of the B.Tech Course the applicant got himself associated with the on-going project under Dr. P.R. Sheorey/ Dr. M.N. Raju, Dr. R.N. Gupta and Dr. N.C. Saxena who all were working under the control of respondent no. 2 prior to his taking up of the National Priority Project as mentioned above. The aforesaid Scientists had practically no contribution in the actual progress of the field work connected with the said National Priority Project. The applicant has himself admitted that he was associated with respondent no. 3 one of the projects so it cannot be said that applicant did not work under respondent no. 3. The order dated 3.11.1983 is clear on the point that Dr. T.N. Singh, Scientist 'F' will be the Controlling Officer of the applicant. The counsel for the applicant couldn't show any illegality in this order. By letter dated 30.11.1993 the Director asked Dr. T.N. Singh, respondent no. 3 to coordinate the progress of the project (GAR/III/III-B/TNS/DMP/83), a copy of this was also forwarded to the applicant. The perusal of the above shows that Dr. T.N. Singh was the Controlling Officer of the applicant and was rightly appointed by the Director, Central Mining Research Station. There is no malice or ulterior motive in appointing Dr. T.N. Singh as the Controlling Officer by the Director, CMRS.

9. Regarding the ACR for the period ending 31.3.1986, the Reporting Officer Dr. T.N. Singh has given the remarks about "lacking in sense of responsibility and constructive approach. Exploit fellow officers and is not very

amenable to discipline." The applicant made a representation dated 11.12.1986. By the time this application was filed the representation was not disposed off. However, it has been disposed off by rejection sometime in the year 1988 and the copy of the rejection of the representation has been shown to the learned counsel for the applicant. The applicant has been served with the memorandum dated 16.5.1985 informing him that neither the Mine site nor the instrumentation programme and frequency of observation has been fixed so far. By another letter dated 24.5.1985 Dr. T.N. Singh wrote to the applicant regarding the provision of staff. By another note of 21.6.1985 Dr. B. Singh, Director, CMRS informed the applicant that all his correspondence should be routed through Dr. T.N. Singh who is his controlling officer. By another Memorandum dated 22.8.1985 Director, B. Singh has written to the applicant regarding his shortcomings and that he is not very particular about the work. Dr. T.N. Singh again by memorandum dated 17.10.1985 has written to the applicant that he failed to submit weekly report which is clear non-compliance of the order of the Director, CMRS. In reply the applicant by the letter dated October 29, 1985 written to the Director, CMRS which is quoted below:

Dated October 29, 1985

To

The Director,
C.M.R.S.,
Dhanbad.

Sub: Fixing of date for discussion

Sir,

A systematic attempt has been made for the past few months to impress upon you that no progress has been made in the project GAP/III/III B.

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There are persons in CMRS who are proving their utility of service only in reporting wrong things about me to you because you are lending your ear for such things. I keep silent because I do not want them to be deprived of some benefits on this account. I am convinced of above facts on the basis of various observations that you have made about me in letters.

I affirm that the project has made considerable progress and I have observations and report of my work to satisfy you. The readings obtained has been quite meaningful and I want to produce them before you. Along with the plan of the mines and those readings I want to prove that reports which you have been fed about me is not only wrong but motivated and malicious. Kindly fix a date for discussion.

Thanking you

Yours faithfully,

Sd/-
(T.N. Singh)
Scientists 'C'

10. There are a number of other communications addressed to the applicant regarding his shortcomings. These letters are dated 11.11.1985, 17.10.1985, 13.12.1985, 13.1.1986. Some of the memos, the applicant have also replied and the tone of the language used appears to be aggressive. An instance of the same is quoted below:

Central Mining Research Station,
Dhanbad, Dated 3 January, 1986.

From:

Tara Nand Singh,
Scientist 'C'.

Ref: Your letter No. M/2/7/2/(19)/85
dated 30.12.1985.

Dear Dr. T.N.Singh,

I have just today received your letter under reference informing me that from Samla colliery you have taken possession of equipment which stands issued in my name. I am surprised that you did not bother to obtain a list from me to make the collection only after proper authorisation. I doubt if D/CMRS supported or approved the highly irregular procedure you adopted.

The wedge and platten assemblies which you ask for were kept in the mines. Your letter has made me very anxious to find out which of the equipment you have taken and which not,

kindly inform me how many of the modified wedge and platten assemblies you have collected from the mine along with list of other equipment.

I do take strong exception to your getting possession of material and equipment standing issued in my name without either a proper store transfer or even an authorisation from me. If you did regard the equipment as very urgent you should called me or sent me a slip at my residence. Even if I was on casual/medical leave on the day you chose to make the collection, I would have cancelled my leave to hand over the equipment to you or had given you authorisation letter with the list. I just cannot understand why you did not bother to do so.

Kindly take steps immediately to effect a proper store transfer from my name to yours of the equipment you admit having taken so that I can check up about the rest. Some of the equipment I was using at Samla had been borrowed from other project leaders.

Your letter worries me very much. Our association in this project for reasons you well know, have not been without unpleasantness. As such it is not impossible that what you have done may be from intention to put me in a spot of trouble. I hope and pray it is not so. I am a poor man.

Yours faithfully,

sd/-

(TARA NAND SINGH)

11. Taking all these facts into account it is evident that the applicant was working under Dr. T.N. Singh and he has been issued memos time and again not only by the Controlling Officer but also by Director, Dr.B.Singh. The remarks in the ACR only project the opinion formed about the applicant by the Reporting Officer. The Reviewing Officer has also upheld the remarks given by the Reporting Officer. In view of this it cannot be said that the remarks given to the applicant in the ACR are not the actual picturization of the performance of the applicant.

12. It is also on record that during the period from 1.4.1985 to 31.3.1986 he was twice proceeded under CCS(CCA) Rules 1965 and in each of the departmental enquiry proceedings he was given an entry of 'Censure' dated 23.12.1985 and 21.1.1986 respectively. The applicant did not file any

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departmental appeal within the statutory period and only when the adverse entries were conveyed he filed the appeal. The DG, CSIR by the Order dated 16.11.1987 passed the following order on both the appeals preferred by the applicant:

"I have carefully gone through the appeal preferred by Shri Tara Nand Singh, Scientist 'C', against the penalty of 'Censure' imposed by the Director, CMRS, Dhanbad in two different departmental cases. I have also examined the relevant records and the facts and circumstances of the Case. I find that the field investigation for the said project was split up and weekly progress reports were asked for although initially quarterly reports were envisaged. Shri K.N. Sahal a Scientist working with Shri Tara Nand Singh was transferred to Talchar Colliery without taking Shri Tara Nand Singh into confidence and without providing a substitute. However, the conduct of Shri Tara Nand Singh is suspending the work without the approval of the competent authority was not proper. Taking overall view, I set aside the penalty of 'Censure' imposed upon Shri Tara Nand Singh in both the cases. I order that Shri Tara Nand Singh be warned for his action to suspend the work of a project of his own. Shri Tara Nand Singh may also be advised to be more careful in such matters in future."

By Order and in the
name of Director
General, CSIR

Sd/-
(S.K. Verma)
Deputy Secy. (Vig.)

Shri Tara Nand Singh,
Scientist 'C',
Central Mining Research Station,
Dhanbad.

12. A perusal of the aforesaid order will show that the punishment was reduced from 'Censure' to warning and was also advised to be more careful in future.

13. The contention of the learned counsel that in giving remarks in the CR, the punishment was taking into

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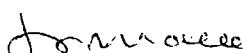
account which was subsequently set aside by the appellate authority so the remark as a whole goes away. In this connection the learned counsel has referred to 1987(3) ATC P.690 State of Haryāna Vs. P.C. Wadhwa, IPS, Inspector General of Police and others and 1987(4) ATC P.727 Prem Baboo Vs. Union of India and others. The learned counsel also pointed out that since the details of the CRs reports were not furnished in that event the adverse remarks cannot be sustained and in this case he has relied upon AIR, 1976 SC.P 1766.

14. We have considered this aspect also but in this case the appellate authority did not finally exonerate the applicant and only the punishment order was modified. In view of this fact the adverse remarks given to the applicant cannot be said to be arbitrary or given out of malice or with malafide intentions. The whole of the correspondence on file annexed to the counter goes to show that the applicant has over acted and addressed certain communications ignoring the fact that he was working as Jr. Scientist under the Controlling Officer who is more qualified and holds the rank of Scientist 'F'.

15. Regarding the relief that the applicant has not been properly evaluated by the competent person, the learned counsel for the respondent gave a statement that adverse remarks of March 1986 was not considered in the Assessment Year ending with March 1986. Thus, the applicant should not have any grudge on that account.

16. In view of above facts and circumstances, the application is devoid of merit and is dismissed.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)