

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. NO. 1346/1990

New Delhi this the 21st Day of September 1994

Hon'ble Shri J.P. Singh, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Shri Raj Pal,  
Son of late Shri Dayal Ram,  
Section Officer,  
Ministry of Finance,  
Department of Revenue,  
Central Secretariat,  
North Block, New Delhi

... Applicant

(By Advocate : None)

Vs

1. Union of India,  
Through its Secretary,  
Department of Revenue,  
Ministry of Finance,  
Central Secretariat,  
North Block, New Delhi.

2. Shri Sandeep Joshi,  
Under Secretary,  
Ministry of Finance,  
North Block, New Delhi. .. Respondents

(By Advocate : None)

O R D E R

Hon'ble Shri J.P. Sharma, Member(J)

The applicant while working as Section Officer, Department of Revenue was given remarks in the ACR which were adverse in respect of his initiative attitude to work, ability to inspire maintaining discipline and inter-personal relations and team work. The Reporting Officer observed that the officer was found wanting in his initiative; his attitude towards work is casual; he has not been able to inspire confidence amongst

his subordinate staff; his casualness and late coming habit severely affected his ability to discipline the section and his relationship are very superficial and he is unable, at time, to appreciate others point of view. He, therefore, could not be recommended for any team work. The applicant made a representation against the same on 19.7.1988 and a part of the remarks that the officer has not been able to inspire confidence amongst his subordinate staff and his relationships are very superficial and he is unable, at times, to appreciate other points of view he cannot be recommended for any team work were ordered to be expunged from the Annual Confidential Roll. He again appealed against the same but the competent authority considering the same rejected the appeal. Thus, three of the five remarks were found to be factual by the competent authority and were allowed to stand.

2. The applicant, therefore, filed this application in July 1990 and prayed for the grant of the reliefs that the aforesaid adverse remarks given for the year 1987 be quashed. He has also prayed that the remarks given by the President of India on his appeal be not placed on his service record.

3. A notice was issued to the respondents who contested the application. It is stated that the applicant has made certain false allegations against the Reporting Officer rather than giving

any convincing arguments and the appellate authority taking the lenient view conveyed the Government's displeasure to him. The Reporting Officer and the Reviewing Officer as well as the competent authority have assessed the remarks given in the ACR for the year 1987 on the basis of record and passed the appropriate orders. All the relevant facts were taken into account by the competent authority. The applicant has no case. The applicant was also conveyed in May 1987, a warning that he should attend the office in time otherwise the entry shall be made in the ACR.

4. In the rejoinder filed by the applicant, the applicant has reiterated the points taken in the original application.

5. The case has been on Board and when the case came for hearing on 23.8.1994, none appeared for the parties. The case was ordered to be listed before the Divisional Bench in view of an earlier request made by the learned counsel for the applicant dated 16.3.1993. The case was adjourned to 5th of September, 1994. On 5th September, 1994 again none appeared for the parties. So the record was pursued and the order was directed to be reserved for 21st of September, 1994.

6. The case is being disposed of on merit on the basis of the pleadings. The grounds taken in the application are that the impugned adverse

remarks were given to the applicant for collateral reasons. This contention of the applicant is negatived by the warning issued to the applicant in 1987 itself and a copy thereof has been filed by the respondents as Annexure to the counter and that was received by the applicant in May 1987. The applicant, therefore, has wrongly stated that the remarks were given to him without considering his service record.

7. The other ground taken by the applicant is of general nature regarding the duties of the Reporting and Reviewing Officer with respect to the Annual Confidential Remarks. After purusal of the counter filed by the respondents, there is no scope of any other opinion that the Reporting Officer as well as the Reviewing Officer did not follow the relevant instructions regarding the Annual Confidential Remarks for the subordinate employees. It is confirmed by the fact that the Appellate Authority has expunged a part of the remarks and found that the remaining remarks given by the Reporting Officer and judged by the Reviewing Officer are fully justified in the case of the applicant

8. The other ground is that the representation with regard to the remaining ~~subsistant~~<sup>ing</sup> remarks has not been considered objectively. This is not a fact. We have gone through the counter on record and we do find that the Appellate Authority has applied its mind. In

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fact subsisting remarks are purely of such a nature which could be judged by the immediate superior officer.

9. It is also contended that the competent authority has not applied its mind to the applicant's appeal. It is also not correct. The language used by the applicant was ~~intemperate~~ and there were certain ~~insinuations~~ against the Reporting and Reviewing officer <sup>which</sup> were found to be false. The applicant was free to make a separate complaint but the representation in the form of appeal should be worded in a language which is respectful and due regard should be taken of the discipline and courtesy towards superiors officers.

10. The Hon'ble Supreme Court in the case of Air Marshal S.L.Chhabra Vs. Union of India reported in 1994 (24) ATC P 342 considered the case of adverse remarks and while disposing of the Writ Petition observed that the High Court nor the Hon'ble Supreme Court can modulate the grading given in the ACR. The nature of the subsisting remarks given against the applicant are that the officer is found wanting in the initiative, his attitude towards work is casual and his late coming habit which affected the discipline in the section. These remarks have been given by the Reporting Officer and maintained by the Reviewing Officer. These have also been considered in the appeal. This opinion is based on the service

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record of the applicant and respondents in the annexures to the counter have also filed warning note issued to the applicant when he was coming late to the office. No interference can be made by the Tribunal unjustified.

11. The application, therefore, is devoid of ~~merit~~ <sup>is dismissed</sup> leaving the parties to bear their own costs.

  
(B.R. Singh)

Member(A)

  
(J.P. Sharma)

Member(J)

\*Mittal\*