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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.169/1990

New Delhi, This the 25th Day of November 1994

Hon'ble Shri Justice S.K.Dhaon, Vice Chairman

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri R.S.Sehgal
son of Shri K.N.Sehgal
Aged 55 years
Resident of
B.N.14, Poorvi
Shalimar Bagh, New Delhi 52.

working as
Asst Engineer(Construction)
Northern Railway
State Entry Road, New Delhi.

...Applicant

By Shri M L Sharma, Advocate

Versus

Union of India, through:

1. The General Manager,
Northern Railway
Baroda House
New Delhi.
2. The Chief Administrative Officer
(Construction)
Northern Railway
Kashmere Gate,
Delhi -6.

...Respondents

By Shri O.N.Moolri, Advocate

O R D E R(Oral)

Hon'ble Shri Justice S K Dhaon, Vice Chairman

1. On.8.6.89 the General Manager sent a confidential communication to the applicant to the following effect:-

"The following adverse remarks recorded in your confidential Report for the year ending 31-3-1989 are communicated to you with the hope that you will effect improvement in the direction indicated:

The officer is just ordinary "run of the mill" types. He is able to do only liaison type of work with local authorities but in physical execution he appears



handicapped because of his health.

He has only three years left and does not appear to be interested in acquiring any new skills."

On 27.10.89 the General Manager informed the applicant that the competent authority had ordered expunction of the following remarks:

"He does not appear to be interested in acquiring any new skill".

The grievance of the applicant is that the entire adverse remarks should have been expunged. Hence this OA.

2. Counter affidavit has been filed on behalf of the respondents. Shri M L Sharma, the learned counsel for the applicant and Shri D.N.Meolri, learned counsel for the respondents have been heard.

3. In the counter affidavit no attempt has been made to show as to what was the basis of giving adverse remarks to the applicant. On the contrary, in his representation the applicant strongly represented that he was in perfect health all along and there was no warrant for the adverse remarks. We are satisfied that the competent authority, while disposing the representation, had not considered the contents of the representation. Even in the order passed by him on 27.10.89 expunction of merely certain remark was made but no reasons had been given as to why he thought it proper to maintain the remaining remarks. Normally a mention of the material which formed the basis of the remarks should have been made in the counter affidavit. That having not been done, the Tribunal is entitled to expect that on the final hearing the respondents would be armed with the relevant record for its perusal. That too has not been done. We may add that our observations should not be taken to mean

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that we have recorded a categorical finding that there is no material to substantiate the remarks given to the applicant. The competent authority shall re-consider the representation of the applicant and pass a speaking order.

4. The application succeeds in part. The competent authority is directed to reconsider the representation of the applicant dated 19.6.1989 on merits and in accordance with law and in the light of the above observations. In case the adverse remarks given to the applicant are expunged, a review DPC shall be held and if the applicant is found fit in those proceedings he shall be given consequential benefits.

5. There shall be no order as to costs.

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)
Member(A)
25-11-94

LCP

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(S.K. DHAN)
Vice Chairman
25-11-94