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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. 2113/90

New Delhi this the 27th day of October, 1994.

Shri N.V. Krishnan, Vice Chairman(A).

Smt. Lakshmi Swaminathan, Member(J).

Chetan Prakash Mittal,
Section Officer (Accounts),
Office of the Joint Controller
of Defence Accounts (Funds),
Meerut Cantt (UP).

..Petitioner.

None for the applicant.

Versus

1. The Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. Controller General of Defence Accounts,
West Block-V, R.K. Puram,
New Delhi.
3. Joint Controller of Defence Accounts(Funds),
Meerut Cantt (UP).
4. Shri R.B. Kapoor,
H.No. 3/30, East Patel Nagar,
New Delhi.
5. Shri Tarsem Lal,
Jt. C.D.A. , N.C.,
Jammu (J&K).
6. Shri V. Sekar,
Electronics and Radar Research
Development Establishment,
Bangalore.
7. Shri N.K. Garg,
Accounts Officer,
Office of the Controller of Defence
Accounts (Air Force),
Dehradun (UP).
..Respondents.

By Advocate Shri M.K. Gupta.

ORDER (ORAL)

Shri N.V. Krishnan.

The applicant is aggrieved by the adverse remarks communicated to him in the year ending 31.12.1986. He has prayed that these remarks should be quashed.

2. We have seen the records of the case and heard the learned counsel for the respondents. The adverse remarks for the year ending 1986 were communicated by the letter dated 5.3.1987 (Annexure (Ann.E-1) E-2). The entire report/ was sent to him. The adverse remarks are at item (g) of Serial No. 4 under heading "Assessment by the Reporting Officer". They read as follows:

"(g) Amenability to discipline.

He is in habit of flouting the orders issued by higher authorities e.g. he has several times addressed letters by name to CGDA and other authorities in spite of being advised to refrain from doing so".

3. The applicant made a representation dated 30.3.1987 (Annexure E-5) to the Controller General of Defence Accounts praying therein that the adverse remarks be expunged. As the Controller General of Defence Accounts was not the concerned appellate authority, the representation was forwarded to the Controller of Defence Accounts and after considering the matter he declined to expunge the adverse remarks vide his letter dated 23.11.1987 (Annexure E-7) addressed to the applicant's Head of Office with a request that the applicant should be informed accordingly.

4. The applicant has raised two main issues in regard to these adverse remarks. One is that this, a delayed communication. The other is that the Reporting Officer N.K. Garg, Accounts Officer, was compelled to change the remarks earlier given by him under pressure. The respondents have filed their reply. It is pointed out that there is no

delay, whastsoever, in the communication of the adverse remarks. The report was accepted by the Joint Controller of Defence Accounts (Funds) on 18.2.1987 as evidenced by Annexure A-2 filed with the reply. The adverse remarks were then communicated on 5.3.1987.

5. We have to make it clear that mere delay in communicating the remarks will not give any cause of action unless it is established that such delay has caused serious harm to the employee. The delay has been properly explained.

6. The allegation that the Reporting Officer Shri N.K. Garg was under duress to change the report made by him has been denied. It is stated that Shri N.K. Garg has categorically confirmed that the statement of the petitioner is incorrect and baseless vide his Annexures A-5 and A-6.

7. The applicant's representation having been considered by the competent authority and found not fit for acceptance, we are of the view that on the grounds raised there is no case for interference. The O.A. is dismissed. No costs.

Lakshmi Swaminathan

(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

Dr
27.10.94

(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'SRD'