

Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A.No.1184 of 1991

24<sup>th</sup> day of November, 1993.

Shri P.T. Thiruvengadam, Member (A)

Shri Satyendra Singh Arya,  
Senior Accountant,  
O/O The Chief Controller  
of Accounts,  
Ministry of External Affairs,  
New Delhi.

Applicant

By the Applicant in person.

Versus

1. Secretary,  
Ministry of External Affairs,  
New Delhi.
- 2, Chief Controller of Accounts,  
Ministry of External Affairs,  
New Delhi.

Respondents

By Advocate Shri N.S. Mehta.

O R D E R

Shri P.T. Thiruvengadam.

The applicant was posted as Assistant, Grade IV of I.F.S.(B) on deputation with the Ministry of External Affairs w.e.f. 24.11.1987 and was reverted to his parent department, i.e., Office of the Controller of Accounts, M.E.A., New Delhi vide M.E.A.'s Office Order No.Q/PC/575/50-87 dated 31.5.1990. During the period of deputation for the year 1989-90, certain adverse remarks were communicated to him which read as under:-

"No.CCA/MEA/CONF/90/464

dt. 10.8.90

OFFICE MEMORANDUM

I am to communicate to you a gist of remarks in your Confidential Report for the year 1989-90 regarding performance so that you can keep these in mind and try to improve yourself in respect of these defects in the future.

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It has been reported that while you are intelligent and have a searching mind, you have been a little too meticulous. While accuracy existed, promptness did suffer on account of the lack of planning of desk work. There is vast scope for improvement in the work pattern and attitude for disposal.

It is hoped that the above remarks may be kept in mind for further enhancement in your career.

In case you have any comments on the above, you may make a representation within one month of the date of receipt of this communication.

Sd/-  
(C.S. NARULA)  
CONTROLLER OF ACCOUNTS

He represented on 6.9.1990 to the Controller of Accounts, Ministry of External Affairs against the adverse remarks. To this, a reply was sent in O.M. dated 20.11.1990 stating that his request for expunging the adverse remarks communicated had not been acceded to by the competent authority. Aggrieved by this, this O.A. has been filed with a prayer for the following reliefs:-

- i) Adverse remarks recorded in A.C.R. for the year 1989-90 may be expunged;
- ii) The decision conveyed vide O.M.No.COA/MEA/Conf./90/515, dated 20.11.90 may be quashed;
- iii) The applicant may be graded as OUTSTANDING;
- iv) that suitable action against the erring authorities may please be taken.

2. A number of grounds have been advanced

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by the applicant in support of his case. One of these is that the report had been accepted by the Controller of Accounts, who is not the competent authority to do so. As per the applicant, it is mentioned in Part V of the A.C.R. that the accepting authority is the officer who is the next superior officer to the Reviewing Officer. The applicant, having proceeded on deputation to the Ministry, ceased to remain under the administrative control of Respondent No.2 and was under the administrative control of Respondent No.2. Accordingly, the authority superior to the Reviewing Authority in the line of administrative channel, had to act as the accepting authority. The applicant further adds that the communication of adverse remarks was done by Respondent No.2 in August, 1990, by which time, he had been repatriated from his deputation. Hence, the applicant addressed respondent No.2 in his representation against the adverse remarks and it was for respondent No.2 to get the representation disposed of by the competent authority. The disposal by the Controller of Accounts, who was the original appointing authority, has been done without jurisdiction.

3. The stand of the respondents is that as the applicant was on deputation to the Ministry of External Affairs, the Ministry's part of action was limited to reporting and reviewing officers and the report was to be accepted by the Controller of Accounts, who was the appointing authority. However, the learned counsel for the respondents was not in a position to substantiate this contention by any instructions on the subject. Whenever an official is sent on deputation, the confidential reports have

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to be fully processed by the department where he has been sent on deputation. This processing would include the acceptance of the report since the functioning of the official would be known only to the authorities in that department. No instructions to the contrary, or peculiar to the situation under discussion could be produced by the learned counsel for the respondents. Hence, it has to be held that the confidential report had been accepted by an authority which had no jurisdiction. Similarly, the representation against the adverse remarks has also been entertained by an authority without jurisdiction. In the circumstances, it would be fit and proper to expunge the remarks of the accepting authority and direct Respondent No.1 to get the relevant C.R. accepted by the correct authority in the administrative channel relating to the applicant. Only after this process is completed, the issue of adverse remarks, if any, with the follow-up representations, etc., can arise.

*light of the view*

4. In the *later review* which has been taken, it is not considered necessary to spell out or deal with other contentions raised by the applicant. The O.A. is allowed to the extent that the case is referred to *Ri do put up to* the competent authority for accepting the C.R. of the applicant for the year 1989-90.

5. There will be no order as to costs.

*P. T. Thiruvengadam*

(P.T. Thiruvengadam)  
Member(A)