

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No 2701/91

Date of decision: 16.10.92

Shri Daya Nand

... Applicant

Versus

C.P. Delhi & Others

... Respondents

CORAM :-

HON'ble Mr I.K. RASGOTRA, MEMBER (A)

For the applicant

- Shri A.S. Grewal

For the respondent

- SI Sunder Singh

**(JUDGEMENT)**

(ORAL)

The case of the petitioner is that he was given adverse remarks in the ACR for the period from 1.4.1988 to 25.10.1988. The same were communicated to him vide No 327/PA-DCP/SW dated 12.10.1989. The petitioner made a representation against the adverse remarks to the Additional Commissioner of Police which was rejected vide order 30.10.1990 without giving any reasons. It is the non-speaking order rejecting his representation against the adverse remarks which is the issue assailed in the OA and projected by Shri A.S. Grewal, Learned Counsel for the petitioner, since the said order rejecting petitioners' representation does not give any reasons,

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the Learned Counsel submitted that the same be quashed  
being  
and set-aside as arbitrary and illegal. From the personal  
file of the petitioner produced by the respondents, I  
find that the representation of the petitioner was rejected  
by the respondents after giving careful consideration  
to his representation and after giving him personal  
hearing in addition. **Hon'ble Supreme Court in Union  
of India and Others V/s E.G. Nambudiri JT 1991 (2)  
S.C.285,** has held that

"There is no dispute that there is no rule or  
administrative order for recording reasons in rejecting  
a representation. In the absence of any statutory rule  
or statutory instructions requiring the competent authority  
to record reasons in rejecting a representation made  
by a Government servant against the adverse entries the  
competent authority is not under any obligation to record  
reason. But the competent authority has no licence to  
act arbitrarily, he must act in a fair and just manner.  
He is required to consider the questions raised by the  
Government servant and examine the same, in the light  
of the comments made by the officer awarding the adverse  
entries and the officer counter-signing the same. If  
the representation is rejected after its consideration  
in a fair and just manner, the order of rejection would  
not be rendered illegal merely on the ground of absence  
of reasons. No order of an administrative authority  
communicating its decision is rendered illegal on the  
ground of absence of reasons ex facie and it is not open  
to the court to interfere with such orders merely on  
the ground of absence of any reasons. However, it does  
not mean that the administrative authority is at liberty  
to pass orders without there being any reasons for the  
same. In Governmental functioning before any order is



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issued the matter is generally considered at various levels and the reasons and opinions are contained in the notes on the file. The reasons contained in the file enable the competent authority to formulate its opinion. If the order as communicated to the Government servant rejecting the representation does not contain any reasons, the order cannot be held to be bad in law. If such an order is challenged in a court of law it is always open to the competent authority to place the reasons before the Court which may have lead to the rejection of the representation. It is always open to an administrative authority to produce evidence aliunde before the court to justify its action."

2. As observed by their Lordships in E.G. Nambudiri (Supra), there is no statutory provision requiring competent authority to record reasons and, therefore, mere absence of reasons does not render the order rejecting the representation against the adverse remarks arbitrary and illegal. All that is required is that the competent authority should act in a fair and just manner. There is no material before us that the competent authority has not acted in a fair and just manner. In fact, the record shows that the competent authority did consider all relevant factors of the case while considering the petitioner's representation <sup>and even gave him</sup> personal hearing. In the circumstances, I am satisfied that there is no violation of any right of the petitioner nor is the decision of the competent authority rendered arbitrary or illegal merely because this order rejecting the petitioner's representation does not record reasons therefor. The O.A. is accordingly dismissed. No costs.

*I. K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A)