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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. 287/91

Date of decision 3-6-91

Sh. Subhash Chand Sharma

..... APPLICANT

Vs.

Union of India & Ors.

..... RESPONDENTS.

Sh. B. S. Mainee

..... Counsel for the
Applicant.

Sh. B. M. Mani

..... Counsel for the
respondents.

CORAM : HON'BLE MR. JUSTICE RAM PAL SINGH, VICE-
CHAIRMAN (J).

HON'BLE MR. P. S. HABEEB MOHAMMAD, MEMBER(A).

(order of the Bench delivered by Hon'ble Sh. Ram Pal Singh,
Vice Chairman (J)).

O R D E R

Both the parties are finally heard. The brief facts of the case are. The applicant was working as a Tele-communication Inspector, Grade III, when he got an adverse entry in the Annual Confidential Report for the period ending 31.3.90. This adverse entry was communicated to him by a letter dated 9.7.90 (Annexure A1). The applicant is aggrieved by the adverse entry "needs further improvement". The contention of Sh. B. S. Mainee is that the adverse entry is in contravention of the Railway Board's instructions which provides that not only the adverse entry should be communicated but anything which has been stated favourably to the employee should also be communicated to him so that he may prefer an effective appeal before the appellate authority. For convenience we shall quote the instructions:

"Where the confidential report of any railway servant contains an adverse or a critical remark either on his performance or on his basic qualities or potential, it shall be

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communicated to him together with the substance of the favourable remarks either by the Accepting Authority or by the Reviewing Authority as may be specified by the G.M. or any other Officer by him in this behalf within one month of the acceptance of the confidential report and a record to this effect shall be kept in the file containing the confidential reports of the railway servant concerned.

An entry in the confidential report that the Railway servant is not fit for promotion shall be deemed to be an adverse remark and the whole entry including the reasons for the remark shall be communicated to the Railway servant concerned. "Average" remarks shall not be treated as adverse remarks.

2. Sh.B.S.Mainee has also drawn our attention towards the order passed by the appellate authority, Annexure A2. This order also contains the statement that the adverse remarks in the confidential report for the period ending 31.3.90 has been thoroughly examined and the competent authority found no justification for expunging these remarks. From this Sh.B.S.Mainee contends that the order passed by the appellate authority should also be a speaking order. He has cited to us the case of Virender Pal Singh (1, 1989 A.T.N.T. C.A.T. 280) and Dr. Hari Dev Goyal (A.T.R. 1988 1 C.A.T. 145). Sh.B.M.Mani, counsel for the respondents contraverted the arguments and has maintained that these grounds were not raised before the appellate authority, as is evident from the perusal of Annexure A 3. He further contends that the adverse remarks in the character roll were in accordance with the provisions of Railway Rules.

3. Any adverse remark in the character roll by the Superior Officers on the employee has to be in clear

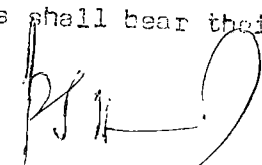
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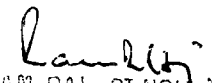
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words. Clarity in expression will also prove to be a direction to the employer to better perform his duty. We rely upon the Railway Rules as well as these authorities cited upon and we are satisfied that this O.A. should be allowed.

4. Consequently this O.A. is allowed (Annexure A 1 and Annexure A2) are quashed and the respondents are directed to make the character roll entry in accordance with the Law indicated herein above. The parties shall bear their own costs.


(P.S. HASEEB MOHAMMAD)
MEMBER (A)


(RAM PAL SINGH)
VICE CHAIRMAN (J)