

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1440/2004

New Delhi, this the 5th day of July, 2005

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K.Malhotra, Member (A)**

Narandu Kumar Sinha
S/o Bimalendu Kumar Sinha
Presently posted as Circle Organiser
(East Area, S.S.B.) under
Director General of Security
Cabinet Secretariat
Government of India
New Delhi.

Applicant

(By Advocate: Applicant in person)

Versus

Director General of Security
Cabinet Secretariat, Government of India
New Delhi.
Through Director, SSB, East Block V
R.K.Puram, New Delhi – 110 066.

.. Respondent

(By Advocate: Sh. B.S.Jain)

O R D E R

By Mr. Justice V.S.Aggarwal:

Applicant (Narandu Kumar Sinha), by virtue of the present application, seeks setting aside of the order of 19.2.2004 and to direct the respondents to promote him from the date his juniors have been promoted. He further seeks direction to consider his representation for expunging of adverse remarks in the Annual Confidential Report for the period 1999-2000.

2. The relevant facts are that vide the impugned order of 19.2.2004, the applicant had been informed:

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“Subject: Regarding representation of Shri N.K.Sinha against adverse remarks.

Please refer to your office confidential letter No.AOK/(E)/ACR/2003-04-16 dated 7th Feb. 2004 forwarded there-under representation in respect of Shri N.K.Sinha, Circle Organizer against adverse entry made in his ACR for the year 1999-2000.

2. The representation is returned herewith in original with the remarks that the individual is submitted his representation after a lapse of three years whereas as per instructions, representation against adverse entry is required to be submitted by an individual within one month from the date of receipt of such communication. In this connection, SSB Dte. Instructions received vide Confidential Memo No.642 dated 15.9.1999 is also referred to. Since Shri sinha has submitted his representation to expunge his adverse entry from ACR in the month of Feb. 2004 through A.O. Kheri (East) vide his letter referred to above. In future such cases be submitted to higher hqrs. After proper checking and instructions.

3. Individual be informed accordingly.”

3. The applicant had been served with the following adverse remarks:

Column of ACR form under which adverse remarks recorded.	Remarks
Job description in Part III, Section 1.	“I agree except regular submission of WIR. He was not regular and timely submission of W.I.R.”
Column – xvi) of Section – 4. Are you willing to retain him with you in the present grade.	“No.”

4. The applicant contends that while he was serving with the respondents, on 7.12.1998, the Area Organizer sent through

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proper channel the representation of the applicant. In this regard, it is contended that the father of the applicant had approached the Member of Parliament to air the grievance of the applicant stating that his son stands at Sl. No.14 in the seniority list and he has not been promoted whereas his juniors have been promoted. The applicant was issued a show cause notice as to why his father has approached the Member of Parliament to air his grievance. On 29.4.1999, the respondents rejected the claim of the applicant for promotion. On 12.7.2000, Area Organizer had issued the letter of appreciation to the applicant. Thereafter on 14.8.2000, the applicant was communicated with adverse entries to which we have referred to above. The applicant received the communication on 22.9.2000. He submitted a representation on 9.10.2000 for expunging of the adverse remarks in his ACR for the period 1999-2000. The representation was rejected on 22.1.2001. It was followed by a fresh representation. But the remarks were not expunged. The applicant submitted another representation on 23.12.2003 which has been rejected vide the impugned order.

5. The grievance of the applicant is that he has not been given even a single promotion and his seniority has been denied. He could not have been superseded.

6. The application is being contested.

7. The first and foremost question raised on behalf of the respondents has been that the application is barred by time. It is not in dispute at either end that one-year is the period of limitation prescribed when the cause of action arises.

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8. Record reveals that the applicant was communicated the adverse remarks vide the letter of memorandum of 14.8.2000. The applicant made a representation which was rejected on 22.1.2001 recording:

“On a careful consideration of the representation dated 9.10.2000 and 11.10.2000 made by Shri N.K. Sinha, CO against the adverse remarks made in his ACR for the year 1999-2000 and the facts on record I have come to the conclusion that there is nothing substantial in both the representations and hence both these representations are rejected and it is ordered that the adverse remarks made in his ACR stand without any change whatsoever.”

9. The applicant submitted another representation which was again rejected on 10.7.2001 and subsequent representation even was rejected on 2.8.2001.

10. It is settled principle of law that repeated representations will not extend the period of limitation. We refer with advantage to the decision of the Supreme Court in the case of **S.S. RATHORE v. STATE OF MADHYA PRADESH**, AIR 1990 SC 10.

11. When the present matter is examined on the touch-stone of the abovesaid decision, it is obvious that the representation of the applicant had been rejected in the year 2001. He filed the present application on 2.6.2004. The limitation has long expired. Vide the impugned order, the representation of the applicant had been rejected informing him that he is submitting after many years. This is not reconsideration. Therefore, once the Original Application has been filed after the period of limitation and there is

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no application even seeking condonation of delay, it must be stated that the Original Application is barred by time.

12. Even on merits of the matter, there is precious little for this Tribunal to interfere.

13. We know from the decision of the **Supreme Court** in the case of **S. RAMACHANDRA RAJU v STATE OF ORISSA**, 1994 (Supp.) 3 SCC 424 which had referred to the importance of recording the Annual Confidential Reports and had highlighted the subjectivity in recording the same. It was held that there should be objective assessment pertaining to the same. The findings read:

“11. It would speak volumes on the objectivity of assessment by the reporting officer i.e. the Principal. This conduct is much to be desired. This case would establish as a stark reality that writing confidential reports bears onerous responsibility on the reporting officer to eschew his subjectivity and personal prejudices or proclivity or predilections and to make objective assessment. It is needless to emphasise that the career prospects of a subordinate officer/employee largely depends upon the work and character assessment by the reporting officer. The latter should adopt fair, objective, dispassionate and constructive comments in estimating or assessing the character, ability, integrity and responsibility displayed by the officer/employee concerned during the relevant period for the above objectives if not strictly adhered to in making an honest assessment, the prospect and career of the subordinate officer being put to great jeopardy. The reporting officer is bound to lose his credibility in the eyes of his subordinates and fail to command respect and work from them. The constitutional and statutory safeguards given to the government employees largely became responsible to display callousness and disregard of the discharge of their duties and make it impossible to the superior or controlling officers to extract legitimate work from them. The writing of the

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confidential is contributing to make the subordinates work at least to some extent. Therefore, writing the confidential reports objectively and constructively and communication thereof at the earliest would pave way for amends by erring subordinate officer or to improve the efficiency in service. At the same time, the subordinate-employee/officer should dedicate to do hard work and duty; assiduity in the discharge of the duty, honesty with integrity in performance thereof which alone would earn his usefulness in retention of his service. Both would contribute to improve excellence in service.”

14. Similarly, in the case of **SUKHDEO v. COMMISSIONER AMRAVATI DIVISION, AMRAVATI AND ANOTHER**, (1996) 5 SCC 103, the Supreme Court highlighted the importance of recording the Annual Confidential Reports and held that there should be due diligence in making remarks. It was held:

“5. In view of the above remarks made by the officer, the conclusion reached is obviously incorrect and it is not in public interest. A man does not become poor in public image when his relationship with the public and subordinates is good and he is a man of integrity and honesty and he has got the satisfactory intelligence for discharging his duties and is fit for promotion. How can in such circumstances his performance would be held unsatisfactory when he is capable of coordinating with subordinates and get the work done. How his technical ability is not satisfactory. The remarks are mutually inconsistent and reasons are self-evident of lack of bona fides in making these remarks. Under these circumstances, it could be characterized that the remarks were not bona fide made in public interest but was a self-serving statement to weed him out from service.”

15. The Annual Confidential Reports had been recorded and communicated to the applicant. There are no malafides or factual

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errors that have been stated which might prompt this Tribunal to interfere or look further into it. Therefore, we find little ground to expunge the adverse remarks.

16. In this backdrop, the applicant has been ignored for promotion. Indeed on merits of the matter even there is little ground to interfere.

17. For these reasons, the Original Application being without merit must fail and is accordingly dismissed.

Sm. alwss

(S.K. Malhotra)
Member (A)

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(V.S. Aggarwal)
Chairman

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