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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1621/2004

New Delhi this the 7th day of July, 2004

Hon'ble Shri R. K. Upadhyaya, Member (A)

Shri A.K.Bhatia,
S/O Shri Mulkraj Bhatia,
R/O 1189-A/23, NIT,
Faridabad (Haryana)
working as Economic
Investigator Gr.I,
Department of Drinking
Water Supply, CGO Complex,
New Delhi.

..Applicant

(By Advocate Shri M.L.Chawla)

VERSUS

1. Union of India through
Secretary (RD)
Ministry of Rural Development,
Krishi Bhawan, New Delhi.
2. Deputy Secretary (CRSP)
Department of Drinking Water
Supply, Ministry of Rural
Development, 9th Floor,
Prayavran Bhawan, CGO Complex,
Lodi Road, New Delhi-110003.

..Respondents

O R D E R (ORAL)

Hon'ble Shri R. K. Upadhyaya, Member (A)

The applicant, Shri A.K. Bhatia, working as Economic Officer has filed this application under Section 19 of the Administrative Tribunals Act, 1985. He has challenged the communication of adverse remarks vide Office Memorandum dated 28.6.2004 (Ann.A-1). He has sought the following reliefs:-

8.1. To quash and set aside the impugned order at Annexure A 1.

8.2. To direct the respondents to stop torturing and humiliating the applicant for no valid fault/ground.

8.3. To direct the R-1 to investigate the case and fix the responsibility in this case of wilful/wanton harassment.

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8.4. Any other order(s), direction(s), relief(s) as deemed fit in the facts and circumstances of the case so as to meet the ends of justice; and

8.5. To allow this application with costs against the respondents as he has been driven to avoidable litigation time and again".

2. Learned counsel of the applicant states that the Office Memorandum dated 28.6.2004 is a nullity in the eyes of law and should be quashed. He has referred to order dated 6.3.2003 in OA 2306/2002 wherein this Tribunal had directed the respondents to verify the period for which the applicant had worked under the Reporting Officer. The claim of the applicant in that OA No.2306/2002 was that he worked for less than three months during the period from 16.8.2001 to 31.12.2001. It was argued before the Tribunal that if the applicant had worked for less than three months, his ACR could not be written by the Reporting Officer. After considering the arguments of the applicant, this Tribunal had directed that".....the applicant shall not be forced to fill another ACR and the ACR already been filled by the Desk Officer (Vigilance) shall be acted upon by the respondents". Instead of verifying contentions raised before this Tribunal in OA 2306/2002, the respondents have communicated the adverse remarks for the same period which is the subject matter of dispute in this OA. Learned counsel states that the order being a nullity in the eyes of law, should be quashed at the initial stage itself.

3. The contentions raised by the learned counsel have been considered and the material available on record have been perused. It is considered desirable to dispose of this OA at the admission stage without issuing notice to the respondents

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as their rights are not likely to be affected.

4. The present application is premature for several reasons. The impugned Office Memorandum dated 28.6.2004 itself provides that if the applicant considers it necessary, he may make a representation against the adverse remarks within one month from the date of issue of the O.M. The learned counsel informed that the applicant vide his letter dated 1.7.2004 addressed to the Secretary (RD), Ministry of Rural Development, Krishi Bhawan, New Delhi, a copy of which has been placed on record, has raised his objection. A perusal of the objection of the applicant against the communication of adverse remarks indicates that no reference has been made to the order of this Tribunal dated 6.3.2003 in OA 2306/2002. The applicant has also not stated whether the Reporting Officer was competent to right his ACR as he had claimed before this Tribunal in OA 2306/2002 that he worked for less than three months under the Reporting Officer. The respondents also do not appear to have passed any order in compliance to the order dated 6.3.2003 in OA 2306/2002. Considering all these facts, the present OA is rejected as premature with a direction to the applicant to make a fresh representation containing all the details as were pressed before this Tribunal during the hearing of OA 2306/2002. He may also submit a copy of the present OA to Respondent No.1 along with a copy of this order within a period of one month. If such representation is made, respondent No.1 is directed to consider the facts of this case and the relevant rules on the subject and pass a speaking order within a period of three

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months from the date of receipt of the said representation from the applicant.

5. In view of the directions in the preceding paragraphs, this Original Application is disposed of at the admission stage without any order as to costs.


(R.K.UPADHYAYA)
ADMINISTRATIVE MEMBER

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