

In the Central Administrative Tribunal
Principal Bench, New Delhi

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Regn. No. OA-2256/92

Date:

9.7.92

Shri Vijay Kumar Rastogi Applicant

Versus

Union of India Respondents

For the Applicant Shri G.K. Aggarwal, Advocate

For the Respondents None 2 PP ✓

CORAM: Hon'ble Mr. J.P. Sharma, Member (Judl.)

1. To be referred to the Reporters or not?

Single Bench Judgement

(By Hon'ble Mr. J.P. Sharma, Member)

The applicant has assailed the order dated 28th May, 1992, conveying adverse remarks for the applicant's annual report, 1990-91 (Annexure A-1) conveyed by the Defence Research Development Establishment (TRDE), Gwalior. The relief claimed by the applicant is that the aforesaid adverse remarks in the annual confidential report 1990-91 be quashed.

2. The applicant has been working in the period under review in the T.R.D.E., Gwalior. The following advisory/adverse remarks were given to him:-

"Dr. Rastogi is in the field of biochemistry for well over 15 years. In spite of this, his knowledge in the subject is far from satisfactory. Though all facilities are available in this establishment for the type of studies he intends to carry out, he does not seem to exert much".
"Orally informed in the presence of Head of the Division that the progress is not upto the mark".

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Against this remark, the applicant made a representation dated 8.7.1992 (Annexure A-10). However, the applicant was compulsorily retired from service on 9.6.1992. It has not come on record whether the said representation has been disposed of.

3. The respondents contested the application and stated that the applicant is not entitled to any relief. The adverse remarks in the 'C-PAR' of the applicant were communicated to him strictly in accordance with the guidelines/instructions for rendition of C-PAR of Scientists of T.R.D.S. These remarks are not based on extraneous considerations.

4. I have heard the learned counsel for the parties at length and perused the record. The learned counsel for the Applicant argued that the comments in the adverse remarks that the applicant is working for well over 15 years in the field of biochemistry and that still his knowledge in this subject is far from satisfactory, cannot be substantiated. The contention of the learned counsel is that the adverse remarks are sweeping one and should have been confined to the period under review. He has also referred to paras.5,6 and 7 of his representation against the adverse remarks dated 8.7.1992. It is stated in the representation that the remarks do not refer to any specific job performance. There is no material to support the adverse remarks and, in fact, these are contrary to the material on

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record. In the representation also, the applicant has also written high about his performance as Scientist 'C' w.e.f. 1.7.1983. He, therefore, conceded the fact that as regards the comment that the applicant did not exert himself much, was the opinion of the reporting officer and may not be interfered with. But he emphatically argued that the comment regarding 15 years' service of the applicant and that his knowledge on the subject is unsatisfactory, should be struck down. In support of this contention, the learned counsel has argued that no written communication advisory or critical, was conveyed to ^{the applicant} him during this period. However, the respondents in para.4.7 of the counter-affidavit stated that Dr. Rastogi was informed of his far from satisfactory progress during the year 1990-91. It is further stated that though the applicant was appointed as Guide of certain college students in bio-chemical parameters for their thesis work, yet that was a routine matter because such facilities are not available in other institutions in and around Gwalior. Four such college students joined the work with the applicant and except in one case, no scientific work ever got published, which itself reflects on the standard of the work of the applicant. It is further stated that most of the papers mentioned as to have been published by the applicant, pertain to the years earlier than 1990-91.

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I have given anxious thought to the various points raised by the learned counsel for the applicant and am clear on the point that the appraisal made of the work of the applicant is only confined to the period under review. The emphasis in the comments by the reporting officer of the standing of the applicant of 15 years in the field of bio-chemistry is only to express own assessment by the reporting officer for the knowledge of the applicant in that field. It does not show that 15 years' work of the applicant has been condensed while commenting on the work and performance of the applicant in the research field of bio-chemistry. In fact, the Court cannot sit as an expert body, particularly in the scientific discipline where only the knowledge and wisdom as well as working of a Junior Scientist can be judged by a superior expert in that branch. The remark definitely shows that the applicant was orally informed in the presence of the Head of the Division that his progress was not upto the mark. The respondents have also averred that fact in their counter-affidavit, as said above. In reply to para.4.07 of the counter, the applicant has not denied this fact in the rejoinder dated 5.2.1993. Thus, the applicant was duly informed of his shortcomings and slow progress in the particular discipline of bio-chemistry.

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5. The applicant has also since retired though compulsorily by the Government w.e.f. 9.6.1992.

6. I find no merit in this application and the same is dismissed, leaving the parties to bear their own costs.

for name 9.7.93
(J.P. Sharma)
Member (J)