

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

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O.A. No.2451 of 1992

New Delhi this the 6th day of February, 1997 / 3-10-97

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri S.C. Jain
S/o Shri M.R. Jain,
R/o B152, Nanak Pura,
New Delhi-110 021.

...Applicant

None for the applicant.

Versus

Union of India through
the Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi.

...Respondents

None for the respondents.

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar, Member (A)

None present for the parties even on
the second call.

2. On perusing the matter, it is seen that the relief claimed by the applicant is for quashing the order dated 21.2.1986 (Annexure A-VI) declaring that the competent authority has not found the applicant fit to cross the second Efficiency Bar(E.B.) with effect from 4.1.1985 and the order dated 23.2.1987 (Annexure A-VII) declaring him not found fit by the competent authority to cross the Efficiency Bar from 1.1.1986 also. The applicant contends that the respondents have relied on certain guidelines issued by the Director General of Works instead of the provisions of the Manual for assessing the standard of performance and they have

passed adverse orders against him. He also alleges that the DOP&T instructions have not been followed. He submits that as per the provisions of the Manual for crossing the E.B., the work and conduct should not be adjudged as unsatisfactory. Although there has been no fall in the standard in his performance, the respondents have prejudicially declared him unfit for crossing the Efficiency Bar.

3. The respondents in their reply have submitted that the manual provision is only a compilation of rules and there is nothing mandatory in this. Besides, crossing of the Efficiency Bar is based on the assessment of the overall performance of the officer during the 5 years prior to his due date and he should be assessed as good. They, therefore, have denied that there have been prejudicial or mala fide intention in this order. They have also denied that there has been any defect in this order.

4. On perusal of the pleadings of both the parties, it is seen that crossing of Efficiency Bar is assessed by a Committee duly constituted for the purpose. In the assessment of that Committee if the overall performance of the employee has to be his good performance throughout the period under review and if the applicant has not been found good enough, then the

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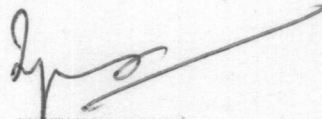
.3.

Court or Tribunal cannot rerassess the performance of the applicant and can substitute its judgment for the judgment of the Committee. In this, I am guided by the observations of the Apex Court in Administrator of Dadar and Nagar Haveli Vs. H.P. Hora, 1993(1) SLJ 27 SC. I am of the considered view that the respondents have not acted in an arbitrary or prejudicial manner and have gone by the assessment of the Committee. Merely because the manual provides that the work and conduct should not be adjudged unsatisfactory, it does not lay down that, the Committee cannot prescribe certain standard for crossing the Efficiency Bar. It is required in public interest that the work and conduct of the officer should be generally good enough to enable the Committee to declare the applicant fit to cross the Efficiency Bar. Merely average report also would indicate that work and conduct has not been adjudged unsatisfactory. This would only indicate that the applicant can continue at the existing stage. For crossing the Efficiency Bar, as reflected in the reports, he must display some amount of good performance; Otherwise prescribing an Efficiency Bar in the scale will have no meaning. Accordingly, I am of the considered view that there is nothing wrong in the respondents' action in not considering him good enough

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to cross the Efficiency Bar.

5. In the light of the foregoing, there is no merit in the application and it is accordingly rejected. There shall be no order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)

Rakesh