

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

DA No. 88/93

Dated 3.11.1993

Shri S.K. Roy

..... Petitioner

Versus

Union of India

..... Respondents.

Copamz/-

Present:-

Shri P.P. Khurana with
Shri Madhav Panikar

For the Applicant.

Shri R.R. Bharti

For the Respondents.

Judgement delivered by the Hon'ble Mr. P.T. Thiruvengadam.

(ORAL)

1. The applicant is a Member of the Indian Customs and Central Excise Service which he joined as a result of Civil Service Examination conducted in the year 1969. The applicant has filed this OA with regard to the Confidential Reports for the years 1979 and 1976. As regards the Confidential Report for the year 1979, it is the case of the applicant that the Reviewing Officer had toned down the remarks of the Reporting Officer to the detriment of the applicant. As regards the CR for the year 1976, the competence of the authority who was the Reporting Officer has been questioned. The OA has been filed with a prayer for the following reliefs.

- i) To expunge the remarks of the Reviewing Officer in the applicants ACRs for the years 1976-79, wherein the applicant has been categorised as a good officer.
- ii) To direct a review DPC to consider the applicants case afresh in the light of the expunction of the Reviewing Officers remarks.// These reliefs have been claimed in the background of the loss of seniority by 112 places allegedly due to the above CRs and the consideration shown to similarly placed officers whose CRs entries were changed on representation and consequential benefits given to them. In the case of the applicant, the representation for review of the CRs of 1979 and 1976 was rejected by the department on 6-1-92.

2. Taking the first relief for consideration, it was argued on behalf of the applicant that the ACR for the year 1976 was initiated by an officer without authority and the Reviewing Officer had toned down the ^{grading} gravity. The Respondents states that the ACR for the year 1976 was initiated by the competent authority, namely, Shri Guru Darshan, Officer on Special Duty, Nepal. The character roll of the applicant was produced

and on perusal of the ACR for the relevant period, I am satisfied about the competence of the initiating authority and also note that the Reviewing Officer has not differed from the assessment of the Reporting Officer.

3. As regards, the Confidential Report for the year 1979, it is admitted that the Reviewing Officer has recorded as under:-

"Do you agree with the Reporting Officer in regard to his remarks on the resume of work done by the officer as contained in Para 2 of the Report? If not indicate briefly, the reasons for disagreeing with the Reporting Officer and the extent of disagreement.

I have seen very little of the work of the officer during the period under Report. ^{his} resume, however, does not bring ^{out} that anything spectacular done by him."

4. The Reporting Officer, however, had agreed with the resume by the applicant and had added that the performance of the applicant was very good, obviously, in reference to the contents of the resume. The Reviewing Officer was associated with the applicant for just about 3 months and after admittedly that he had seen very little of the work of the applicant had chosen to give a good grading. This does not read in harmony with the various remarks made by the Reporting Officer who was not expected to provide and has not provided any grading with reference to the applicant. The remarks of the Reporting Officer in various columns go to ^{sup.} report his assessment of the resume as one meriting a very good performance. Hence, this has to be interpreted that the Reviewing Officer has disagreed with the Reporting Officer with regard to the resume that has not recorded any convincing ^{but} ^{such disagreement.} ^{facile} reasons for ^{whether} Normally speculative work would be associated with an outstanding Report and in the absence of spectacular work, whenever the grading would be very good or good would depend on objective assessment for the entire year.

5. The Learned Counsel for the Applicant referred to C.S., OM No. 51/5/72-Ests(A), dated 20-5-72 Para 7 which needs as under:-

" Objectivity in Confidential Reports and assessment at more than one level.- In order to minimise the operation

of the subjective human element and of conscious or unconscious bias, the confidential report of every employee should contain the assessments of more than one officer except in cases where there is only one supervisory level above the officer reported upon. The Confidential Report should be written by the immediate superior and should be submitted by the reporting Officer to his own superior.

While it might be difficult for the higher officer to get to know a large number of employees two grades below him, his overall assessment of the character, performance and ability of the Reported Officer is vitally necessary as a built-in corrective. The judgement of the immediate superior even though completely fair in its intent might sometimes be too narrow and subjective to do justice to the officer reported upon. The officer superior to the Reporting Officer should, therefore, consider it his duty to personally know and form his own judgement of the work and conduct of the officer reported upon. He should accordingly exercise positive and independent judgement on the remarks of the Reporting Officer under the various detailed headings in the form of the report as well as on the general assessment, and express clearly his agreement or disagreement with those remarks. This is particularly necessary in regard to adverse remarks (if any) where the opinion of the higher officer shall be construed as the correct assessment.

The Reviewing Officer is free to make his remarks on points not even mentioned by the Reporting Officer. Such additional remarks would, in fact, are necessary where the report is too brief, vague or cryptic.

6. Reference was also made to DP and AR OM No. 51/3/74-Estt.(A), dated 22-5-75, given below:-

"Where the Reviewing Officer is not sufficiently familiar with the work of the Government servant reported upon, so as to be able to arrive at a proper and independent judgement of his own, it should be his responsibility to verify the correctness of the remarks of the Reporting Officer after making such enquiries as he may consider necessary. Where necessary, he should also give a hearing to the Government servant reported upon before recording his remarks."

7. This is a case where the Reviewing Officer had seen very little work of the officer reported upon as per his own acknowledgement. The responsibility on him is following the general tenor of the remarks in various columns of the Reporting Officer would be much greater. To simply go by the resume\$ made out by the Reported Officer, which resume may be too modest or exaggerated will not be doing justice. Reviewing Officer has to ⁱⁿ advise his own method to arrive at an ^{ve} objection ¹ assessment. This review does not seem to have been done in this case. ¹ exercise

8. The Learned Counsel for the Respondents referred to the order dated 29-5-93 of this Bench in OA No. 2905/92 where the ~~expunging~~ prayer for ~~reporting~~ expunging the adverse remarks of Reviewing Authority in the ACRs of the applicant resulting in downgradation of 'very good' grading and 'good' grading was disallowed. But, this case can be distinguished since the Reporting and Reviewing Officer had acted in conformity with the general instructions on the subject of writing ACRs and had both seen the work and conduct of the officer reported upon. It is also noted in OA 2905/92 that the applicant's performance from 1985 onwards had been assessed only as good. The case of the applicant in this OA is distinguishable in this regard too.

9. In the circumstances of the case, it will be fit and proper to expunge the remarks of the Reviewing Officer and remit the case to the department for re-consideration by the Competent Reviewing Authority. If for any reason such a review is not possible at this stage, the ACR will stand only to the extent of the remarks given by the Reporting Officer. The department should take action for further review by the Competent Reviewing Officer within a period of 3 months and advise the applicant of the action taken.

10. At the time of arguments, the Learned Counsel for the applicant did not press for the second relief and accordingly this issue is not being considered.

11. OA is disposed of with the above directions, no costs.

P. J. Thangaraj

(P.T. THIRUVENGADAM)
MEMBER(A)