

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

original Application Number 1350 of 2001

ALLAHABAD, THIS THE 06th DAY OF NOVEMBER, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

P.L. Verma s/o Late Ram Dayal,
r/o E/T 7, Arunpur Estate Kanpur
working as Assistant Works Manager
in Small Arms Factory, Kanpur.

.....Applicants

(By Adv. Shri M. Lal)

V E R S U S

1. The Union of India through the Chairman,
Ordnance Factory Board,
10-A Khudiram Bose, Road,
Kolkata-1.
2. The General Manager,
Small Arms Factory,
Kalpi Road, Kanpur.
3. The Commissioner for SC/ST,
West Block No.1 Wingham No.7,
1st Floor, R.K. Puram,
New Delhi-110 066.

.....Respondents

(By Advocate : Shri P. Krishna)

O R D E R

By this O.A. applicant has sought the following
reliefs:-

- (a) to quash the decisions dated 07.09.2000 and 24/29.08.2001, passed by respondent No.1(Annexure A/1 and A/2 and to direct to expunge the adverse remarks on the Annual Confidential Reports of the applicant for the period 01.04.1999 to 31.03.2000 and 01.04.2000 to 31.03.2001 as communicated vide memos at Annexure A/4 and A/7.
- (b) to issue a writ, order or direction to the respondent Nos. 1 and 2 to reprimand the concerned authorities/officers for not following the guidelines in writing the adverse remarks of the kind endorsed in the case of the applicant.

2. Brief facts as narrated by the applicants are that he had been working to the entire satisfaction of his superiors which is evident from the fact that he joined initially as chageman grade II (non gazetted) officer in ordnance factory but by dint² of his hard work, rose to the level of class-I post in Indian Ordnance factories services cadre (IOPs) as Assistant works manager by earning 5 promotions.

3. As class-I officer he was posted at Small Arms Factory but without specifying as to in which direction applicant was required to improve, he was communicated an adverse remark in the CR for period up to 31.03.2000 as follows:-

"(a) you need to improve a lot in maintaining and running of the Administration under your control.

(b) you need to take lot of initiative to solve many labour related problems."

4. Applicant immediately represented on the ground that he was posted to small arms factory only on 31.08.1999 on promotion but he was never communicated any verbal or written guidance, advice on his alleged short comings therefore, he could not have been given adverse remarks all of a sudden. He also referred to office memorandum dated 24.06.1985 issued by DOPAT wherein it is stated SC/ST officers should not be harrassed or discriminated against (Annexure A-5).

5. Moreover, he referred to the D.O. letter dated 31.01.2000 also written by respondent No.1 for guidance to the General Managers in regard to prepration of A.C.R. stressing that comments cannot be written only after counselling is done or the short coming is communicated in writing.

6. Yet respondent No.1 communicated the adverse remarks for the period from 01.04.2000 to 31.03.2001 (Annexure A-7) without specifying instances on general basis as follows:-

"(a) he needs to perform duties with greater thoroughness;

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- (b) need to develop a more positive and result oriented attitude and approach;
- (c) need to substantially improve ability in writing;
- (d) improve a lot of shoulder higher responsibility by study the labour issues in Department to shoulder higher responsibility.

7. Applicant once again represented justifying his work and merit. He sent a copy of this representation to the commissioner for SC/ST also (Annexure A-9).

8. Applicant has stated that while writing C R guidelines were not followed and he was given adverse remarks with deliberate attempt as he belonged to S.C. category and in order to spoil his further chances of promotion. He therefore, prayed that the relief(s) as prayed for may be granted.

9. Respondents have opposed this O.A. on the ground that after joining Small Arms Factory as Assistant Works Manager, applicant was given to look after admin. sections as Divisional Officer but considering his poor performance with regard to admin. section he was left with only Industrial Canteen and SV group to look after as Divisional Officer. It is pointed out that the post of Asstt. Works Manager is managerial post and calls for decision making. At junior levels, he was more concerned with the implementations of directions only. His performance as Asstt. Works Manager was not upto the mark in admin sections and thus, he was diverted from the duties of admin sections and given work in areas which requires administrative and decision making to lesser extent. It is further submitted that applicant was orally advised & counselled from time to time, regarding the need to improve his knowledge of relevant rules/instructions need to work with greater thoroughness, capacity for close monitoring and supervision, improve his ability in noting and drafting, and the necessity to adopt a positive and result oriented approach. Therefore, he was rightly



given the adverse remarks in the form of an advise which should be taken in the right spirit.

10. As far as his representation is concerned the same was disposed off by the competent authority vide letter dated 07.09.2000 (Annexure -A).

11. Respondents have denied the allegations of harassment. They have submitted A.C.R. is written and reviewed by the officers at different hierarchical levels and it is absolutely baseless and misleading to suggest that all officers are biased or prejudiced against him.

12. They have also submitted that applicant's own assessment regarding his work is not borne out from the records. They have thus prayed that the O.A. may be dismissed with costs.

13. I have heard both the counsel and perused the pleadings as well. Both the counsel had relied on certain judgments. The object of writing ACR is to reflect the performance and ability of an officer and if need be to communicate to him the shortcomings or ^{advice} to improve his working ability. Adverse remarks communicated to an officer in the form an advice should be taken in the right spirit and efforts made to improve. Adverse remarks are generally not to be interfered because assessment of an officer can only be known to the reporting or reviewing officer. It can be interfered only if applicant is able to demonstrate that the remarks are given due to malafide. In the instant case, neither applicant has impleaded any superior officer as respondent by name nor he has given any specific instances to show that his superior officers were biased or prejudiced against him, therefore, his vague and bold allegations regarding



harrassment and malafides are not sustainable in law. The same is accordingly rejected.

14. Applicant's next contention that his performance was outstanding is his own assessment and the principle of 'Name juristica in Causa Sua' is fully applicable here that is to say no man shall be judge in his own cause. Respondents have explained that earlier he was only complying with the directions given but after his promotion as Class-I officer his role had changed. He was not required to make decisions himself and control the men and officers working under him which required him to be more effective as an administrative officer but he was found lacking in this regard, therefore, he was initially guided orally but when no improvement came forth he was advised by communicating those aspects to him. I do not find any illegality in the adverse remarks because these were absolutely general in nature and to advice him as to how he needs to improve himself. After all right of writing confidential report is a subjective matter and these remarks are intended to be general assessment of the work done by an officer. Simply because an officer had earned promotions and had not been given any adverse remarks earlier does not mean he can not be given the same in future as well. In fact the very fact that he earned 4 promotions as clarified by respondents, itself shows that there can not be any prejudice because he had been given promotion in time in accordance with law when it was due but if in a managerial capacity he is found lacking and is advised to improve, it calls for no interference.

15. I also do not agree to the plea that the principles of natural justice have been violated. The principles of natural justice cannot be stretched too far. The applicant has been given adverse entries but has been afforded an opportunity also



to represent his case before the appellate authority. It is for the appellate authority to consider his representation and take a decision whether the adverse remarks communicated to him which are in the nature of an advice are to be expunged or retained. Appellate authority has not found ^{it} to fit to expunge the remarks conveyed, therefore, this case calls for no interference.

16. In view of the above discussion, there is no merit in the O.A. The same is accordingly dismissed with no order as to costs.



Member-J

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