

(V)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration O.A. 881 of 1988

Kripa Shanker Tripathi     ...     ...     ...     Applicant.

Versus

Union of India  
and others     ...     ...     ...     Respondents.

(Delivered by Hon. Mr. S.K. Dhaon, Vice-Chairman)

The applicant has made two grievances in this application. The first grievance is that he had been given adverse entry for the year 1984 in violation of the Instruction contained in the Defence Account Department, Office Manual. The second grievance is that the Departmental Promotion Committee has considered the adverse entry given to him in the matter of crossing the efficiency bar without the said entry being communicated to him. His prayer is that the adverse entry be quashed and a direction be given that the applicant be deemed to have crossed the efficiency bar.

2. A reply has been filed on behalf of the Respondents. Rejoinder affidavit, too has been filed. Counsel of the parties have been heard at length.

3. The admitted facts are these. The applicant was working as Section Officer (Accounts). An entry had to be given for assessing his work and conduct for the period beginning from 1.1.1984 to end of December, 1984. He came under the jurisdiction of one Shri Padam Sain for the first time on 4.9.1984. Shri Padam Sain alone gave the adverse entry to him.

(2)

4. In the Original Application, the applicant came out with the specific case that the adverse entry had been given in violation of the direction No. 216 as contained in the aforementioned office manual since Shri Padam Sain along gave him adverse entry. The applicant made a representation to the Controller General of Defence (Accounts) setting out therein the specific case that the adverse entry having been given by Shri Sain alone, the same was in violation of the instruction no.216. His representation was rejected without advertizing to this grievance. He had filed a copy of the representation as well as the order of the officer rejecting the representation.

→ Inspite of the averments made in the application as well as the averments made in the representation and the orders passed thereon, The only averments made in the reply filed on behalf of the respondents is that during the relevant period, the applicant worked under several officer. This averments, in our opinion, is as vague as it can possibly be. Once it could have been accepted for the respondents to have given a detailed by the officers under whom the applicant worked during the relevant period and also the specific period during which he has worked under those officers. On the material on record, no other conclusion is possible except that the case set up by the applicant that from February, 1984 to September, 1984 he worked under one Shri Shukla and thereafter from 4 September, 1984 onwards he worked under Mr. Sain, is correct.

Instruction 216 talks about "Mid-Term". It provides ~~that~~ Confidential reports, when either the reporting officer or the officer reported on is transferred to another post during the interval between two annual reports are also required to be written on the prescribed forms and should be dealt with in the same manner as annual confidential reports. The words "Mid-Term" confidential report, should be prominently endorsed in red ink on the right hand top corner for easy identification."

5. In a nut-shell, the crux of the instruction is that if a Government Servant has worked under the more than one officer during the relevant period, the adverse remarks should be given by ~~all~~ <sup>both</sup>. In the instant case, the the adverse remarks having been given by Mr. Sain ~~alone~~, therefore, the remarks has not been given in accordance with para-216 of the aforementioned instruction and the adverse remarks are liable to be quashed.

6. Once, the adverse remarks are quashed. The <sup>Departmental</sup> decision of the ~~Disciplinary~~ Promotion Committee in disallowing the applicant to cross the efficiency bar must necessarily fail. It appears to be the common case of both the parties that the Departmental Promotion Committee did not permit the applicant to cross the efficiency bar because of the bad entry given by Shri Sain.

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- 4 -

7. This application succeeds as allowed. The adverse entry given by Shri Sain to the applicant for the year 1984 is quashed. The respondents are directed to proceed on the assumption that the applicant had crossed the efficiency bar w.e.f. 1.2.1984 . The applicant shall be given all the consequential benefits as per rules.

8. There shall be no order as to costs.

*Sury*  
Vice-Chairman

Dated: 24.11.1992.

(n.u.)