

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 739 of 1990

Allahabad this the 24th day of January, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Har Prasad, aged about 51 years, S/o Sri Todi Singh
Senior Administrative Officer 8 AE(G.S.) Kanpur, R/o
Type-4/22/3 Officers Colony, War Memorial Complex,
Kanpur Cantt.

Applicant

By Advocate Shri Satish Dwivedi

Versus

1. Union of India through the Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. The Director General, Quality Assurance, (Department of Defence Production) **DHQ**, Post Office, New Delhi-110011.
3. The Quality Assurance Officer and Officer Commanding Quality Assurance Establishment (General Stores) Kanpur-208004.
4. Sri Dipak Anand, Lt.Col.QAO & OL, Quality Assurance Establishment(G&S) P.B. No.307, Kanpur-208004.
5. Sri v.K. Beri, Dy. Controllerate of Quality Assurance(T&C) P.B. NO.294, Kanpur-208004.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Har Prasad has come up before the Tribunal with the prayer that the order dated 05.9.1989 as communicated by the letter dated 11.9.89, order dated 02.3.90 as communicated by the letter dated 08.3.1990, order dated 23.3.1990 and order dated 30.4.1990, be declared illegal, inoperative and without jurisdiction. He has also sought for relief to declare the order dated 13.12.91 23.07.92 as communicated vide letter dated 06.8.92 and order dated 19.11.1992 as communicated vide letter dated 02.12.1992, be declared illegal, inoperative and without jurisdiction.

2. As per applicant's case, he started his service as L.D.C. in the respondents department and rose to the post of Senior Administrative Officer. During the period 1985 to 31.8.88, Shri V.K. Beri ^{After 1-9-88 in Dupeta Ahmed has been working as} worked as S.A.O. and Officer Commanding in the respondents Kanpur Wing. These two officers during the tenure of their posting, demanded illegal gratification from the applicant on the ground that the applicant was getting commission from the dealers of the Scooters, which were supplied in the respondents department, on clearance by applicant. The applicant refused the demand of ^{these} respondents no.4 and 5 and, therefore, these respondents started to nurse ill-will against the applicant and out of prejudice and malafide intention, they created problems in the performance of the duty of the applicant and got annual

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awarded

adverse entries/in his character roll, consecutively right from the year 1987, which the applicant represented but his representations were not heard favourably and were rejected. The applicant has come up to get these adverse entries expunged and alleged that the entries are out of prejudice by the respondents no.4 and 5. There was much delay in communication of these entries and the representations preferred by the applicant were not decided in right prospective. It has also been alleged that the character roll entries have been passed by the Officers who were not competent to award the same and also that no opportunity of being heard was accorded ~~communicated~~ to the applicant before the entries were awarded to him.

3. The respondents have contested the matter and filed the counter-reply.

4. This matter was being represented by Late Shri N.B. Singh on behalf of the respondents and on his sad demise, Shri Amit Sthalekar who is representing the Union of India in so many other matters, was requested to prepare the case and assist during the arguments. Shri Amit Sthalekar took pains and prepared the matter. He participated during the arguments and presented the case of the respondents. Considered the arguments placed from the either side and perused the record.

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5. At the very outset, the learned counsel for the applicant mentions that the applicant has since retired but the prayer in the O.A. is being pressed to ward of service stigma against him.

6. Learned counsel for the applicant started his arguments with the mention that the misconduct entries are outcome of prejudice by his superiors, Sri V.K. Beri and on his transfer by Shri Deepak Anand who demanded illegal gratification from the applicant and on refusal, they become prejudiced and get these adverse entries in his character roll. This allegation has been controverted on behalf of the respondents and mentioned that two officers against whom, the allegations have been made, could not be so effective as to get awarded the impugned adverse entries consecutively for 4-5 years. Moreover, these entries were subjected to appeal and were duly considered by the appellate authority ^{who} ~~and~~ rejected the representation of the applicant, and it ^{could not} ~~cannot~~ be a case in which the respondents no.4 and 5 could prevail over the appellate authority. Taking into consideration the facts on record and arguments placed from either side, I do not find any force in this submission on behalf of the applicant.

7. The order for adverse entries has also been assailed on the ground of delay in their communication. I do not find substance in this allegation too. Moreover, the delay in communication

will not effect the maintainability of the entries.

8. The applicant has also come up with the case that the representations against these entries have been decided by cryptic, cursory order without giving reasons for the same. The applicant has only filed the operative portion communicated to him and it has been mentioned in the counter-reply that the appeal preferred by the applicant were duly considered and reasoned order thereon have been passed.

9. There is another submission on behalf of the applicant that the entries have not been made by the Officer competent to award the same. Learned counsel for the applicant has failed to show that the entries awarded were not coming from the Officers in authority. Moreover, this fact has already been covered in the order passed in appeal against the adverse entries.

10. Learned counsel for the applicant has lastly argued that no opportunity of being heard was given to the applicant before awarding the impugned misconduct entries. This argument is highly misconceived and there is no such provision in any rule to call for officer and to hear him before awarding annual remark.

11. From the above, I do not find any substance in the submissions from the side of the applicant. The O.A. is devoid of any merit, hence dismissed. No order as costs.

S. C. Nagar

Member (J)

/M.M./