

7 (4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 215 of 1991

Date of Decision: 2.2.1994

Kirtan Lenka

Applicant(s)

Versus

Union of India & Others

Respondents(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not? *NO*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? *NO*

*[Signature]*  
MEMBER (ADMINISTRATIVE)

02 FEB 94

*[Signature]* 2.2.94  
VICE-CHAIRMAN

8 (5)

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Respondents

For the applicant

M/s. M.R. Panda  
D.K. Pani  
S.P. Sahoo  
S.K. Sahoo  
G.R. Verma,  
Advocates

For the respondent 1

Mr. Akhaya Mishra,  
Standing Counsel  
(Central)

For the respondent 2 - 4

Mr. K.C. Mohanty,  
Govt. Advocate  
(Orissa)

Q O R A M:

THE HONOURABLE MR. K.P. ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN: The petitioner is now a Member of the Indian Police Service. Prayer of the petitioner is to quash certain adverse entries made in his Confidential Character Roll contained in Annexure-2 as they are illegal, arbitrary, unsustainable and liable to be expunged; and it is further prayed that after quashing the adverse entries, consequential service benefits be given to the petitioner.

2. In their counter the opposite parties maintain that the entries in the CER have resulted from the assessment of the Reporting Officer and the Reviewing Authority, who are the only competent persons to adjudicate

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the performance of the petitioner. Since the performance of the petitioner has been rightly assessed, the adverse entries should not be quashed - rather it should be sustained

3. We have heard Dr. M.R. Panda, learned counsel for the petitioner, Mr. K.C. Mohanty, learned Government Advocate appearing for the State of Orissa and Mr. Akhaya Mishra, learned Standing Counsel for the Central Government.

4. Law is well settled that considerable importance has to be attached to the assessment relating to the performance of a particular officer by his higher authority, viz. the Reporting Officer and the Reviewing Authority. Such entries cannot be quashed unless they are manifestly perverse. We have gone through the remarks passed by the concerned authority. They are as follows :

"While reviewing your Report for the year 1969-70, Government observe that your need to Tighten your grip and control over your Subordinate Officers".

For the year 1970-71 it is stated as follows:

"Your power of taking responsibility needed improvement. You leaned heavily on your subordinates with little more fairness in your dealings with the Subordinates you would have done well".

"Has shown all round improvement in work and behaviour. Has dealt with Naxalite trouble with courage and constant Hard touring, Has rectified minor lapses outlined by the DIG Is now fit for confirmation".

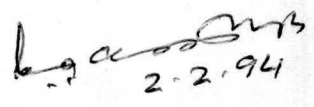
5. Once the Assessing Officer has said that <sup>all the</sup> ~~he~~ heavily leaned on his subordinates, it cannot be comprehended as to how the petitioner was expected to be more fair in his dealings with his subordinates. Both these remarks are <sup>contrary</sup> contrary to each other. Lastly all the alleged adverse

remarks are said to have been wiped out by the last remark that the petitioner has shown all-round improvement in his work and behaviour in dealing with Naxalite with courage and has rectified his minor lapses. By these remarks, the other alleged adverse entries do not at all stand against the petitioner. To add to all this, admittedly, the petitioner has been given promotion to the cadre of I.P.S. in the year 1978. One cannot but presume that all the alleged adverse entries were not considered adverse by the Selection Committee. If these alleged entries would have stood as a bar against the petitioner for promotion, then the Selection Committee would not have recommended for his promotion to the cadre of I.P.S. The very fact that the Selection Committee had recommended the name of the petitioner for promotion and the same was accepted by the Government; and the petitioner got promotion leads us to an irresistible conclusion that these entries were not taken to be adversely affecting the service benefits of the petitioner, especially because they did not stand on the way of the petitioner for promotion to I.P.S. Such being the situation, there is no escape from the conclusion that these entries should not be taken as adverse entries and should not be the basis for rejecting the claim of the petitioner in regard to any of his future promotions and service benefits. Lastly, it was submitted by Mr. Panda that a direction should be given to the opposite parties to confer consequential service benefits to the petitioner in the event of quashing of the impugned remarks. We have gone through the prayer in the petition carefully. Such prayer is very vague. The petitioner has

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failed to specifically state what nature of consequential service benefits he wants from the Government and seeks for our direction. In view of such vague prayer, we do not feel inclined to allow the same. Mr. Panda submitted that his client intends to make a representation to the Government on this account. We have no objection. If any representation is made by the petitioner to the competent authority regarding his claims, the same may be entertained and disposed of according to law. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

  
MEMBER (ADMINISTRATIVE)  
02 FEB 94

  
2.2.94  
VICE-CHAIRMAN

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 2.2 1994/ B. K. Sahoo