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O.A.NO. 481/2001

ORDER DATED 19-12-2002.

Applicant, G. Jaya, a Railway employee working as Deputy Chief Engineer (Construction/Co-ordination), South Eastern Railway, stationed at Chandrasekharpur, Bhubaneswar in the district of Khurda, has filed this Original Application U/s. 19 of the Administrative Tribunals Act, 1985 challenging the communication of adverse remarks for the year ending 31-3-2001 (Part-1) under Annexure-10 dated 19-06-2001, and the rejection order under Annexure-14 dated 31.8.2001.

It is alleged by the Applicant in this Original Application that several irregularities have been committed by the Respondents/Authorities in the matter of writing the adverse remarks as against the Applicant. Further it has been averred by the Applicant that the Respondents/Authorities have not correctly assessed the performance of the petitioner while reaching to the conclusion that the Applicant's performance during the year under report is 'average'. He has further alleged that since the adverse remarks have been communicated without following the procedure to be adopted while doing so, the said remarks shall have to be quashed. Lastly it has been averred that the higher authorities did not consider his representation as made by him in Annexure-13 dated 25-7-2001 against the order under Annexure-10 dated 19.6.2001, and mechanically without due application of mind the same was rejected.

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contd...Order dt.19.12.2002

Respondents in their counter while justifying their stand in support of Annexure-10, it has been urged in para-2 that the Original Application is not maintainable since this Court is not the Appellate Authority to re-assess or sit over the order of the competent authority and as such the Original Application is liable to be rejected.

I have heard Mr. P.K.Chand, learned Counsel for the Applicant and Mr.R.C.Rath, learned Standing Counsel for the Railways, appearing for the Respondents, and have perused the records.

It is always expected that the employer/Appellate Authority should look into the grievances of its subordinate employees leaving no room for any doubt of bias or unreasonableness. It is always expected that while assessing an employee to be of not upto the satisfaction or there is any deficiency in the matter of discharging his/her duties, before putting it in his/her ACRs, the manner/norm as codified in the Rules/instructions on the subject has to be followed in letter and spirit. On going through the Annexure-14 dated 31.8.2001, it is revealed that the higher authority to whom the applicant preferred his appeal/representation did not apply his mind to the points raised in his representation and in a bald order the same has been rejected and communicated.

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In the instant case, the representation of the applicant against the adverse remark has been disposed of without indication of any ground. It also does not show that the defects pointed out by the applicant against the record of the entry were taken into consideration. Undoubtedly, the representation made by the petitioner to the administrative superior is not required to be disposed of as a revision to a judicial authority. Yet, it is appropriate that the representation made to the administrative superior is disposed of in such a manner that the representationist is in a position to appreciate that the grievances indicated in the representation were taken into account. A bald order indicating the fact of rejection would not satisfy the aggrieved officer and is likely to create an impression that the merit of the matter has not been taken into account. The Hon'ble Apex Court of India have also, in very many cases, deprecated such disposal of service representation of an employee without giving any reason. Following the said dictum of the Apex Court, this Bench of the Tribunal in O.A. No. 26 of 2001 disposed of on 23-07-2002 held as under:-

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*In a democratic set-up, it is always expected that the action of the Authorities must be transparent and while dealing with the grievance of a subordinate officer, the higher authorities must record its reason for allowing or dis-allowing the particular grievance of an employee;

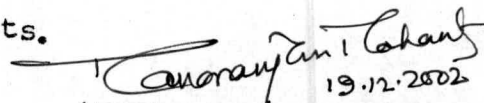
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so that he will have no feeling that the points raised by him or the grievance put forth by him had not been dealt with properly*.

In this view of the matter, I find considerable force in the submission of the learned counsel for the Applicant and accordingly quash the order of rejection of the representation of the Applicant under Annexure-14 dated 31.8.2001 with a direction to the Respondents/competent authority to deal with the grievances of the Applicant raised in his representation as against the order of adverse remarks under Annexure-10 and pass a reasoned and speaking order within a period of sixty days from the date of receipt of a copy of this order. While dealing the representation of the applicant afresh, the points raised in this Original Application shall also be taken into consideration. I hope while dealing with the grievances of the applicant, afresh the Respondents/competent authority shall not be biased on the order passed in Annexure-14 or points raised in the counter.

with the above observations and directions, this Original Application is disposed of leaving the parties to bear their own costs.


19.12.2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

KNM/CM.

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