

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA NO. 1041 OF 1996

Present : Hon'ble Justice G. L. Gupta, Vice-Chairman

Vincent Topno,
Inspector,
O/o D.C., Range, Ward-6(5),
Income Tax, Calcutta

Vs

1. Union of India through the
Secretary, M/o Finance,
Deptt. of Revenue,
North Block, New Delhi
2. The Chief Commissioner of Income-tax
Calcutta, P/7, Chowringhee Sqr.
Ayakar Bhawan, Calcutta-69
3. The Commissioner of Income-tax,
West Bengal-VII,
169, AJC Bose Road,
Calcutta-14
4. The Asst. Commissioner,
Income-tax, Hqrs. (Admn.)
Calcutta, Ayakar Bhawan,
P-7 Chowringhee Sqr.
Calcutta-69
5. Shri S. Mukhopadhyay, ACIT(HQr.)(Admn.)
P-7, Chowringhee Sqr. Ayakar Bhawan,
Calcutta-69

.... Respondents

For the applicant : Mr. M.K. Bandopadhyay, Counsel

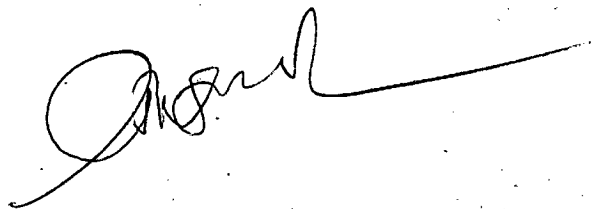
For the respondents : Mrs. Uma Sanyal, Counsel

Date of order : 14.12.2001

ORDER

In this OA under section 19 of the A.T. Act, the applicant seeks expunction of the adverse remarks recorded in his ACR for the year 1994-95 and also a direction to the respondents to hold review DPC for considering his case for promotion to the post of Income-tax Officer.

2. It has been averred that the applicant, who is an Inspector in the Income-tax Deptt. received a communication on 23.8.95 to the effect that adverse remarks had been recorded in his ACR for the year 1994-95. He made a representation against the said remarks, as



according to him, sweeping remark was recorded just to put the applicant into unnecessary harassment and to penalise him. The representation of the applicant was rejected and the persons junior to the applicant were given promotion to the post of Income-Tax Officer. It is, therefore, prayed that the adverse remarks be expunged and the applicant's case be reviewed and reconsidered for promotion.

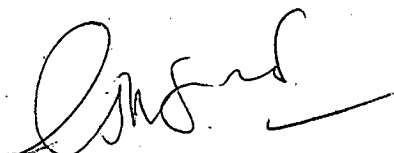
3. In the reply, the respondents have stated that the adverse remarks were recorded by the competent authority and the representation of the applicant was rejected after due consideration.

4. I have heard the learned counsel for the parties and perused the documents placed on record. I have also gone through the original ACRs of the applicant, which have been made available to me by the learned counsel for the respondents.

5. The following remarks were conveyed to the applicant which appear in his ACR for the year 1994-95 :-

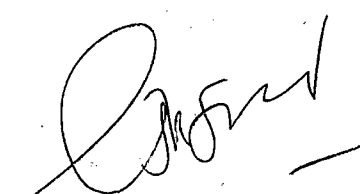
" ... The overall reduction/collection of ward 6(5) speaks for itself. No fig. is given in self appraisal. Mr. Toppo's overall performance should be rated 'inadequate'."

6. A perusal of the ACR shows that the reporting officer had rated the applicant as sincere and hard working officer. In all the items, he was rated as a 'good' officer and in some of them, as 'very good'. The reviewing authority did not agree with the reporting officer and recorded the aforesaid remarks. The applicant made representation against these remarks and gave various details of the work done by him. That representation is at Annexure-A. He also made further representation (annexure-A6).



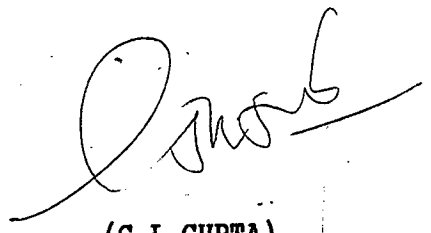
7. The adverse remarks recorded by the reviewing authority are about the deficiency in collection work. It has been stated by the applicant at para 4(x) of the application that there was collection and reduction of about 50% of the arrear demand outstanding as on 1st April, 1994 during the year 1994-95, but such reduction of 50% was not highlighted by him in his resume of work during 1994-95 ACR. It has further been stated that there were some cases where reduction could not be made as those were not mature enough within 31st March, 1995. It has also been stated that there could be more collection of arrears, had the applicant been not engaged in other outdoor duties. In reply to this sub-para (x) of para 4, only it has been stated that save and except what appeared from the record of the case, each and every statement is denied.

8. It is obvious that the respondents have not disputed the claim of the applicant that he had reduced 50% of the arrear demand and that he had been put outdoor duties also. It has also not been disputed that in some cases, the reduction could not be made as the matter had not matured before 31.3.95. Since these facts have not been disputed by clear denial, it has to be accepted that the explanation for less collection of arrears is not without basis. The respondents have though denied the contention at para No.4(x), but there is no specific denial of the items specified in the said sub-para. Therefore, the facts stated therein will have to be treated as established. In view of this position, it cannot be stated that the performance of the applicant was inadequate. When the applicant was entrusted with other duties also, obviously he could not devote full time on the collection work. As already stated, in all the items including collection/recovery work, promptness, punctuality, etc. the applicant was rated as 'good' officer. Therefore, even if there was no collection as per expectation of the reviewing officer, there could not be any justification for recording adverse remarks.



9. It is significant to point out that the ACRs of the applicant of the preceding and succeeding years show that he does not lack in any respect and his performance all through has been good. Keeping in view all the facts and circumstances of the case, I think it a fit case in which the adverse remarks recorded by the reviewing officer should be expunged.

10. Consequently, the OA is allowed. The adverse remarks communicated to the applicant in respect of ACR of 1994-95 are hereby quashed. The respondents are directed to hold review DPC to consider the case of the applicant for promotion to the post of ITO for the year in which persons junior to him were considered and given promotion. The exercise of holding review DPC and issuance of the order on the basis of the recommendation of such DPC, should be completed within three months from the date of communication of this order. No costs.



(G.L.GUPTA)

VICE CHAIRMAN