

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. OA 529 of 96

Date of order : 30.5.02

Present : Hon'ble Ms. Meera Chibber, Judicial Member

DR. (SMT.) KAKALI MUKHERJEE,  
W/O Sri Ashis Mukherjee, working as  
Research Officer (Language),  
Language Division, Nizam Palace,  
2nd MSO Building, Calcutta-20,  
R/O 33/1 Balai Mistri Lane,  
P.O. Botanical Garden, Howrah - 711103.

..... APPLICANT

-Versus-

1. Union of India through the  
Secretary, Ministry of Home Affairs,  
Dept. of Census, New Delhi - 110001.
2. Registrar General of India,  
Ministry of Home Affairs,  
New Delhi, 2/A Man Singh Road,  
New Delhi - 110001.
3. Dr. B. P. Mahapatra,  
Dy. Registrar General (Language),  
Language Division, 234/4 A.J.C.  
Bose Road, 2nd MSO Building,  
Nizam Palace, Calcutta - 20.

..... RESPONDENTS

For the applicant : Mr. N. Bhattacharyya, counsel

For the respondents: Mr. M. S. Banerjee, counsel

O R D E R

~~This OA has been filed by the applicant who is working~~  
~~as Research Officer (Language) in the Language Division under the~~  
Ministry of Home Affairs, Calcutta challenging the letter dated  
25.10.95 (Annexure A/4) communicating her the adverse entries made  
in her ACR for the period 24.9.94 to 31.3.95 and the letter dated  
23.2.96 (Annexure A/8) by which the competent authority has rejected  
her representation made against the aforesaid adverse entries.

2. Although originally the applicant prayed for certain  
other reliefs but the application was admitted only with respect to  
the challenge of the applicant against the aforesaid communication

of adverse entries and the rejection of her representation made against the same.

3. The background facts may be stated at the outset. The applicant who has a brilliant career and is a Gold Medalist in MA and holder of Ph.D. and LLB degree from the University of Calcutta joined the office of the Registrar General, Language Division, Calcutta as a Sr. Technical Assistant in the year 1981. Eventually she was appointed as Research Officer (Language), Group 'A' on 27.6.94 through UPSC at Calcutta. Before her posting at Calcutta she was posted at Bhubaneswar as Lecturer Group 'A' at the Eastern Regional Language Centre, Bhubaneswar. By the impugned communication dated 25.10.95 (Annexure A/4) the adverse entries made in her ACR relating to the period from 24.9.94 to 31.3.95 ~~whereby~~ the applicant was informed that she had falsely claimed that certain project which was assigned to her was complete, although it was not true. It was also intimated that her quality of work was disappointing and that her professional knowledge in Linguistics as a Research Officer is poor and "her knowledge of rules and regulations are atrocious although she is very fond of misquoting the rules and procedures to blackmail the office." It was also mentioned that "she is notorious and has no intention to improve her professional knowledge which is extremely poor." It is also mentioned that she was taking undesirable interests only in legal matters and controversies. It is also mentioned that on more than one occasions she had made written complaints about her co-workers and that "she has undesirable communication with trouble makers and dubious organisations." It is also mentioned that she avoids her work on health ground. As a general assessment it has been commented that "as a person she is liar, vain and unscrupulous .... she is irreverent and belittles and blackmails others" and that her "professional knowledge is even worse."

3. Being aggrieved by the adverse entries made in her ACR the applicant made representations to the higher authorities and the same after consideration was liable to be rejected by the communication

dated 23.2.96 (Annexure A/8) wherein it has been stated that all her representations have been considered in detail along with all the connected documents and it has been found that there is no adequate ground made out to order the expunction of the remarks made in her ACR for the said period.

4. The applicant alleges that the aforesaid adverse entries <sup>are</sup> made against her by respondent No. 3 i.e. Dr. B. P. Mahapatra, Dy. Registrar General, Language, out of personal grudge and animosity. In support of her contention she has cited an incident wherein one Dr. Smt. Tapati Ghosh, Investigator, was physically assaulted by the aforesaid respondent No. 3 on 27.3.85 during office time. Being aggrieved by this incident, all the women employees in the Language Division made a general diary in the Bhawanipore Police Station against the respondent No. 3 and they have also made a complaint to the Registrar General of India requesting her intervention in the matter. The applicant states that she took leading part in settling the matter and ultimately the matter was settled and it was agreed that no victimisation will be made to Dr. Ghosh and other staff of the Division as a fall out of the incident.

5. The applicant alleges that as a result of this event the respondent No. 3 bore grudge against many staff of the office including the applicant and was trying to harrass them on any pretext. It is also alleged that the respondent No. 3 made adverse entries in the ACR ~~of~~ Dr. Tapati Ghosh for the year 1985. She also made out a fake case against one Smt. Gouri Bose, the then Statistical Assistant. However, ultimately those adverse remarks against Dr. Ghosh was expunged and penalty of censure imposed on Smt. Gouri Bose was also withdrawn.

6. The applicant's case is that respondent No. 3 tried to create a trap to catch the applicant to take revenge against her and assigned certain official work to the applicant in 1982 to complete certain CPLLI Project for the 7th Plan Period. According to the applicant she completed the work in June, 1985 alone and

submitted her report accordingly. At that point of time the applicant was working at Bhubaneswar and she was deputed to Calcutta office in the year 1992.

7. The applicant states that as soon as she joined as Research Officer on 27.6.94, respondent No.3 hastened to take revenge of the assaulting incident referred to above against the applicant by recording adverse entries against her in ACR for the period from 24.9.94 to 31.3.95 covering the periods during which the applicant was working in a different capacity. She has further stated that the adverse entries as quoted above did not contain any particular evidence based on which certain entries were made. The applicant made a prayer to the respondent No.2 i.e. the next higher authority to supply her with necessary particulars of proof or evidence on the basis of which such adverse entries were made. She made representation on 1.12.95 for expunction of adverse entries without getting any reply to her letter dated 15.11.95 praying for the documents. She made another representation on 11.12.95 and eventually the rejection letter dated 23.2.96 was communicated to her.

8. The applicant has referred to certain other incidents regarding TA/DA etc. but since in this OA we are concerned with the applicant's challenge to the adverse entries made in her CR and the rejection order, we need not discuss all these facts.

9. The respondents have contested the case by filing reply affidavit in which all the allegations made by the applicant has been denied. It is stated that the ACR of the applicant for the period in question was written by the respondent No.3 in his capacity as the Reporting Officer and the Reviewing Officer had communicated the adverse entries to the applicant as per rules and after considering her representation against the same did not found enough ground to expunge the same.

10. The applicant has filed a rejoinder in which she has reiterated the averments made in the OA and has made some additional averments and produced certain additional documents.



11. I have heard the ld. counsel for the parties and have gone through the pleadings and various documents placed on record. Ld. counsel for the respondents has also produced before me the departmental records which I have also perused.

12. Ld. counsel for the applicant has raised various contentions in challenging the action of the respondent authorities in writing the ACR of the applicant. He has firstly contended that that a reading of the communication at Annexure A/4 will make it amply clear that the language used in writing the ACR is very harsh and gives credence to the applicant's contention that the Reporting Officer i.e. respondent No.3 bore personal grudge against the applicant and was determined to hamper the career of the applicant. He has referred to the use of various words in the aforesaid ACR as have been quoted by me while narrating the facts above. Nodoubt the language in which the various remarks about the applicant's quality of work and other attributes <sup>has been used,</sup> are not satisfactory and the same could have been couched in a modest tone. However, a sentence has to be read in the context in which it is written. On a perusal of the ACR it seems that the main allegation against the applicant is that she falsely claimed that certain project was complete whereas it was not true. It is stated that the applicant was asked to re-write the report in association with another Sr. Research Officer. But she did not understand the main theoretical objectives. It is further stated that since there have been Parliament question on Bhutia Language the applicant was asked to make a quick survey of Bhutia in Sikkim but she stalled the field work by 2 months by taking medical leave. The applicant's contention is that after she completed the Project report, the respondent No.3 supplied new format with instruction to recast the already compiled data of the project according to the new format. It is also her case that the Project ~~period~~ was extended by the Govt., although the respondent No.3 did not apprise her of the same and as such the applicant completed the Project work as per the original assignment to her and report of the Project work was complete.



According to the applicant this cannot be taken as a false statement. According to the respondents the report was not completed because the mother-tongue data of 1991 census was yet to be incorporated in the final report. It is also the case of the respondents that the applicant was not competent to handle any Project alone and therefore a Sr. Officer was deputed to co-ordinate her work. But the applicant always made objection to the same by making baseless and insulting allegations against such co-ordinators at different times and at different stages of work. This shows that the applicant was not co-operative and was suffering from ego problem. Be that as it may, this Tribunal is not competent to go into the various remarks made in the ACR of a particular employee by his or her supervisor, who is in the field to supervise the work of the concerned employee. The Tribunal cannot sit in appeal over the report of the Reporting Officer. As per rules there is established procedure that if an employee is aggrieved by the remarks made against him or her, he or she has an opportunity to make representation before the higher authority. In this case the applicant made a representation to the higher authority i.e. the Registrar General of India. There is no allegation made by the applicant that the Registrar General of India who is the higher authority has also personal grudge against her. The reply to her representation vide Annexure A/8 is revealing. It appears that the applicant's representation dated 1.12.95 was received on 11.12.95. She made another representation by stating that the earlier one was defective and the second corrected representation was received on 10.1.96. In her earlier representation the applicant made a request to permit her to appear personally before the enquiring authority for giving oral evidence as per the provisions of Indian Evidence Act, 1872. This is a very novel procedure adopted by the applicant in the matter of making representation against adverse entries. There is no such procedure and the Reviewing Officer has correctly opined that this has no relevance in such matters. After considering the



representations of the applicant along with the connected documents the Reviewing Authority did not find that adequate ground had been made out to expunge the remarks.

13. Ld. counsel for the applicant has referred to certain decisions in the application itself and has contended that the applicant was not given an opportunity of personal hearing and hence the principle of natural justice was violated. He has also pointed out that the entire exercise was done by the respondent No.3 out of malice and with motivated intention in view of the facts already mentioned above. It is also contended that the facts mentioned in (b) the adverse remarks did not cover the period for which it was made and that this report was influenced by the assaulting incident which occurred in 1985 as stated earlier. On the other hand the ld. counsel for the respondents has submitted that the reports have been made on the basis of facts and that the representation of the applicant was duly considered by the higher authority and it was rejected as no grounds have been made out by the applicants to expunge the said reports. He has also stated that while communicating the rejection order no reason needs to be mentioned as has been held by the Hon'ble Supreme Court in the case of Union of India -vs- E.G.Nambudri reported in 1991 AIR SCW 1190 : 1991(1) SCALE 783.

14. For the reasons stated above I find that no sufficient case has been made out by the applicant for interference by this Tribunal with the adverse entries made against the applicant or with the rejection letter impugned in this OA.

15. However, before closing I would like to point out one thing which I have noticed and would like to comment about. I have seen the language used in the adverse remarks is harsh and the same remarks could have been conveyed in a more sobre way as already pointed out earlier but since the way of expression differs from person to person, simply because a harsh language has been used, the Court cannot expunge the remarks which is the prerogative of

