

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 212/92
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DATE OF DECISION 28.5.92

K Venkata Rao

Applicant (s)

(Applicant in person)

Advocate for the Applicant (s)

Versus

Union of India rep. by Secretary
and Chairman, Deptt. of Space, Respondent (s)
'Anthariksh Bhavan', New BEL Road,
Bangalore and others.

Mr NN Sugunapalan, SCGSC

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV Krishnan, Administrative Member

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1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? T
3. Whether their Lordships wish to see the fair copy of the Judgement ? X
4. To be circulated to all Benches of the Tribunal ? T

JUDGEMENT

The applicant is working as a Scientist/Engineer SC in the Liquid Propulsion Systems Centre, (LPSC in short) Valiamala, Trivandrum of the Indian Space Research Organization (ISRO, for short). He had filed OA 461/89 against the supersession of his juniors but that application was dismissed. It transpired in that O.A. that in the Annual Confidential Report for the year 1987, he was given dual overall grading as B + and A -. In view of that information, he filed review application No.85/90 in O.A 461/89 which was dismissed.

2 Therefore, he filed OA 1278/91 to seek relief against the anomaly of dual grading and for consequential benefits. This was disposed of by the Annexure A2 judgment by which the applicant was directed to file suitable representation to the Respondent-2 and the Respondent-2 was directed to dispose of it of on merits.

3 Such a representation dated 30.9.91 was filed by him before the Director, Respondent-2. This was disposed of by the Appendix A1 reply of the Respondent-1.

In so far as the dual grading is concerned, the matter is dealt with in para 5 & 6 of Appendix A1 which is as follows:

"5. Regarding para 8 and 9 of the representation it may be noted that the guidelines issued vide OM No.HQ: ADMN: 4.20(1) of 24.5.84 and 27.11.85 on the procedure for writing the ACR do not say that the grading B + is an adverse/unfavourable remark. The grading B + means that the employee is a "good average man". Awarding a "B +" grading is not an adverse or unfavourable remark so as to warrant the issue of a written communication to this effect to the employee concerned. With regard to the contention that there is no provision in the aforesaid OM to award a dual-grading it may be noted that the dual-grading used to be awarded in the past in few cases in fairness to the employees concerned in as much as the said OM did not specifically prohibit awarding of a dual-grading.

"6. In para 10 of his representation Shri Rao has claimed that he "must have been awarded a minimum grading of A- in his CR for the year 1987" and he alleges that the dual grading 'A-/B+' is not the true evaluation of the Reporting and Reviewing Officer concerned, but only a subsequent addition at the time of screening by the authority above those levels' to defer his promotion. His claim is not valid and the allegations are unfounded. The general grading in the ACR is given by the Reviewing Officer on the basis of his own assessment of the officer reported upon taking into considerations the assessment by the Reporting Officer. In this context the attention of Shri Rao is invited to item 2.1(b) of the order No.HQ: ADMN: 4.20(1) of 27.11.85 issued by the Joint Secretary, DOS, on the procedure for writing the CRs. Further, his understanding that " the dual grading in his CR had no concurrence of his Reporting and Reviewing Officers" is not correct. It is the Reviewing Officer who gives the general grading and not the Reporting Officer. The concurrence of the Reporting Officer is not sought for by the Reviewing Officer for giving the general grading. In the case of Shri Rao it was only the Reviewing Officer who gave the dual-grading initially in the CR of Shri Rao. Therefore, the allegations contained in para 10 can only be dismissed as baseless."

The dual grading was later on corrected to read as B + for the year 1987. It is against this decision that the present application is directed.

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4 It is contended that the Annexure A4 Order issued by the Administration on May 24, 1984 i.e., by Respondent-1 contains directions about the writing of Character Rolls.

It is stated that for S&T Officers in the scale of Rs 650-960 grade and above, a normal performance would entitle them to get six marks out of 10 marks as provided in Sub-para (9) of para 1.71 of Annexure A4. Subsequently, in para 1.73 of the same circular it is stated that for marks in the range of 60 to 79%, the grading should be A-. The grading B + can be given if the percentage of marks varied from 50 to 59. Para 1.4 of the circular indicates the criterion to communicate adverse remarks. If such remarks have been communicated, the rating will be below normal i.e., marks of 0 to 2 can be given and rated as 'Y' or marks from 3 to 5 may be given and rated as Tendency to 'Y'. The applicant's contention is that since the Director himself has stated in his Appendix A1 order in para 10.3 that the 1987 CR of Shri Rao did not contain any adverse or unsatisfactory remarks/gradings which were to be communicated to Shri Rao, his ^{minimum} ~~maximum~~ grading should be normal i.e., he ought to have given 60% marks. In that event, his grading should be A - according to para 1.73 and it can never be B +. It is in this view of the matter, that the applicant has prayed for the following reliefs:

"(a) Call for my 1987 and 1988 ACRs for the thorough scrutiny by this Hon. Tribunal.
(b) Set aside the overall grading of "B+" awarded to me in my 1987 ACR.

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(c) Direct the respondents to re-evaluate my 1987 ACR strictly as per the rules and regulations on the subject and to award the correct and eligible overall grading based on the assessment made by my Reporting Officer, and also to award the consequential benefits of my promotion to higher grade, salary etc."

5 At the outset, it has to be stated that the applicant has not made out any case in respect of the 1988 ACR by producing any evidence. Therefore, there is no question of considering that ACR in this application.

6 In so far as the grading of 1987 is concerned, respondents had filed a reply at the time of admission in which it is pointed out that when the case for his promotion as on 1.7.89 was taken up, his overall grading of ACR for the year 1987 was B + / A - as assessed by the Reviewing Officer. It is stated that such dual grading used to be resorted in several cases where, in the light of the performance an official, he had to be rated between two recognised gradings. In other words, his performance ~~is not~~ was found to be more than B +, but was quite good enough to be recognised as A -. It is because of these difficulties that the Annexure A4 order was subsequently amended on 27.11.85 by the Annexure R1 Memorandum. The Annexure R1 Memorandum makes significant changes in the Annexure A4, particularly, in regard to award of marks. Sub para (b) of para 2.1 of Annexure R1 is reproduced below:

"(b) For officers (Group A & B), the formula prescribed (i.e., ACR S&T0 and ACR ADMNO) will be used for assessment. However, the awarding of marks for the ~~Officers~~¹ ~~qualified~~ to be evaluated will be left to the judgment of the nominated officers. Thus, the stipulation of marks as contained in paras 1.7.1, 1.7.2 and 1.7.3 of the Order of May 24, 1984 stands withdrawn. Accordingly, the respective qualities to be assessed will be evaluated by the officers concerned at the appropriate level leaving the matter to the judgment of the officer concerned to decide taking the overall worth of the officer as reflected in the ACR."

It is clear that guidelines regarding marks stipulated in para 1.7.1, 11.7.2 and 1.7.3 of Annexure A4 order were withdrawn. Thus, while the gradings as prescribed in 1.7.1 namely, Y, Tendency to Y, Normal, Tendency to X and X were left in tact, the marks allocated for these gradings or on the basis of which this grading has to be given were deleted. Similarly, in para 1.7.3, the guidelines regarding grading as A+, A, A-, B+, B, B- and C were left intact, the percentage of marks allocated for such grades were deleted. Therefore, after the issue of this circular, one cannot say with certainty that B + can be given only if the marks are less than 60 per cent or that A - has to be given if no adverse remarks have been communicated. The Reviewing authority who is in full possession of the facts has considered the matter and, before the applicant's case was reviewed for promotion on 1.7.90 he has confirmed that the grading of 1987 was B +.

7 The applicant cannot now contend that merely because the grading was rated as B +, he lost the chance of promotion because, as rightly pointed by the respondents, this Tribunal has held in OA 461/89 and RA 85/90 therein, that the grading in the ACR is not the determining factor for being screened out. That apart, despite B + grading for the year 1987, the respondents have pointed out that the applicant was favourably screened in the review as on 1.7.90.

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8 In the circumstance, we find that the applicant has filed this application only on the strength of Annexure A4. Now that the Annexure A4 instruction has been drastically revised, as indicated above, I am of the view that this application has no force. Accordingly, it is rejected.

9 There will be no order as to costs.

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28/5/92
(NV Krishnan)
Administrative Member