

Central Administrative Tribunal Lucknow Bench Lucknow

O.A. No. 523/2007

This, the 10th day of September 2008

Hon'ble Mr. M. Kanthaiah, Member (J)

Hon'ble Dr. A. K. Mishra, Member (A)

Amittabh Thakur, aged about 39 years, son of Shri Tapeswar Narayan Thakur, resident of 5/426, Viram Khand, Gomti Nagar, Lucknow (Presently posted and working as Superintendent of Police, Ballia).

Applicant.

By Advocate: Sri R.C. Singh.

Versus

1. Union of India, through the Secretary, Ministry of Home Affairs, Central Secretariat, New Delhi.
2. State of U.P., through the Principal Secretary (Home), Civil Secretariat, Lucknow.
3. Director General of Police, U.P. 1, Tilak Marg, Lucknow.
4. Shri S. N. Singh, I.P.S., the then Deputy Inspector General of Police, Gorakhpur Range, Gorakhpur (now C/o office of the Director General of Police, U.P., 1 Tilak Marg, Lucknow).

Respondents.

By Advocate: Sri Pankaj Awasthi for Sri A. K. Chaturvedu for R- 2 and 3.
Sri Rajendra Singh for R-4. Sri G.K. Singh for respondent No. 1

Order

By Hon'ble Mr. A. K. Mishra, Member (A)

This application has been filed for a direction to expunge the adverse remarks reflected in the Annual Confidential Report (ACR) of the applicant for the year 1998-99 as communicated to him by the letter dated 23.5.2007 of the Home, (Police Service) Department Government of U.P.

2. The applicant was working as Superintendent of Police, Deoria District during the year 1998 -1999. Respondent No. 4, Sir S. N. Singh was the Deputy Inspector General of Police, Gorakhpur Range under whose administrative control, the applicant worked during this period. The ACR



— 2 —

for the year 1998-99 was submitted by the applicant after filling up part II relating to Self appraisal of the report. However, he has not indicated the date when the self appraisal portion was filled up by him. The report had to travel through the hands of many authorities viz, the first reporting officer, the DIG, the second reporting officer, the Commissioner of the Division, the first Reviewing Officer, the IG, the second Reviewing officer, the DG of Police, two first Accepting officers, two Principal Secretaries, Home for two different spells, the second Accepting Officer the Chief Secretary of U.P. This took a considerable length of time and after the process was completed, the adverse remarks were communicated to him along with the aforesaid forwarding letter dated 23.5.2007. The applicant made a representation on 5.11.2007 which is still under consideration as comments from respondent No. 4 are yet to be received at the government level.

3. Meanwhile, this application has been filed on 14.12.2007 before any decision could be taken on his representation by the competent authority. The counsel for the respondents urged that this application was premature and as such should not be entertained at this stage.

4. However, the counsel for the applicant argued forcefully that if the remarks were communicated to an officer after a long lapse of time, the very purpose of recording of ACR would be defeated. He cited the following Supreme Court decisions on the subject:

- (a) State of Haryana Vs. P.C. Wadhwa, reported in AIR 1987 SC 1201.
- (b) Dev Dutt Vs. U.O.I. & Others reported in 2008 AIR SCW 3486.
- (c) Baidyanath Mahapatra Vs. State of Orissa & Another reported in (1989) 4 SCC 664.




- 3 -

5. The ratio of the aforesaid judgments holds that the purpose of recording ACR is basically two fold: one, to inform the employee about his strength and weakness so that he can correct himself for better efficiency in future and improve upon his performance. In this view, the ACR should be considered as a tool for self improvement of the employee concerned. Secondly, it gives an opportunity to the employee to represent against unjustified remarks so that if, on consideration of his representation, these remarks are either removed or partially moderated his future civil rights by way of promotion and other benefits are protected.

6. Both these objectives would be defeated if the remarks are communicated after long lapse time. In most of the judgments it has been held that the remarks should be communicated within a reasonable period and no fixed criterion has been indicated as to what should be considered as a reasonable period. For example, if there are only two or three authorities involved the reasonable period may be much shorter, but if, as in the present case, a number of authorities are involved the period may be comparatively longer; but, it has to be completed within a reasonable limit.

7. In this connection, the counsel for the applicant brought to our notice the provisions of Rules 5, 6, 6A and 7 of All India Services (Confidential Rolls) Rules 1970. According to these rules, the whole process should be completed within a period of 7 months. It presupposes that the officer himself should submit self appraisal report immediately after the closure of financial year concerned. In any case, it has been contended that, keeping in view judgment of Hon'ble Supreme court in Wadawa's case (AIR 1987 SC 1201), the long lapse of 8 years could not be





-4-

accepted as a reasonable period. In the Wadhwa's case, Hon'ble Supreme Court recorded their disapproval for a delay of 27 months.

8. The admitted position is that the representation of the applicant is under examination of the competent authority. We would dispose of this application with a direction to Respondent No. 2 to consider the representation of the applicant in respect of adverse remarks relating to the year 1998-99 within a period of 3 months. While considering his representation, the legal issue raised before us regarding delay in communication should also be kept in view

9. With these observations, the O.A. is disposed of with no costs.


(Dr. A. K. Mishra)
Member (A)


(M. Kanthaiah)
Member (J)
10.9.08

v.