

(17)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

~~O.A.~~ No.

T. A. No. 267/87

198

DATE OF DECISION 13-3-1991

Ravendra Mohan Dayal Petitioner

Applicant in person Advocate for the Petitioner(s)

Versus

State of Maharashtra & 4 ors. Respondent

1. Mr. Nilkanth for R.1

2. Mr. V. S. Masurkar for R.2

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M. Y. Priolkar, Member(A)

The Hon'ble Mr. T. Chandrasekhara Reddy, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*


(M.Y. Priolkar)
Member(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

(18)

Tr.267/87

Ravendra Mohan Dayal,
Resident of No.5,
Uday Nagar,
Civil Lines,
Nagpur.

.. Applicant

vs.

1. State of Maharashtra
through
Secretary,
Revenue and Forest Department,
Mantralaya,
Bombay - 400 032.
2. Union of India
through
Secretary,
Department of Personnel and
Administrative Reforms,
Ministry of Home Affairs,
North Block,
New Delhi.
3. Vinod Kumar Mohan,
Dy.Conservator of Forests,
Chikaladhara Forests Divn.,
At & Post: Chikaladhara,
Dist. Amravati.
4. Krishna Mohan,
Dy.Conservator of Forests,
Transport and Marketing,
At & Post: Paratwara,
Dist. Amravati.
5. V.T. Patki,
Dy.Conservator of Forests,
Shahapur Forest Division,
At & Post: Shahapur,
Dist: Thane.

.. Respondents

Coram: Hon'ble Member(A) Shri M.Y. Priolkar

Hon'ble Member(J) Shri T. Chandrasekhara Reddy.

Appearances:

1. Applicant in
person.
2. Mr. Nilkanth
Counsel for
Respondent No.1
3. Mr. V.S. Masurkar,
Counsel for
Respondent No.2

JUDGMENT:
(Per M.Y.Priolkar, Member(A))

Date: 13-3-1991

This is a Writ Petition(W.P.No.780/1983) filed in the Bombay High Court, Nagpur Bench, which has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 and numbered as transferred application No.TR(N)267/87. The applicant(Original Writ Petitioner) was appointed to the Indian Forest Service on 6-3-1978. Aggrieved by his non-confirmation and also non-promotion to Senior Time Scale along with his batch mates, including his juniors Respondents No.3 and 4, by orders dated 10-3-1982 and 12-4-1983, respectively, he had filed this petition on 20-4-1983 with several prayers. Subsequent to the filing of this petition, the applicant has been confirmed from the due date, i.e. 6-3-1981 by order dated 22-10-1983 and also promoted to Senior Time Scale by order dated 8-11-1983, as modified by order dated 15-11-1983, giving promotion to the applicant with effect from 28-10-1983. The adverse remarks in his A.C.R. for the year 1981-82 were also partially expunged vide D.O.letter dated 27-7-1990 from Deputy Secretary, after 7½ years of the applicant's representation dated 13-12-1982.

2. The grievance of the applicant which still subsists is that instead of 28-10-1983, his promotion should be made effective from 12-4-1983, i.e. the date from which his juniors(respondents No.3 and 4) were promoted and that the major portion of the adverse remarks in his A.C.R. for 1981-82 still remains unexpunged.

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3. In their written reply dated 31-7-1990, the respondent No.1, Government of Maharashtra, has stated that the applicant was denied promotion in the senior time scale along with his juniors respondents Nos.3 and 4 because of (1)adverse remarks in his A.C.R. for 1981-82 and (2) he had not been confirmed in service, and that as soon as he was found to have improved and fit for promotion, he was promoted to Senior Time Scale with effect from 28-10-1983.

4. The applicant, who appeared before us and argued his case in person, contended that his ACR for 1981-82 was not written as per the statutory provisions contained in the All India Services(Confidential Rolls) Rules,1970. We have perused the entire record. Two Divisional Forest Officers, Kartar Singh and V.T.Patki who were allegedly biassed against the applicant, had written the applicant's A.C.R. for the year 1981-82 for the periods 2-5-1981 to 10-10-81 and 4-11-81 to 31-3-82, respectively, although admittedly they had not seen the performance of the applicant at least for three months as required under Rule 5(4) of the above Rules. This C.R. was therefore invalid. The reviewing officer Shri Narurkar should,therefore, have written the C.R. as Reporting Officer, which, under Rule 6(3), should then have been reviewed by the accepting officer. It is seen, however, that Shri Narurkar has not written the C.R. as required under the Rules but merely reviewed the invalid report written by two Divisional

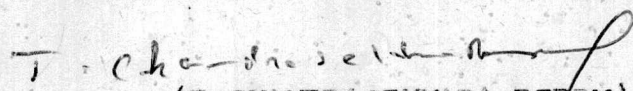
Forest Officers who were not competent under the Rules to write it. Evidently, the adverse remarks recorded by Shri Narurkar in the course of a review of an invalid confidential report cannot be treated as valid. The accepting authority namely, Chief Conservator of Forests, Maharashtra, Poona, who should have reviewed this C.R. has neither accepted nor reviewed this report, merely stating that he had no remarks as he had not seen the work of the applicant. It is also observed that ⁱⁿ the C.R. on the applicant's work for the previous year, namely 1980-81, Shri Narurkar himself had agreed as reviewing officer, with the remarks of another reporting officer, that the applicant was an "intelligent and efficient officer" with "excellant integrity". In the circumstances, it seems to us that Shri Narurker has not independently applied his mind in writing the applicant's C.R. for 1981-82 by filling in Part-II of the Report. We, therefore, direct that the entire C.R. for the year 1981-82 on the applicant (including the remarks of the reviewing authority) be treated as invalid, and all adverse or other remarks therein expunged in toto being in violation of the statutory provisions of the All India Services (Confidential Rolls) Rules, 1970.

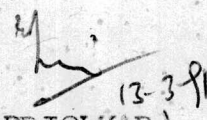
5. As regards the second grievance of the applicant, namely, that his promotion to the Senior Time Scale should be from 12-4-1983 instead of from 28-10-1983, the respondents have explained that he was not promoted earlier along with his batchmates because of the adverse remarks in his C.R. for 1981-82 and

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because he was not confirmed in service, and that he was promoted as soon as he was found to have improved and fit for promotion. The applicant has already been confirmed in service on the due date viz. 6-3-1981. We have also directed above that the entire C.R. on the applicant for the year 1981-82 be treated as invalid. There is no satisfactory explanation forthcoming from the respondents as to why the applicant's representation against the adverse remarks could not be decided for over seven years. If on the basis of the C.R. for 1981-82, the applicant is found fit to be given promotion from 28-10-1983, there is no reason why he cannot be given promotion from 12-4-1983, i.e. the date when his batchmates, including his juniors, were promoted, since this C.R. is for the period from 1-4-1982 to 31-3-1983. We direct, therefore, that the applicant's promotion to the senior time scale be made effective from the same date when his juniors Respondents Nos.3 and 4 were promoted, namely, from 12-4-1983, with all consequential benefits.

6. This transferred application No.TR(N)267/87 is disposed of with the above directions, with no order as to costs.


(T.CHANDRASEKHARA REDDY)
Member(J)


(M.Y.PRIOLKAR)
Member(A)