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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No. 202 of 1986
~~CA No.~~

DATE OF DECISION 5.9.1989

Shri Guru Lutt Dhingra Petitioner

Shri R.K.Shetty, Advocate for the Petitioner(s)

Versus

Secretary to the Govt. of India & 2 Respondent

Shri V.G.Rege Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B.Mujumdar, Member (J)

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

- 1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
- 2. To be referred to the Reporter or not? *Yes*
- 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*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.202/86

Shri Guru Dutt Dhingra,
Works Manager,
India Security Press,
Nashik Road.

.. Applicant

V/s.

1. Secretary to the Govt.
of India,
Ministry of Finance,
Department of Economic Affairs,
New Delhi.
2. General Manager,
India Security Press,
Nashik Road.
3. General Manager,
Currency Note Press,
Nashik Road.

.. Respondents.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar
Hon'ble Member(A), Shri M.Y.Priolkar

Appearance:

1. Shri R.K.Shetty,
Advocate
for the applicant.
2. Shri V.G.Rege,
Advocate
for the respondents.

JUDGMENT:-

Dated: 15.9.1989

[PER: Shri M.Y.Priolkar, Member(A)]

The applicant in this case, who is working as a Works Manager in the India Security Press, Nashik, was communicated adverse entries in his Character Rolls(CRs) for the Calender Years 1981 and 1982. The applicant alleges that these entries were subjective and actuated by bias and malice, and that his timely representations against the adverse entries have been summarily rejected

by the respondents after considerable delay on 7.3.1985 without application of mind. The applicant states that his appeals dated 18.5.1985 and 28.8.1985 to Respondent No.1 have not been replied to so far, with the result that the C.Rs. with unexpunged adverse entries were submitted to the Departmental Promotion Committee(DPC) for selection and promotion to the next higher post, viz., of Deputy General Manager and resulted in supersession of the applicant by his junior Shri B.S.Lalchandani from 24.2.1986. The applicant has, therefore, approached this Tribunal on 8.6.1986 praying for directions to the respondents to (i) expunge the adverse entries from the C.Rs. for 1981 and 1982, (ii) promote the applicant to the post of Deputy General Manager, Currency Note Press, Nashik on an equivalent post and (iii) declare the applicant to be senior to Shri B.S.Lalchandani.

2. The respondents have filed their written reply opposing this application. We have also heard on 16.8.89 Shri R.K.Shetty, learned advocate on behalf of the applicant and Shri V.G.Rege, learned advocate on behalf of the respondents. We have also perused the C.Rs. of the applicant and the relevant DPC proceedings.

3. The adverse remarks communicated to the applicant for the years 1981 and 1982 were as follows:-

1981 - "In the annual confidential report for the year 1981 on Shri G.D.Dhingra, Works Manager, India Security Press, Nashik Road, It has been reported as under:-

"The academic and professional qualifications mentioned were required by him in the previous years and as such no mention should have been made of the same. The brief resume of work given by him has been over exaggerated. Being the junior of the two Works Managers,

he was given a much smaller charge of the stamp Press. He had to be warned for not giving full output in Embossed Envelope Section although 4 Machines had been added in the section.

PUBLIC RELATIONS:- Although his relations with the Public are cordial, his relations with the Superior Officers and colleagues are sub normal & strained.

QUALITY OF WORK:

(i) Attention to detail:-

Apt to be over-concerned with petty details and loses perspective :- YES

(ii) Judgement:-

Unreliable, undecided, rigid, superficial or erratic :- YES

RELATIONSHIP WITH COLLEAGUES:-

Not easy in his relationship, but gets by :- YES

He has to be constantly alerted from time to time to do his job in an effective manner. He has been orally warned from time to time and he had only temporarily reacted favourably in the matter.

The Officer does not possess the aptitude for clear thinking and is more a liability than asset to the organisation."

- 2. The above deficiencies are brought to the notice of Shri G.D.DHINGRA, so that he may improve his performance during the current year."

1982 -

" The following adverse remarks recorded in the annual confidential report of Shri G.D.Dhingra, Works Manager, for the year ending 31st December, 1982, are hereby communicated to him:

Para-3: Temperament:

- (a) Is he calm and does he retain poise at times of pressure of work? : "Calm and poised with Superiors and aggressive with subordinates"

Para-5: Quality of work:

(i) Attention to detail:

(c) Apt to be over-concerned: "Over-concerned with petty details and likely to lose general perspective."
with petty details and loses perspective.

Para-8: Quality of Supervision

: "Very persistent tending to overdo in some cases."

Para-11: Control and Management of Staff

(i) Ability to inspire confidence and to get the best out of the staff:

(b) Gets along well

: "Gets along with colleagues but problematic with subordinates."

Para-13: Other Observations:

: "With clashing motives, his actions and directions are confusing and unclear."

Para-15:

Please indicate if on any of the item in this part of the reporting officer administered any written or oral warning or counselling and how the officer reacted thereafter. : Counselling and advice was given on an number of occasions, without much effect or change in his original attitude."

The above deficiencies are brought to his notice to give him an opportunity to overcome them and show desired improvement in his endeavour to earn a good report in the succeeding year.

It may also be noted that representations, if any, against the above adverse entries, should be submitted within six weeks of the date of issue of this Memo."

4. The applicant's allegation that the adverse entries for the years 1981 and 1982 are subjective and actuated

by bias and malice has been denied by the respondents. This allegation regarding 1981 Report is based on two premises. Firstly, that the Reporting Officer being only a diploma holder was biased against the applicant who had a degree in engineering. Secondly, the applicant was allotted a bungalow which was earlier occupied by the reporting officer. As has been explained by the respondents, the applicant was not the only officer with a degree in engineering working under the then Reporting Officer. Further, the vacation of the bungalow and the re-allotment thereof having been ordered by a superior officer in accordance with the Government orders, there could be no reason for any bias by ^{the} reporting officer against the applicant.

5. It may be noted that the opening observations by the Reporting Officer in the applicant's C.R. for 1981 was that "the academic and professional qualification mentioned were acquired by him in the previous years and as such no mention should have been made of the same." This is claimed by the applicant to be proof of jealousy on the part of the reporting officer, who is stated to be only a diploma holder. Part-II(i) - Self appraisal (to be filled by the officer reported upon) of the prescribed C.R. form, however, specifically mentions ~~that~~ "academic and professional achievement during the year including degrees obtained, books/articles published etc. The training courses attended during the course of the Reporting year need also be mentioned." In view of this specific stipulation, we feel that the Reporting Officer was justified in making the observation quoted above and

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can hardly be changed with prejudice or bias on this account.

6. Regarding the adverse remarks in the CR for 1982, the applicant does not allege any bias or malice against the Reporting Officer. Here his grievance is that this reporting officer had supervised his work for only 5 months during the year since he was transferred at the end of October, 1982 and was on leave earlier for one month while the applicant himself was also on leave from March to June, 1982. The instructions of the Department of Personnel dated 20.5.1972, however, specifically provide that the report can be written if a reporting officer has at least three months' experience on which to base his report (Para 6.1 of O.M. Dated 20.5.1972 of Department of Personnel). It is also pertinent to note that the applicant does not allege any malafides against the two reviewing officers who had fully endorsed the reporting officers' remarks for the years 1981 and 1982, respectively. Thus, out of four different officers who had from close quarters watched the day today performance of the applicant for the two years and who had either written the adverse remarks or agreed with them, the applicant has not alleged any malafides against ~~the~~ three officers, viz., the reporting officer for 1982 and the reviewing officers for 1981 and 1982. The applicant has not also produced any convincing evidence to substantiate his allegation of bias or malice against the remaining one officer, viz. the reporting officer for 1981. We have, therefore, to reject the applicant's

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contention that the adverse entries were subjective and actuated by bias and malice.

7. We do not also find much substance in the applicant's grievance that his representations have been rejected after considerable delay and without application of mind. The adverse remarks in his CR for 1981 were communicated to the applicant on 19.2.1982 against which he represented on 15.3.1982. The representation was rejected by the General Manager's Memo dated 3.8.1982 which gives the reasons ^{why} ~~only~~ the adverse remarks cannot be expunged. His further appeal dated 4.11.1982 was forwarded by the General Manager to Director General(Currency and Coinage), Ministry of Finance, New Delhi, who was the next superior authority and was rejected by him, after granting a personal hearing to the applicant, on 2.3.1984. His further representation to the Ministry of Finance for re-consideration dated 30.4.1984 was also rejected after re-examination of all the relevant papers, by the Joint Secretary(Currency and Coinage), Ministry of Finance, New Delhi on 7.3.1985. The representations against the adverse remarks for 1982 have also taken more or less a similar course. Admittedly, the time limits prescribed in the instructions dated 20.5.1972 for dealing with representations are not statutory time limits but only guidelines for expeditious disposal of such representations. On the facts and circumstances of this case, the delay in deciding the representations cannot be considered, in our view, as highly unreasonable, and in any case, the delay is not such as will vitiate the decisions.

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8. The last grievance of the applicant is that the delay in taking timely decision on his representation, has resulted in his CRs with unexpunged adverse entries being submitted to Departmental Promotion Committee for promotion to the next higher post of Deputy General Manager and resulted in supersession of the applicant by his junior. As discussed above, however, we do not find that there has been inordinate delay in dealing with the applicant's representations. Further, in para 9.5 of the Office Memorandum dated 20.5.1972 which consolidates the instructions regarding confidential reports, only an authority superior to the reviewing officer is designated as the competent authority to deal with representation against adverse remarks. We, therefore, have to accept the respondents' contention that one representation and further two/appeals made by the applicant against the adverse entries having been rejected, the applicant was not entitled to make any further representation and demand a reply. His second appeal to the Ministry of Finance having been decided on 7.3.1985, the respondents are justified in their stand that the further representations dated 18.5.1985 and 28.8.1985 were treated as repetitions of the earlier representations and it was not considered necessary to send any reply thereto. We hold, therefore, that the applicant's representation cannot be considered as still being under consideration of Government at the time of the meeting of the Departmental Promotion Committee on 23.12.1985 for promotion to the post of Deputy General Manager. We have perused the proceedings of this

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Departmental Promotion Committee. Only two departmental candidates were considered and the candidate selected was graded "Very Good" as against the grading of the applicant as "Good". The promotion post being a selection post under the Recruitment Rules, there is hardly any ground on which the applicant can justifiably challenge the decision of the departmental Promotion committee.

9. On the basis of the foregoing discussion, the application fails and is, accordingly, dismissed but with no order as to costs.

(M.Y. Priolkar)
Member(A)

(M.B. Mujumdar)
Member(J)