

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

O.A. No. 318/86

Mr. Hiraman Shankar Nikale
Tactical Wing, School of
Artillery Deolali
Tal. & Dist. Nasik
P.I.N. 422 401

Applicant

v/s.

1. The Union of India
through the Secretary,
Ministry of Defence
New Delhi 11.

2. Commandant
School of Artillery
Deolali
Tal. & Dist. Nasik

Respondents

Coram: Hon'ble Member(A) J G Rajadhyaksha
Hon'ble Member(J) M B Mujumdar

Appearance:

T.T.
Mr. Amesur Moreas
Advocate
for the applicant
Mr. J.D. Desai (For Mr. M.B. Sethna), Counsel
for the respondents.

ORAL JUDGMENT Dated: 8.4.1987

(PER: M.B. Mujumdar, Member (J))

The applicant has filed this application under section 19 of the Administrative Tribunals Act 1985.

2. The applicant was appointed as LDC in 1962 in the School of Artillery at Deolali. On 4.2.1984 he was promoted as Office Superintendent Gr. I and at the relevant time he was working in the same capacity in the Surveillance and Target Wing (briefly SATA WING). In this application he challenges the Annual Confidential Report for the year 1985 written by Maj. Ramesh Kumar who was then working as Staff Officer of that Wing.

3. The adverse remarks which are challenged are in para 11 and 18 of that report. In para 11 it is mentioned that the applicant's knowledge of office procedure was "poor".

In the first column of para 18 the necessary information regarding certain points was called for, viz., "whether the officer has been reprimanded for indifferent work or for other causes during the period of report and if so give the particulars". Against the column Maj. Ramesh Kumar has observed: "Yes. The office functioning, supervision and procedures of handling the letters was not found of satisfactory standard".

4. In para 21 the Reviewing Officer viz., Brig. N.K. Chadha has observed that "I generally agree with the remarks of the Reporting Officer. This individual is ineffective and inefficient with no understanding of organising or running an office. Further he has shown no desire or interest in improving himself. Not yet recommended for promotion".

5. The applicant had made a representation dated 24.2.86 against the above adverse remarks to the Commandant, School of Artillery, Deolali, but it was rejected on 8.5.86 by the Commandant. On 7.3.86 the applicant had made another representation to the Director General of Artillery, Army Headquarters at New Delhi. But it was also turned down on 21.8.1986. Thereafter, the applicant has filed this application in this Tribunal on 12.9.1986 challenging the adverse remarks made against him by Maj. Ramesh Kumar.

6. The Respondents have filed their written statement on 17.11.1986 and resisted the application by stating ~~all~~ all the relevant facts.

7. We have just now heard Mr. Amesur, the Learned Advocate, for the applicant and Mr. J.D. Desai (for Mr. M.I. Sethna) the Learned Counsel for the respondents. Mr. Amesur

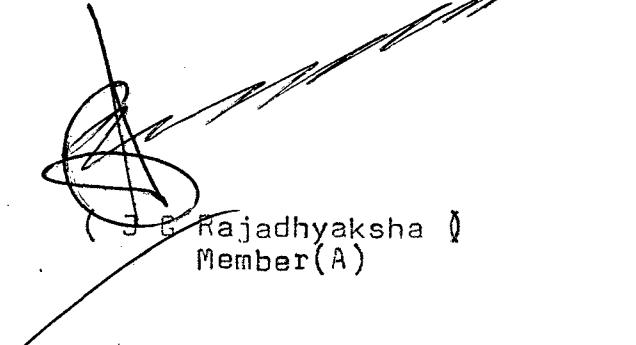
has challenged the adverse confidential remarks passed against the applicant by Maj. Ramesh Kumar on the ground that he was not competent to make these remarks as he had not observed the conduct and work of the applicant for three months.

8. The record shows that the applicant was working under Maj. Ramesh Kumar from 3.6.1985 to 2.9.1985. However, it was submitted by Mr. Amesur on behalf of the applicant that the applicant had worked under Maj. Ramesh Kumar only from 4.6.85 to 31.8.85 and as that period was less than three months, Maj. Ramesh Kumar was not competent to write the adverse remarks. We, have, however, seen the original reports regarding taking over and handing over charge. The report shows that Maj. Ramesh Kumar has taken over charge from Maj. P.M. Mathew on 3.6.85 and he has handed over charge to Capt. P.K. Patnaik on 2.9.85. It was admitted on behalf of the respondents that Maj. Ramesh Kumar was sanctioned leave from 2.9.85. But the 1st September was a Sunday and he was not allowed to pre-fix it. Hence he had to work for some time on 2.9.85 before handing over the charge. We see from the record that the warning given to the applicant on 2.9.85 for improving his work was given on the same date i.e., 2.9.85 and hence it is difficult to accept the submission of the applicant that Maj. Ramesh Kumar had not worked on 2.9.85 and that it should not be taken into consideration. We, therefore, find that Maj. Ramesh Kumar had observed the conduct and working of the applicant from 3.6.85 to 2.9.85 i.e., for three months. If days are to be counted that period works out to 92 days. Hence we are not impressed by the arguments of Mr. Amesur that Maj. Ramesh Kumar was not competent to

write adverse remarks of the applicant for the year 1985 because he had not observed the conduct and working of the applicant for three months.

9. Though the applicant has made some other prayers in the application, his main prayer is for expunging the adverse remarks for 1985. The other prayers are consequential. As the applicant is not entitled to the main prayer the application shall have to be rejected.

10. We, therefore, dismiss the application with no order as to costs.


J. C. Rajadhyaksha ()
Member (A)


(M. B. Mujumdar)
Member (J)