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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 332/1989

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T.A. NO:

DATE OF DECISION 20.3.92

Shri Raghunath S. Rathod

Petitioner

Shri C.U. Singh,

Advocate for the Petitioners

Versus

Union of India &
State of Maharashtra

Respondent

Shri C.K. Nilkanth

Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Mr.~~ Ms. Usha Savara

The Hon'ble Mr.

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

Ms. Usha Savara
(Ms. Usha Savara)
Member(A)

20.3.92

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No.332/89

Shri Raghunath S.Rathod
Additional Collector
(E.G.S.), Ahmednagar.

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Applicant

vs

1. Union of India
through the Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
(Department of Personnel &
Training),
New Delhi.

2. The State of Maharashtra
through the Chief Secretary
Government of Maharashtra,
Mantralaya,
Bombay-32.

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Respondents

Coram: Hon'ble Ms. Usha Savara, Member(A)

Appearance:

1. Mr. C.U. Singh,
Advocate for the applicant.

2. Shri C.K. Nilkanth
Advocate for respondent No.2

Dated: 20-3-92

Judgement

(Per: Ms. Usha Savara, Member(A))

The applicant is an officer of the Maharashtra cadre of the IAS and has filed this application impugning orders dated 17-9-88 passed by the second respondent whereby he has refused to expunge adverse remarks communicated to the applicant on 15-3-88.

2. The applicant was initially appointed as Deputy Collector in the Maharashtra State Civil Service by direct recruitment in 1965. He was promoted to the Indian Administrative Service (hereinafter referred to as IAS) on officiating basis with effect from 2-8-83. Though he was appointed to IAS cadre only on 2-8-83, his performance as Chief Executive Officer and Administrator in Zilla

Parishad at Parbhani was outstanding and Parbhani Zilla Parishad exceeded its targets in almost all major administrative and developmental parameters. His work was appreciated and he was congratulated for exceeding the target of 600 cases under the new composite loan scheme for self-employment in Parbhani district by the Collector. (Annex.7) He was also complimented by the Additional Commissioner, Aurangabad division for exceeding small savings scheme target of Rs.1 crore. Because of his concentrated efforts, the Zilla Parishad, Parbhani was also granted cash awards by the State Government; by letter dated 2nd July 1984, the Chief Secretary, Govt. of Maharashtra also complimented him for being quick in picking up the threads in developmental activities and showing rapid rate of progress. It was also pointed out that he needed more planning and he also liked to do things by himself.

3. In the year 1984-85 also, the applicant exceeded physical targets set in respect of coverage of Scheduled Castes and Scheduled Tribes. His achievements under all heads of the Integrated Rural Development Programme were also in excess of 100% of the targets. Similarly, under the National Rural Employment Programme (hereinafter to be called as NREP), The Zilla Parishad, Parbhani achieved more than 100% of the targets. He also exceeded targets for Bio-gas construction and 1251 Bio-gas plants were constructed against the target of 1200. As a result, the applicant was awarded the Commissioner's Shield for Bio-gas construction in the Aurangabad Division. His performance in regard to Family Welfare Programme was commendable and he also performed well in the creation of irrigation potential during the year 1984-85. Against the target to create a potential

to irrigate 700 hectares during the year , the applicant's efforts resulted in creation of potential for 921 hectares. Similarly his achievements in the field of education were also appreciated by the Secretary, Education, who complimented the applicant by letter dated 15-2-1985. During the year 1985-86 the applicant was posted as Additional Collector, land acquisition, at Nasik where he completed all time bound land acquisition cases as per target prescribed by the Govt. of Maharashtra. In 1986-87 when he was posted as Additional Collector (E.G.S.) in Ahmadnagar, he combatted the effects of a severe drought by providing the maximum possible work to job seekers. 1,30,000 workers on various employment gurantee scheme works were absorbed in the district.

4. It is stated by the applicant, that due to political differences in the district of Parbhani, various vested interests began to plot against him. In July 1985 various allegations were hurled against him in the Maharashtra Legislative Assembly. In order to remove any suspicion against him, he requested for special audit to be conducted to verify whether there was any truth in the allegations. The special audit report was made available to the applicant in the month of June 1985 pointing out that irregularities, if any, were of a minor and remediable nature. He was asked by the respondent No.2 on 12-8-85 to submit his explanation, which was submitted by letter dated 9-10-1985. Since there was no reply to his explanation for over a year, he had reason to believe that his explanation had been accepted by the respondents. However, he was served with a notice dated 29-1-87 proposing to ~~revert~~ him from the IAS under clause (b) of Rule 12 of the said Indian Administrative Services (Probation) Rules, as the Government did not find him suitable for being a member of the service.

He filed a representation in detail, but instead of a reply dealing with his contentions, he was served with the chargesheet dated 11-11-1987 making various stale, frivolous and baseless allegations, which were rebutted in detail by his letter dated 14-12-1987. However, vide order dated 31-12-1987 communicated to him by second respondent by his letter dated 14-1-1988, the respondents, reverted him from the Indian Administrative Service to the State Civil Service of Maharashtra.

5. This order of reversion was challenged by the applicant before the Tribunal by O.A. No.87 of 1988. During the arguments, he pointed out that throughout the period that he had worked as an IAS Officer, he was never communicated any adverse remarks. The order of reversion was quashed and set aside by the judgement dated 6-10-1988, holding that the applicant was deemed to have been confirmed in service after his initial probation of one year. It was also held that allegations contained in the charge-sheet dated 11-11-87 had motivated the reversion order, which was punitive in nature.

6. On 15-3-1988 he received a letter dated 2-3-1988 (Annex.J) by which the second respondent belatedly communicated certain adverse confidential reports pertaining, allegedly, to the year 1984-85. It is the applicant's contention that the adverse remarks were vindictive and were motivated by a desire to create a case to justify the applicant's reversion and were also malafide. Since the applicant had specifically stated before the Hon'ble Tribunal that no adverse remarks had been communicated to him during the past 3 years, therefore, in order to create defence for the respondents, the adverse remarks were

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belatedly communicated to him. The letter dated 2-3-1988 indicated that he was a very good officer in all important respects. However, certain vague, un-substantiated and unsupported allegations were also set out in the aforesaid communication with a view to besmirch the applicant's reputation. The communication of the adverse remarks was in complete violation of the binding administrative instructions issued by the Central Government in so far as the same were communicated to him after more than 35 months. By this delay he was denied the opportunity to represent against the adverse remarks and show improvement in subsequent years, if his representations were for any reason not allowed. The communication was malafide and was effected only in order to try and defeat the applicant's claim in O.A. No.87 of 1988. It was also pointed out by the applicant that there was no material whatsoever in support of the false allegations set out in the communication. The applicant made a representation dated 16-5-1988 against the adverse remarks (Annex.K).

7. The second respondent further intimated to the applicant by letter dated 2-6-1988, certain other adverse remarks allegedly recorded in respect of the year 1986-87. It is pleaded that these remarks were also recorded when the period in question was over. A representation dated 6.6.1988 was filed against the second respondent's communication, but this representation has not been disposed of. However, his representation dated 16-5-1988 was rejected by the second respondent by reply dated 17-9-1988 which is the impugned order in this O.A.(Annex.L) The rejection ~~xxx~~ order dated 17-9-1988 is violative of natural justice, and unsustainable inasmuch as it is a non-speaking order which does not disclose any reasons whatsoever for rejecting the applicant's representation dated 16-5-1988, and does not consider or deal with a single contention raised by him.

It merely states that the State Govt. has carefully considered the representation and has decided not to expunge the remarks. No reasons whatsoever are put forward to support the rejection. This order is challenged as being violative of natural justice and unsustainable, as it is a non-speaking order. The applicant had filed a 7 page annexure with his representation showing his performance in various fields. Therefore it was binding upon the respondent to give a reasoned order in order to avoid charge of arbitrariness. The order dated 17-9-88 revealed non-application of mind and was therefore void.

8. Mr.C.U.Singh learned counsel for the applicant submitted that the communication of adverse remarks more than 3 years after the report period was violative of the instructions issued by the Government in this regard. The Govt. of India vide Ministry of Home Affairs O.M. No.21011/1/77-Estt.A dated 30th Jan.1978 clearly lays down that the annual confidential report should be written within one month of the reporting period and must be communicated within one month of being recorded to the person concerned. These directions are mandatory in nature and delay in recording and communication calls for adverse comments upon the reporting officer. The gross delay of 35 months in communicating adverse remarks is clearly violative of these guidelines and renders these remarks void and inoperative. The learned counsel went on to state that the delay clearly shows that the remarks were not recorded at the relevant time and were written in the applicant's ACRs as an after thought only in order to support the proposed reversion of the applicant. Therefore, recording and communication of adverse remarks was mala fide, and was done with a view to defeat his claim in O.A. 87/88. Further it was submitted that the remarks were vague and unsubstantiated and were totally unsupported by actual instances and details to show reasons

for recording such remarks. The Government of Maharashtra's Resolution dated 4th Aug.1969 lays mandatory guidelines for recording of adverse remarks in C.R. which have not been followed by the Respondents.

9. The adverse remarks are also vitiated by personal bias and vindictiveness of the concerned reporting officer. The applicant had taken action against various Zilla Parishad employees and had also complained of political interference in the functioning of his office, thereby earning the wrath of the local M.P. and a Minister of state in the Maharashtra Government. It was only due to the machinations of such persons that the false and frivolous adverse remarks were recorded. The adverse remarks recorded against the applicant are utterly perverse and unsustainable in view of the applicant's performance judged by objective criteria. The applicant had broken all records of performance and surpassed all targets for developmental activities as fixed by the Government. No reasonable man could have recorded vague and prejudicial remarks against the applicant as there was no area where he had not exceeded.

10. It is submitted by the learned counsel that the allegations of impropriety in purchases which have been made against the applicant were totally baseless. The applicant had followed the procedure for purchase as prescribed by the Government itself. As pointed out in his representation dated 16-5-1988, the NREP purchases made from state owned Small Scale Industries Development Corporation (MSSIDC) were in compliance with the Government directives and the instructions of the Commissioner, Aurangabad Division, vide his letter dated 13-7-1984. Since the applicant was chargesheeted for the very same allegations and the investigations were still being made the entry of this

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alleged improper purchase procedures amounts to prejudging the applicant, and condemning him, unheard. All the other Executive Officers of Zilla Parishad also followed identical purchase procedures and bought their requirements from MSSIDC, yet only the applicant was singled out and commented upon adversely. In the circumstances, the refusal to expunge the adverse remarks is violative of the applicant's fundamental rights under article 14 and 16 of the constitution. No personal hearing was given to the applicant before rejecting his representation which was the minimum requirement of natural justice. The rejection of his representation was violative of the binding statutory provisions of the All India Services (Confidential Rolls) Rules. In view of this, the learned counsel for the applicant prayed that the impugned adverse remarks communicated vide letter dated 2-3-1988 and the order rejecting his representation dated 17-9-1988 be declared as unlawful, in violation of binding administrative instructions and the All India Services (Confidential Rolls) Rules, perverse and unsustainable as they violated fundamental rights under Articles 14 and 16 of the Constitution of India. It was further prayed that the adverse remarks communicated by letter dated 2-3-1988 (Exhibit J) and rejection of representation dated 17-9-1988 (Exhibit L) be quashed and set aside, and the applicant be awarded costs of this application, and any other relief, which the Tribunal may deem fit.

11. The application was vehemently contested by Shri Nilakanthan, learned counsel for the respondents. It was denied that the officers recording the adverse remark were biased or vindictive against the applicant. The adverse remarks were only communicated after the same have been recorded by the reporting officer, reviewed & accepted

by the

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/reviewing authority, and the accepting authority, respectively.

The delay in communicating the remarks was only due to administrative constraints, and it was not due to delay in writing the C.R. It was submitted that the C.R. was written on 15.5.85 by the Reporting Officer, reviewed on 8.7.85 and 7.11.85 by Secretary R.D.D. and accepted by the Authority concerned i.e. Chief Secretary on 9.2.86. In any case, it was argued by the learned counsel, that there was no violation of the fundamental rights of the applicant due to the delay in communicating the remarks to him. It was also denied that the adverse remarks had been belatedly recorded as a "defence" to the O. A. filed by the applicant. It was argued by the learned counsel that since the remarks were recorded in 1985, it was totally wrong to say that they were malafide, and were motivated to create a case against the applicant to justify his reversion. Though it cannot be denied that they were communicated to the applicant after he filed his application No.37 of 1988, but it is a matter of record that they were recorded much earlier, and only remained to be communicated.

12. It was pleaded by the learned counsel, that the instructions dated 30.1.78 were not made applicable to the non-Indian Administrative Service officers, as they were not incorporated in the All India Service Manual. The instructions were not circulated to the State Governments, therefore, they were not binding on the State Governments. Besides, the instructions are directory and not mandatory in nature, and it was not incumbent upon the Respondent No.2 to follow them.

13. Countering the charge that the order dated 17.9.88 was a non-speaking order and was passed without giving a personal hearing to the applicant, Shri Nilakanthan submitted that there was no provision to give personal hearing to officers, while deciding representations against adverse remarks. The representation of the applicant had been duly considered in all its aspects, and the order passed after due application of mind. The learned counsel relied upon the confidential file to substantiate his contention that there was full consideration of the representation filed by the applicant. Since the representation had been rejected after its consideration in a fair and just manner, the order of rejection would not be rendered illegal merely on the ground of absence of reasons, according to Mr. Nilakanthan. While admitting that the performance of the applicant had been good in various spheres, for which he had been complimented, and which was reflected in his C.R., it was denied that his performance was exemplary. Reference was made to a departmental enquiry which had been commenced against the applicant for various acts of omission and commission during his tenure, and which is still in progress. It was pointed out that even for the earlier year i.e. 1983-84, while the applicant's performance had been appreciated by the Chief Secretary, he had also mentioned that the applicant needed more planning in his work. It was also observed that he liked to do things by himself. The charge that the remarks were vague and unsubstantiated is uncalled for, according to the learned counsel because instances cannot be cited in the C.R. But, it is admitted by the applicant that his behaviour did give rise to controversy, insofar as he was even the subject matter of discussion in the Maharashtra Legislative Assembly, justifying the remark that he should steer clear of controversy and

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political affiliations.

14. Lastly, Shri Nilankanthan submitted that the comment of the recording officer, that the sanctions were being officially investigated was not perverse. It was his stand that on the completion of the enquiry, if the applicant was found to be not ~~guilty~~, this fact would also be mentioned in the C.R. and therefore, no prejudice was caused to the applicant. In the circumstances, the application had no merit and should be dismissed.

15. I have heard the counsel for the opposite parties. Mr. Singh has placed reliance on the following judgements, 1. A.I.R. 1988 SC 488 2. AIR 1987 SC 1201. 3. 1991 SC 2010. 4. (1991) 17 A.T.C. 104 - U.O.I. vs E.G.Nambudiri. They will be discussed as to ^{their} applicability to the facts of this case a little later. First, I would like to refer to the reliefs asked for by the applicant, viz. to declare the adverse remarks and the order of rejection of the representation as unlawful, in violation of binding administrative instructions and the All India Services (Confidential Rolls) Rules, perverse and unsustainable as they violate the applicant's fundamental rights under Articles 14 and 16 of the Constitution of India, and (ii) to quash and set aside the adverse remarks and the order of rejection of representation dated 17.9.88. The adverse remarks for the year 1984-85 were communicated to the applicant on 15.3.88 and read as follows:

" The report, however, shows that during the period under report some serious complications arose in your relations with subordinates, colleagues and members of the public. A number of protests regarding your handling of subordinates and colleagues were received. It is, therefore, suggested in the report that you would have to

be somewhat careful in dealings and relations with others. The report also shows that your handling of the affairs of Zilla Parishad left much to be desired. You should learn to steer clear of controversy and political affiliations. In your enthusiasm and in order to put up a show of performance, you committed improprieties in purchase of materials for NREP/IRDP programmes. Your performance in relation to NREP was poor; the sanctions were being officially investigated."

Mr. Nilkanthan had asserted that the competent authority is not required under the law to adduce reasons in support of his decision to reject a representation, but the learned counsel has shown me the departmental file to establish that the concerned officers have been extremely conscientious in disposing of the representation of the applicant. I find from the departmental file that the representation of the applicant was examined quite comprehensively at different levels. It is also confirmed that the C.R. was written on 15.5.85 by the Reporting authority, was reviewed by the reviewing authority on 8.7.85, and 7.11.85, and the Chief Secretary accepted it on 9.2.86. The apprehension of the applicant that the C.R. had been written after he filed the O.A.87 of 1988 is baseless. His allegation that the adverse remarks were malafide, and were motivated by a desire to create a defence or justification for his reversion has also to be rejected."

16. The applicant had alleged malafide and vindictiveness on the part of the reporting officer. He had complained of political interference in the functioning of his office and because he took action against various Zilla Parishad employees, he had earned the wrath of the local M.P. and a Minister of State in the Maharashtra Govt. However, Shri Singh did not press this ground and conceded fairly, that he was unable to prove malafide.

17. The learned counsel for the applicant had assailed the order dated 17.9.88 as being a non-speaking order, which had been passed without giving the applicant personal hearing. Reliance had been placed on the recent judgement of the Hon'ble Supreme Court reported in (1991) 17 A.T.C. 104 in the case of UOI & Ors. vs. E.G. Nambudiri. However, it was held by the ~~apex~~ court that the order rejecting the representation need not contain reasons. The superior authority was not obliged to write detailed judgment or order giving details of the warnings or the material on which he formed opinion. If the representation is rejected after its consideration in a fair and just manner, the order of rejection would not be rendered illegal merely on the ground of absence of reasons. It has never been a principle of natural justice that reasons should be given for decisions. If the reasons already exist on records, the order of the administrative authority, which has no statutory or implied duty to state reasons, is not rendered illegal. The respondents have produced before me the confidential file containing the representation of the applicant, the reference to the various authorities who had recorded the adverse remarks, their replies and the final decision taken after weighing the pros and cons of the case. It is evident that the order of rejection has not been passed in a mechanical manner, but there has been due application of mind by the concerned officers and the representation has been disposed of conscientiously.

18. I find from the confidential file that the representation of the applicant was considered comprehensively at different levels. It was observed that the applicant tended to be abrasive or tactless in dealing with members of the public, and especially the press, as there had been many complaints - oral as well as written. His impatient language was also the

subject matter of many complaints, giving rise to aggravated tension between different individuals and groups that had dealings with the Zilla Parishad apparatus. It was also observed that tactlessness is not something, which can be established through formal enquiries, and findings brought down on paper. It was also noted that there was no intention of giving any adverse remarks in the appraisal of the applicant's performance. In fact, the picture that emerges from the departmental file is that a very careful and objective examination had been made of the representation, and the charges of bias and malice must be ignored.

19. The submission of the applicant that the adverse remarks were communicated to him much after the period of one month prescribed by the Govt. of India's O.M. dated 30th Jan. 1978 is undeniable. Even if it be accepted that the instructions are not applicable to non-I.A.S. Officers, still the fact remains that since performance appraisal through C.R. is used as a tool for human resource development and the objective is to develop an officer so that he/she realizes his/her true potential, the very purpose of CRs is lost if the officer concerned is not communicated his shortcomings for a long period of 3 years. Fortunately, no prejudice has been caused because of the delay in communicating the entries. It has been held in Harider Goyal vs Union of India (1987) 5 A.T.C. 658 that delay in communicating adverse remarks due to bureaucratic red-tapism, which is otherwise not malafide, would not be fatal to the adverse entries. While agreeing with these observations, I hold that the delay in communicating the adverse remarks in this case would not render the adverse remarks otiose. Shri Singh had drawn my attention

to the judgement of the Supreme Court in P.C.Wadhwa's case. While the Hon'ble Supreme Court has severely condemned the delay of 27 months in communicating adverse entries, yet the Apex court has not held that such delay would wash off or vitiate the entries.

20. I shall now examine the contents of the impugned adverse remarks. These remarks can be divided into 5 parts. The first part is that " During the period under report, some serious complications arose in your relations with subordinates, colleagues, and members of the public. A number of protests regarding your handling of subordinates and colleagues were received. It is, therefore, suggested that you would have to be somewhat careful in dealings and relations with others." The applicant has admitted in his representation that the attitude of some of the B.D.O's and Executive Engineers was objectionable, and he had taken steps to discipline them in the interest of administration. Some annoyed political workers alongwith few disgruntled and disloyal Z.P. employees and two or three vindictive press reporters had joined together, and unfortunately, they had easy and encouraging access with high political dignitaries and political workers and this resulted in an unholy and organised conspiracy against him. He had also submitted a report dated 14-12-84 to Secretary R.D.D. in compliance with Govt. instructions for clarification on news item published in a daily newspaper- Mumbai Sakal. The said news item was totally false, baseless and mischievous. From this explanation, it is clear that there were some serious complications with subordinates and colleagues, as well as members of the public. The controversy was serious enough to be reported in the newspaper and the applicant had been asked to clarify his position. In the circumstances, he cannot claim that this

remark is vague, unsubstantiated or that he had no prior knowledge of this. In my opinion, this instance of strained relations of the applicant with his subordinates, colleagues, and the public, to say nothing of the press, makes the existence of the adverse remark in the confidential roll justifiable, as it has been fully substantiated. I am of the opinion, therefore, that this part of the adverse remark has to be retained.

21. The second part of the report states thus "Your handling of the affairs of Zilla Parishad left much to be desired". It is contended on behalf of the applicant that these remarks are contrary to the factual position. The applicant has claimed that he exceeded all the targets fixed by his senior officers. In support, he has filed copies of letters written to him by his Divisional Commissioner, Director of Education, as well as the Collector, complimenting him on his achievements. The respondents have merely stated that his performance was not exemplary. Beyond this bald statement, they have not given any figures or facts to the contrary. On a perusal of the achievements of the applicant cited in his statement of facts, it is evident that the impugned remarks are contrary to the facts. I am, therefore, of the opinion that this remark is unjustified, contrary to facts and liable to be expunged.

22. The third part of the report states as follows: "You should learn to steer clear of controversy and political affiliations". In his representation, the applicant had submitted that he had remained perfectly impartial and worked without fear or favour. The respondents have not specifically dilated on this point, nor given any instances of his political affiliations. In the absence of any such instances, this remark is unsustainable and is, therefore liable to be expunged.

23. The fourth part of the report states that "In your enthusiasum, and in order to put up a show of performance, you committed improprieties in purchase of materials for NREP/IRDP performances." The applicant had contended in his plaint that he did not make any purchases for I.R.D.P. and so far as N.R.E.P. was concerned, he had followed the procedure prescribed by the Govt. itself. The purchases were made from the M.S.S.I.D.C. a state owned corporation, in compliance with Govt. directives contained in a G.R. dated 9.8.77 and the instructions of the Commissioner, Aurangabad Division - vide his letter dated 13.7.84. The respondents have not denied this, but merely stated that a departmental enquiry is in progress, and therefore, it is premature to offer any remarks on the allegation. One of the basic propositions of law that emerges from the various judgements given on the issue of adverse entries is that the adverse entries must be based on relevant material and made on an objective assessment of the material, and cannot be given arbitrarily. For non-compliance with the instructions given by the Govt. in Memo No.514/64-Esst (a) dated 21.8.65 and 11059/7/86- A 15 (III) dated 10.6.86, or because the assessment is done without material, the adverse entries can be ingnored. The adverse entry has been made on account of purchases which are the subject matter of an enquiry. So far the enquiry is still in progress, and it is possible that the applicant may not be held guilty. In the circumstances the remarks are prematurely judging him guilty, even while the enquiry is still in progress. This decision appears to be not only premature, but also arbitrary, and therefore, it cannot be sustained. In my opinion, this part of the adverse entry is liable to be expunged.

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24. The last part of the report is that " your performance in relation to N.R.E.P. was poor; the sanctions were being officially investigated." No material or data has been furnished to indicate how the applicant's performance was poor. His claim that he exceeded 100% of the target has not been contradicted. In the circumstances, I am constrained to conclude that there was no material on the basis of which the reporting officer made these impugned remark, and therefore, the remarks are liable to be expunged. So far as the last remark is concerned it seems to relate to the purchases made from M.S.S.I.D.C. which is already the subject matter of an enquiry. The enquiry is still in progress, and, therefore, it is premature to conclude that the applicant had committed an impropriety. This amounts to condemning him without giving him an opportunity to put up his defence. Therefore, this part of the remarks is also liable to be expunged.

25. In view of the above, the impugned remarks, as elaborated above, are hereby quashed, and Respondent No.2 is directed to expunge the same from the A.C.R. of the applicant. The only adverse remark that remains on record is the one in para 20.

26. The application is allowed to the extent indicated above without any order as to costs.

U. Savara
(Ms. Usha Savara)
Member(A)
20.2.92