

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

O.A.NO.697/2001

Thursday, this the 6th day of March, 2003

Hon'ble Shri Govindan S. Tamai, Member (A)

Dr. Mrs. Rita Pramanik
working as Lady Medical Officer
Medical Officer in-charge
Family Welfare Centre
c/o NHP, NCHC, Powai
Mumbai - 400 078

residing at
B-302, Ambar
Lok Rachana Hsg Co-Op Society Ltd.
Amar Nagar, Mulund (W)
Mumbai - 400 082

...Applicant

(By Advocate: Shri R.G.Walia)

Versus

1. Union of India through the Secretary
Ministry of Defence,
Raksha Bhavan, New Delhi-1
2. The Admiral Superintendent
Naval Dockyard
Mumbai 400 023
3. The Chief of Naval Staff
Naval Headquarters
New Delhi-1
4. The Flag Officer Commanding in Chief
Western Naval Command
Headquarters Office, Shahid Bhagat
Singh Road, Mumbai 400 023
5. The Director General of Armed
Forces Medical Services
Ministry of Defence
New Delhi-1

...Respondents

(By Advocate: Shri K. Valve for Shri V.S.Masurkar)

O R D E R (ORAL)

This OA challenges the recording of adverse remarks
in the ACR of the applicant.

2. Heard S/Shri R.G.Walia, learned counsel for the
applicant and Shri K.Valve, learned proxy counsel, for the
respondents.

3. Dr. (Mrs.) Rita Pramanik, the applicant is working as Medical Officer-in-charge of Family Welfare Centre at Powai in the respondents' Organisation. The said Family Welfare Centre was under the overall control of the Principal Medical Officer (PMO), Naval Dockyard, Mumbai. PMO is one step higher than the Medical Officer-in-Charge of Area Centres and PMO is the Head of the Medical Division of Naval Dockyard, Mumbai. All the Officer-in-Charge of Areas report to PMO, who in turn will report to Admiral Superintendent, Dockyard (ASD). This being the case, the Area Officers are directly under the control of the PMO. On 14.11.1999, the applicant, who had totally unblemished service record, received communication of adverse remarks in her ACR from PMO, acting as the review officer. This was incorrect as the PMO had to act as the reporting officer and not reviewing officer. The PMO had sent the self-appraisal report of the applicant to Medical Officer-in-Charge of Naval Hospital, who was not competent to do so as the applicant had not been working under him and he was of the same status and holding the same post as the applicant was. The applicant had performed her duties satisfactorily but had been adversely commented upon by the improper arrangement of having her ACR being written by someone not competent to do so. She also states that she had been the recipient of appreciation from the senior officers for her excellent performance but the same had been sought to be washed away by these adverse remarks which are entered into her ACR by incompetent authorities. She had been advised by the respondents' letter dated 30.7.2001 that in terms of Dockyard Temporary Memo No.138/95 Medical Officer-in-Charge was the immediate superior of the Family Welfare Centre, to whom the applicant was directed to correspond with. This was not at all relevant as the said

Memo cannot supercede the Regulations dated 20.8.1999 and was in the nature of a Standing Order. As pointed out earlier, the Medical Officer-in-Charge, Navy Hospital, Powai was not higher in rank than the applicant, ^{and} he cannot be trusted with the task of dealing with the writings of the ACR, ^{of} those like the applicant. An officer cannot write the ACR of another individual, if both of them are in the same rank and, therefore, the reports, if any, recorded by an officer of equal rank cannot be taken into consideration. These pleas were reiterated by Shri Walia during the oral submissions.

4. Replying on behalf of the respondents, Shri Valve, learned proxy counsel indicates that the action taken by the respondents are correct, as the Officer-in-Charge of Family Welfare Centre at Powai was a senior person in charge of the Administration and, therefore, he was justified in writing the ACR of the applicant.

5. I have carefully considered the matter. The applicant is contesting in this OA the recording of her ACR by the incompetent person, as both the officers are in equal rank and the Medical Officer-in-Charge Naval Hospital, Powai is not controlling the Family Welfare Centre in which she is working. Unless and until it is shown that the Family Welfare Centre and the Officer-in-Charge of the Family Welfare Centre is functioning ^{Under the Naval Hospital} ~~as the same Unit~~. The recording of the report by the Medical Officer-in-Charge at Powai cannot be countenanced. The applicant has only challenged the competence of the individual, who has recorded the enteries in her ACR and in the circumstances of the case, her objections would have to be entertained.

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5. In this view of the matter, OA succeeds and is accordingly allowed. The remarks entered in the ACRs of the applicant, which has been communicated by the PMO in his capacity as the reviewing officer, having in fact been written by Medical Officer-in-Charge Naval Hospital, Powai, are liable to be quashed. The same shall be written by the Officer concerned, who was in supervisory control over the applicant's work during the period. The Tribunal is not recording any opinion on the remarks made in the ACR. No costs.

GOVINDAN S. TAMPI
MEMBER (A)

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