

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 409 of 1990(L)

Versus

Union of India & Others Respondents

Hon'ble Mr. C.N. Prasad, Member (J)

The applicant has approached this tribunal under section 19 of the Administrative tribunals Act, 1985 for the expunction of the adverse remarks for the year 1989 in his A.C.R. as mentioned in Annexure A-9, adverse remarks as being bias, arbitrary and unsubstantiable.

2. Briefly, stated the facts of the case inter alia, are that the applicant is an ex-serviceman as after rendering his services for 24 years in the Army Education Corps as Havildar Education Instructor, was released and thereafter as a result of selection he was appointed as Senior Translator in the scale of Rs. 550-800. It has been stated that the respondent no. 7 (Sri S.P. Dobriyal) Hindi Officer ^{officer} who was his reporting ^{officer} though in the beginning he was on good terms with the applicant, but later on differences developed between the applicant and aforesaid Sri S.P. Dobriyal in regard to official duties as the aforesaid Sri Dobriyal desired the applicant to look-after some additional work in as much as the aforesaid Sri Dobriyal was writing a book in Hindi captioned "Sainik Hindi Patrachar Guide" and he wanted ---- the applicant to scrutinize the manuscript and also to supervise during the working and even non-working hours, but the applicant expressed his inability to do so which culminated into

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adverse remarks as mentioned in Annexure A-9. It has further been stated that the adverse remarks have been given without following the prescribed procedures and against the guidelines of the Ministry of Defence, dated 20.11.1963 (copy of which is Annexure A-10). It has further been stated that the reviewing authority without applying its mind rejected the representation of the applicant by a non-reasoned and speaking order (which is Annexure A-13) and as such the above adverse remarks be expunged as they have been given due to malice and extenuus consideration.

3. The respondents in their counter-affidavit have refuted the allegations of the applicant and have inter alia, contended that the adverse remarks given in the ACR ^{~ factual facts and ~} of the applicant for the year 1989 are based on his performance and not due to malice, malafide or extenuous consideration. It has further been contended that the representation of the applicant was rejected by the reviewing authority and there is no illegality, invalidity and infirmity in the impugned adverse remarks, and as such the application of the applicant be dismissed, with cost.

4. The applicant filed rejoinder-affidavit wherein almost all those very points have been re-iterated ^{as mentioned} in the main original application.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. Annexure A-10 is the memorandum issued by the Ministry of Defence dated 20.11.63 providing the guideline and directions regarding preparation and maintenance of the confidential reports of the staff concerned. This

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is noteworthy that in para 9 and 10 of his application the applicant has made allegations regarding taking additional work and regarding the scrutiny of the manuscript and regarding the supervision of the printing work during the working hours and non-working hours by the aforesaid Sri S.P. Dobriyal, But from the scrutiny of the entire material on record, there is no documentary evidence to support the above contentions of the applicant regarding the displeasure of the aforesaid Sri S.P. Dobriyal with the applicant.

7. This is noteworthy that a perusal of para 16 of the counter-affidavit coupled with Annexure -II to ~ of the respondents ~ the counter-affidavit, which consists of 4 pages including the letter signed by Major General Additional Director General Army Education Sri K.N. Sardana dated 8.12.1988 and from the scrutiny of entire material on records and keeping in view the circumstances of the case, it becomes obvious that the applicant was given warning to improve his knowledge of Hindi.

8. I have carefully perused the directions containing in Annexure A-10 to the application and after considering all the material and circumstances of the case, I find no irregularities and no invalidities in the above adverse remarks regarding the applicant for the year 1989.

9. Thus, from the fore-going discussions and after scrutinizing all the material on record and keeping in view of the circumstances of the case, I find no merit in the application of the applicant. Consequently, application of the applicant being devoid of

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is dismissed. No order as to cost.

S. M. J.

Member (J) 15.1.93

Lucknow Dated: 15.1.1993.

(RKA)