

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex (BDA),
Indiranagar,
Bangalore - 560 038

Dated : A/8/87

APPLICATION NO 9/87 /86 (F)

W.P. NO _____

Applicant

Shri B. Krishna Murthy

V/s The Secy, Dept of Official Language,
M/o Home Affairs & 2 Ors

To

1. Shri B. Krishna Murthy
19, AECS Layout II Stage
Sanjaynagar
Bangalore - 560 024
2. Dr M.S. Nagaraja
Advocate
No. 35, (Above Hotel Swagath)
Ist Main Road, Gandhinagar
Bangalore - 560 009
3. The Secretary
Department of Official Language
Ministry of Home Affairs
1st Floor, Lok Nayak Bhavan, Khan Market, New Delhi - 110 003

4. The Deputy Director (West)
Hindi Teaching Scheme
Dept of Official Language
III Floor, Commerce House
Corrimbhoi Road, Ballard Estate
Bombay - 8
5. Shri Amar Singh Sekharath
Assistant Director
Office of the Deputy Director (Central)
Hindi Teaching Scheme
3-Lajpat Kunj, Naipier Town
Jabalpur (Madhya Pradesh)

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/8XXXX/

~~ORDER~~ passed by this Tribunal in the above said
application on 31-7-87.

RECEIVED 04/8/87
Encl : as above

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

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S. U. Venkatesh
DEPUTY REGISTRAR
SECTION OFFICER
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

DATED THIS THE 31st DAY OF JULY, 1987.

Present: Hon'ble Sri Ch. Ramakrishna Rao

Member (J)

Hon'ble Sri P. Srinivasan

Member (A)

APPLICATION NO. 9/87 (F)

Sri B. Krishna Murthy
aged about 56 years
Son of late B. Lakshmaiah
residing at No.19, AECS
Layout, II Stage
Sanjaynagar
Bangalore - 560 024

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Applicant

(Dr. M.S. Nagaraj Advocate)

Vs.

1. The Government of India
by its Secretary
Department of Official Language
Ministry of Home Affairs
New Delhi-1.
2. The Deputy Director (West)
Hindi Teaching Scheme
Department of Official Language
Ballard Estate
Bombay.
3. Sri Amar Singh Sekharath
Assistant Director
Office of the Deputy Director
(Central) Hindi Teaching Scheme
3-Lajpat Kunj, Naipier Town
Jabalpur (Madhya Pradesh) ...

Respondents

(Sri M.S. Padmarajaiah Advocate)

This application came up for hearing on
21.7.87 Member (A) made the following:-

ORDER

The applicant who is working as a
Hindi Pradhyapak in the Hindi Teaching Scheme at Bangalore
complains in this application made under section 19 of
the Administrative Tribunals Act, 1985 that he has been
wrongly superseded by his juniors for promotion to the
P.D.



post of Assistant Director by order dated 10.4.1986 issued by the Department of Official Language of the Government of India.

2. Dr. M.S. Nagaraja, Learned Counsel for the applicant submitted that the applicant had not received any adverse remarks during the first 23 years of his service as Hindi Pradhyapak from 17.10.1960. However, the following adverse remarks entered in his annual confidential roll for 1984 were communicated to him by letter dated 31.7.1985:-

"He is a very average teacher.
He is busy with his personal
affairs quarrelsome in nature".

The applicant made a representation against these remarks on 2.9.1985 contending that they were contrary to facts, unsubstantiated, vague, general and subjective and no inspection of the applicant's work had been made on which the remarks could have been based. The representation was rejected by the Department of Official Language in a letter dated 1.8.1986. The said letter signed by the Deputy Director, Hindi Teaching Scheme (West) narrated that after considering the application sympathetically, the Department of Official Language had expressed its inability to expunge the adverse remarks. The order rejecting the representation, according to Dr. Nagaraja was not a speaking order. The adverse remarks were so vague, particularly, the ones alleging that the applicant was pre-occupied with his personal affairs and was of quarrelsome nature.

P. S. -

authority cannot be expected to cite specific instances because the remarks were based on a general impression gathered by the reporting and reviewing ~~and appellate~~ authorities of the work and conduct of the official over a full year. As for the supersession of the applicant, he had been considered along with others who were junior to him and since his juniors were considered more meritorious they were promoted. Promotion to the post of Assistant Director was based on merit and therefore, persons with better merit were recommended for promotion and promoted. The applicant, not having alleged any mal afides on the part of the members of the DPC, this Tribunal should not interfere with the decision of that body.

4. We have considered the matter carefully. The question arose in Puttarangappa Vs. Chief Secretary, Government of Karnataka and others, application no. 1708 of 1986, decided by a Bench of this Tribunal on 16.4.1987, as to whether remarks in confidential report should be supported by specific instances and whether the official reported upon should be given an opportunity to explain his case on the basis of the instances so cited before the adverse remarks could be incorporated in the confidential report. This Tribunal held that vague remarks like an official being fond of publicity and maintaining close links with local political leaders, his failure to maintain good relations with

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When the applicant had denied these allegations the appellate authorities should have confronted him with specific instances and given him an opportunity of rebutting the charges. The adverse remarks had obviously being taken into account when considering the case of the applicant for promotion to the post of Assistant Director. The decision of the appellate authority rejecting the applicant's representation against the adverse remarks, bald as it was, was dated 6.8.1986, while the order promoting the juniors of the applicant over his head was dated 10.4.1986 and the Departmental Promotion Committee (DPC) meeting was obviously held earlier. The DPC should not have taken into consideration adverse remarks in respect of which the applicant's representation ^{was} pending with the appellate authority ~~was pending~~ at the time. Dr. Nagaraja, therefore, pleaded that the adverse remarks in the confidential report should be set aside and the case of the applicant for promotion be considered afresh from the date his juniors were recommended for promotion ignoring the said adverse remarks.

3. Sri M.S. Padmarajaiah, rebutted the contentions of Dr. Nagaraja. The appellate authority had duly considered the representation of the applicant against the adverse remarks and had declined to delete the same. In doing so, the authority cannot be expected to pass a speaking order, giving specific instances to support every adverse remark. When considering a representation against adverse remarks in a confidential report, the appellate

7.8.86

other officials and tendency to support officials who are known to ^{be} corrupt could not be incorporated in the character roll without bringing specific instances to the notice of the officer reported upon and getting his reply. In Dwarakanath Vs. Director, Defence Research and Development Organisation, application no. 1269 of 1986, another Bench of this Tribunal held that a representation against adverse remarks cannot be rejected by a laconic order which was not a speaking order. In that case the rejection of the representation was quashed and the appellate authority was directed to deal with the representation on merits and to write a speaking order. If, as held in the first case, vague adverse remarks cannot be incorporated in an annual confidential report without confronting the official concerned with specific instances to support such remarks, it is all the more necessary that the appellate authority to whom a representation against such remarks is made, makes available to the official reported upon, specific instances in support of the remarks and to get his comments thereon and writes a speaking order thereafter. The decision in the second mentioned case also supports this view. The adverse remarks on the applicant in this case are equally vague, viz., that he was busy with his personal affairs and was quarrelsome in nature. Respectfully following the earlier orders of this Tribunal we feel that the order rejecting the representation against

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the adverse remarks is indeed laconical and not a speaking order. We would, therefore, direct the appellate authority to consider the representation of the applicant against the adverse remarks in his character roll for 1984 afresh, give him specific instances in support of the remark to enable him to offer his explanation and then write a speaking order. The case of the applicant for promotion in 1984 when his juniors were recommended for promotion may be reviewed thereafter in the light of the final decision to be taken by the appellate authority on the applicant's representation referred to above.

5. In the result the application is partly allowed to the extent as indicated above. Parties to bear their own costs.

Sd _____

MEMBER (J)

Sd _____

MEMBER (A)

mr.

- True copy -

B. U. Venkatesh Rao
SECURITY REGISTRAR
ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE