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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO: 328/91

Shri K.V.M.Nair,
working as Inspector, Central
Excise, Division G-1, Bombay -I,
and residing at JN-2/62/A2
Sector-9, Vashi, New Bombay

...Applicant

V/s

1. Union of India
through the Secretary, Ministry
of Finance, Dept. of Revenue,
New Delhi.
2. Collector Central Excise,
Bombay - 1, Central Excise,
Building, Maharshi Karve Road,
Bombay - 400 020.
3. Dy. Collector (P and V)
Central Excise Bombay-I
Central Excise Building
Maharshi Karve Road,
Bombay-400020

CORAM : HON'BLE MR.JUSTICE U.C.SHIVASTAVA, Vice-Chairman

HON'BLE MEMBER SHIR M.Y.PRIOLKAR, MEMBER (A)

Appearance :

1. Shri G.R.Menghani, Adv.
for the applicant
 2. Mr.P.M.Pradhan, Adv.
for the respondents.
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ORAL JUDGMENT:

DATED: 30.3.92

(PER: U C SRIVASTAVA, Vice Chairman)

Mr. Menghani for the applicant
Mr. V M Bendre, for Mr. P M Pradhan,
Counsel for the respondents.

By means of this application the
applicant is ^{expunging} ~~praying for~~ the adverse remarks
communicated to him vide letter dated 26.4.1988.
The remarks which according to the applicant ^{are}
adverse and which have been termed as adverse
by the respondents is as follows:

The Officer has been over rated.

The PL register was not maintained
properly. Documents were kept pending
without entering in the register
and his explanation was called for.

Grade - a just and adequate.

The applicant was working as Inspector of
Central Excise. For the year ending 31.12.1987
the applicant was given good remarks by the
reporting officer and the Reviewing Officer
also agreed with the same. When the matter
came before the Countersigning authority, it
was the countersigning authority who gave the
above entries. According to the applicant he
preferred a representation against the same
but as the representation is not responded to
he has approached this Tribunal. In the
mean time on the basis of the adverse remarks
a charge sheet was issued to the applicant and
~~he was awarded the punishment~~ of stoppage of
two increments, which has been set aside ~~in the~~
~~Appeal. The Tribunal~~ had directed the respondents
to dispose of the representation filed by the
applicant. The representation was disposed of and
the same was rejected ^U some one year and one month

thereafter.

On behalf of the applicant it was contended that the Countersigning Authority has no jurisdiction whatsoever to give an adverse remark. In this connection a reference has been made to the VG&PT letter dated 21.1.1983 in which it has been said that under the present scheme of writing confidential reports there are only two levels ~~(of)~~ writing the reports viz., the Reporting Officer and the Reviewing Officer and there is no provision for any ~~(of)~~ authority for writing remarks / comment about the work and conduct of an officer in his confidential reports. On a reference to the Department of Personnel and Administrative Reforms they have advised there are only two levels of writing the confidential reports i.e., the Reporting and Reviewing Officers and the remarks of an officer other than the Reporting and Reviewing Officer in the confidential reports is not in order.

In the instant ~~case~~ case, ~~the remarks~~ ⁴ no remark as such has been given by the Countersigning authority, but as a matter of fact the countersigning authority has only diluted the entries which are given by the Reporting Officer and Reviewing Officer. No adverse remark as such has been given by the Countersigning authority which only said because of non-maintenance of particular register or entry he ~~could~~ not be overrated as a good officer and he rated him as just and adequate. But the remark is not below average and as such it cannot be said any ^{adverse} entry as such has been given by the Countersigning authority.

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The learned counsel for the applicant then contended that the countersigning authority had no occasion to look into the work of the applicant, and as such no such remarks could have been given by the Countersigning authority. The Countersigning authority has not conveyed any comments regarding the work as such but in view of the fact that certain registers have not been filled or the entry of documents is not made which is a matter of fact and not a matter of general assessment of work. The countersigning authority only diluted the earlier entry. The applicant has unnecessarily made a fuss of it. Instead of an entry as good officer for a particular year he is made just and adequate, ^{it} is wrongly termed ^{ed} it as adverse entry ^{by} which the department has also taken. It may ~~not~~ be a good entry, but it cannot be treated as adverse entry for all times to come. We make it clear that so far as this particular letter is concerned we confine it to the particular year.

With the above observations the application stands disposed of with no order as to costs.


(M Y PRIOLKAR)
MEMBER (A)


(U C SRIVASTAVA)
VICE CHAIRMAN