

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 1113/92

Transfer Application No: _____

DATE OF DECISION: 15/03/1995

Smt. Mohinder Kaur Malhi

Petitioner

Advocate for the Petitioners

Versus

The accounts officer in-charge
Control Organisation (Savings Bank) - Respondent
Nagpur & 6 others

Shri.M.G. Bhangde

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri M.R.Kolhatkar, Member (A)

1. To be referred to the Reporter or not ? ☒
2. Whether it needs to be circulated to other Benches of ☒
the Tribunal ?

M.R. Kolhatkar

(M.R.KOLHATKAR)
MEMBER (A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A. 1113/92

Smt. Mohinder Kaur Malhi

.. Applicant

Vs.

The Accounts Officer in-charge
Control Organisation (Savings
Bank) Nagpur and 6 Others

.. Respondents

CORAM : 1. Hon'ble Shri Justice M.S.Deshpande, Vice Chairman
2. Hon'ble Shri.M.R.Kolhatkar, Member (A)

Appearances

1. Applicant in person
2. Shri.M.G.Bhangde, Counsel
for respondents

ORAL JUDGMENT

DATED : 15/03/1995

(Per Shri. M.R. Kolhatkar, Member (A))

In this O.A, the applicant challenges adverse entries communicated by letter dated 5/12/1986 in C.R for 1985-86 at page 9 of the application. These adverse entries are as below :

" Para 14 :- Observation on

- | | | |
|-------------------------------|---|------------------------|
| i) Devotion to duty |) | |
| ii) Industry |) | |
| iii) Care & Thoroughness |) | Reasonably good except |
| iv) Cleanliness |) | lacking a bit in care |
| v) Trust worthiness |) | and thoroughness |
| vi) Punctuality in attendance |) | |

Para 17 :

Has the Officer been reprimanded for)	Charge sheet (Rule 14)
indifferent work or for other causes,)	was issued on 27/3/86
during the period under report? If so)	in Akola HO SB fraud
please give brief particulars)	case 1985 negligence in
)	Supervisory duties "

2. According to the applicant, the adverse remarks were not justified in respect of Serial No. 14 as the Applicant was never given an opportunity by calling for her explanation by disclosing the matter on which it is based, and so far as Serial No. 17 is concerned, because it related to a departmental enquiry, which

was subsequently dropped and after revival, sealed cover procedure was required to be adopted. The applicant, therefore, prays for expunction of the adverse remarks and on that basis, proforma promotion with effect from 01/04/1987 as Assistant Accounts Officer and further promotion from 1992 as Accounts Officer and consequential benefits.

3. So far as the adverse remarks are concerned, the applicant made representation on 19/01/1987 at page 37 and thereafter. However, no reply was given to these representations. Therefore, the applicant approached this Tribunal, which in O.A 415/91 (Stamp No. 375/91) decided on 18-07-1991 directed the respondents to pass final orders on the applicant's representation within 3 months from the date of receipt of a copy of that order. Accordingly, by their letter dated 3/7/1992, at page 11, the Post Master General, Nagpur Region, expunged the adverse remarks under item No. 17 but retained the adverse remarks under item No. 14.

4. So far as the Departmental Enquiry is concerned, it is stated by respondents that earlier disciplinary proceedings were cancelled on 18/06/1987 and fresh disciplinary proceedings were initiated on 17-7-1991. But the same have been withdrawn on 16-11-1994.

5. The present position, therefore is that in the C.R of the applicant for the year 1985-86, there is adverse remark to the effect that under various heads of performance and attitude "she is reasonably good except lacking a bit in care and thoroughness" and there is no disciplinary enquiry pending against her. So far as the subsisting adverse remarks are concerned, they might have originated in an Inspection Report to which, as a matter of office procedure, a reply was also sent by the applicant. The fact remains however, that the Reporting Officer formed his personal opinion about the performance and attitude of the officer in

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question which remarks were confirmed by the Reviewing officer and the superior officer, after considering all the facts, did not find it necessary to disturb the same. We do not accept the contention of the applicant that a show-cause notice is required to be issued before recording adverse remarks and we do not find sufficient justification to disturb the ^{remaining} adverse remarks recorded in the Confidential Report of the applicant for the year 1985-86. All the same, we must observe that the nature of adverse remarks appears to be minor and not such as to warrant holding up of the official for promotion on the sole ground of adverse remarks if the general assessment of the officer otherwise comes upto the bench mark prescribed by Rules for eligibility of the Officer for promotion. The Respondents concede that she was not empanelled by the DPC held on 10.11.1987 for the post of Assistant Accounts Officer in view of the D.E and the report of D.P.C was kept in sealed cover. But the opening of sealed cover will not meet the ends of justice because, since then not only have part of adverse remarks been expunged but the revived D.E against the Applicant has also been finally dropped by the Department. The date of dropping would relate back to the dates of earlier D.P.Cs. We, therefore, consider that the applicant is entitled to be considered for promotion by a review DPC taking into account existence of only comparatively minor adverse remarks in the A.C.R of the applicant for 1985-86 as noted above and on the footing that there was never any disciplinary enquiry against the Officer.

6. We, therefore, dispose of the D.A by passing the following order :

O R D E R

D.A is allowed. Respondents are directed to constitute a Review D.P.C for consideration of the applicant for

promotion to the post of Assistant Accounts Officer as on 18/11/1987 and thereafter, if she is found fit for promotion thereto then give her consequential benefits including further promotion as per her eligibility and also arrears of pay. This should be done within six months of the date of communication of this order. There would be no orders as to costs..

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

M.S. Deshpande

(M.S. DESHPANDE)
VICE-CHAIRMAN

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