

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 348/92

Transfer Application No. _____

Date of Decision : 8-2-95

Surendra Prasad

Petitioner

Mr. M.A. Mahalle

Advocate for the
Petitioners

Versus

Secretary, Min. of Health & Family Welfare & 3 Ors.

Respondents

Mr. M.I. Sethna with Mr. Suresh Kumar

Advocate for the
respondents

C O R A M :

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

The Hon'ble Shri --

(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)

M(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.348/92

Surendra Prasad

.. Applicant

-versus-

The Secretary
Ministry of Health & Family
Welfare, Nirman Bhavan
New Delhi - 110 011.

2. Dr. Indira Kapoor,
Additional Director,
National Institute of
Comm. Diseases,
New Delhi.

3. Director
Family Welfare Training
& Research Centre, 332,
S.V.P. Road,
Bombay - 400 004.

4. Dr. S. Sahni,
Chief Medical Officer,
F.W.T. & R.C., IIPS Compound,
Govandi Station Road, Deonar,
Bombay - 400 088.

.. Respondents

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

Appearances:

1. Mr. M.A. Mahalle
Counsel for the
Applicant.

2. Mr. M.I. Sethna
with Mr. Sushilkumar
Counsel for the
Respondents.

ORAL JUDGMENT:
(Per M.R. Kolhatkar, Member(A))

Date: 8-2-95

This O.A. arises out of earlier
O.A. 600/88 which was disposed of by this
Tribunal by direction dated 27-6-91. The
O.A. related to ACR for the year 1985, 1986
and 1987. The prayer relating to ACR for
1985 was treated as barred by limitation.
So far as prayer in respect of 86 and 87 was
concerned, the direction as given in para 8
was that the respondents should consider the

representation of the applicant for the year 1986 onwards taking into consideration the pleas and grievances raised by him and thereafter consider the entry. Accordingly the representations of the applicant in respect of ACR for 86^{and} 87 were disposed of vide memorandum No.FW/CAT/91-92/1498 dated Nil received by the applicant on 14-1-92 in following terms:

"I have carefully examined the representations of Shri Surendra Prasad, S.W.I. and have discussed it with my senior colleagues. I have also been provided the feed-back on his continued attitudes and behaviour and in general his negative approach to his work. In addition, there have been adverse entries made by the reporting and reviewing officers in Shri Prasad's recent C.Rs. for subsequent years.

In view of the above facts, the Director has arrived at the conclusion that the adverse entries in C.Rs. for 1986 and onwards, particularly in respect of the period for which the judgment has been passed cannot be expunged.

Shri Prasad may take a note of above. "

2. After hearing^{parties} for some time we are of the view that the matter can be disposed of by issuing a direction by considering the limited issue of whether representation^{was} was disposed of by the respondents in accordance with the directions of the Tribunal and in accordance with the Govt. instructions on the point.

3. It is not disputed that the ACR has been initiated by respondent No.4 Chief Medical Officer, and it has been reviewed by Respondent No.3, Director, Family Welfare Training. It is also not disputed that the representations were considered and disposed of by respondent No.3 who is the reviewing officer. This action of the respondent No.3 is patently in violation of the Ministry of Home Affairs instructions No.106/3/ADM/1&C/75 dated 6-12-75 which envisages that representations against adverse remarks should be disposed of by the authorities superior to the reviewing officer. She being the reviewing officer ought to have submitted the representations to the higher authority which we understand would be the authority competent to accept the C.R. It is not necessary for us to specify this authority because the same would be decided as per Rules, but it is our understanding that, that authority would not be an officer lower than in rank to that of Joint Secretary to the Govt. of India, Ministry of Health and Family Welfare. This we ~~would~~ say keeping in view the pay scale attached to the post of Director. We also wish to ^{doubt} ~~note~~ that the superior authority ^{should} ~~would~~ examine the representations strictly according to rules and in accordance with supplementary

instructions in this regard if any.

The reply to the representation should be passed by means of a speaking order within three months from the date of communication of this order.

4. There will be no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member (A)

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