

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: ^{NW} 4 ~~11~~ 1994

APPLICATION NO: 938 of 1994 1993

APPLICANTS:- Dr. K. V. V. L. Narasimha Rao
V/S.

RESPONDENTS:- Director, C.I.L., Mysore & 2 ors.

T.

1. Dr. M. S. Nagraja, Advocate
No. 11, Sujatha Complex
Gandhi Nagar,
Bangalore - 560009.
2. Shri. M. S. Padmarajaiah,
Sr. C.G.S.C.
High Court Bldg
Bangalore - 1.

Subject:- Forwarding of copies of the Order passed by the
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER/~~ passed by this Tribunal in the above
mentioned application(s) on 27th October, 1994

Issued on 4/11/94
Gah

[Signature]
04/11/94
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NO.938/93

THURSDAY, THE TWENTY SEVENTH DAY OF OCTOBER, 1994

Shri V.Ramakrishnan.

..Member (A)

Shri A.N.Vujjanaradhya.

..Member (J)

Dr.K.V.V.L.Narasimha Rao,
Aged 52 years,
S/o Late Sri K.V.Krishna Rao,
M-43, I Phase, HUDCO,
Kuvempunagar,
Mysore-570 023.

...Applicant

Advocate by Dr. M.S.Nagaraja.

Versus

1. The Director,
Central Institute of Indian Languages,
Mysore-570 006.
2. Dr.E.Annamalai,
Director,
Central Institute of Indian Languages,
Mysore-570 006.

Union of India
represented by
Secretary to Government,
Department of Education,
Ministry of Human Resources Development,
Shastry Bhavan, C.Wing,
New Delhi.

...Respondents

Advocate by Shri M.S.Padmarajaiah, S.C.G.S.C.



O R D E R

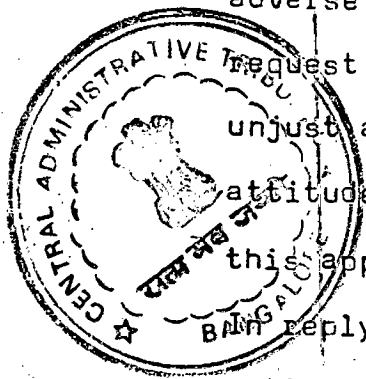
Shri A.N.Vujjanaradhya, Member (J)

Aggrieved by the memo dated 8.7.93 (Annexure A10)

informing the applicant that the competent authority has decided to retain the adverse remarks of the Reviewing Officer for the period from 1.1.91 to 31.3.92 in the ACR, the applicant has filed this application seeking to quash the said memo and to direct the respondents to expunge the adverse remarks.

2. Briefly stated, the case of the applicant is as below:- The applicant joined the service in Central Institute of Indian Languages (CIIL), Mysore on 4.3.1970 as Research Officer. Based on his capacity, performance and academic qualification, the applicant was selected and appointed as Principal in the Southern Regional Language Centre (SRLC), Mysore in July, 1974 and subsequently on the recommendations of the UPSC, he was duly appointed as regular Principal of the said SRLC, Mysore on 30.7.1977 in which post he was confirmed with effect from 22.9.84. Respondent No.2 Dr.E.Annamalai, Director nurtured illwill towards the applicant right from the beginning and had tried to humiliate and ^{harass} ~~harass~~ the applicant. At the instance of R2 adverse remarks appeared to have been recorded in the Confidential Report of the applicant from the year 1975 to 1981 and the same were deliberately kept away from the knowledge of the applicant. Only on 15.6.83, the adverse remarks for the said years were communicated to the applicant for his comments. The applicant represented against those adverse remarks on 15.7.83, which was technically unsound and legally untenable. Subsequently, the Ministry in their OM dated 17.8.83

clarified that there ~~was~~^{have} no adverse remarks in the Confidential Report. However, for the year 1991-92 R2 in his DO letter dated 11.12.92 (Annexure A5) communicated to the applicant the observation in ACR for the period from 1.1.91 to 31.3.92. These remarks were general in nature and not based on any comments made strictly against the items communicated in the format of the CR. Hence, the applicant asked for details by his letter dated 31.12.92 and the details were furnished by the Director by letter dated 23.2.93 (Annexure A7). It appears that the reporting officer did not record any adverse remarks and only the Reviewing Officer, that is, the Director has recorded such remarks. The instances have been dug up to justify the remarks already made, which is inequitable and unjust. Ultimately by communication dated 8.7.93 (Annexure A10) the applicant was informed that the competent authority has decided to retain the adverse remarks. Contending that the rejection of the request for expunging the adverse remarks is illegal and unjust and the adverse remarks are the outcome of the past attitude of the Director i.e. R2 towards the applicant, this application is filed for the above stated reliefs. In reply, the respondents have sought to justify their action.



3. We have heard Dr.M.S.Nagaraja, the learned counsel for the applicant and Shri M.S.Padmarajaiah, the learned Senior Standing Counsel for the respondents and have perused the records produced by the respondents. The contentions advanced by Dr. Nagaraja are that the rejection

or request to expunge the adverse remarks is illegal and unjust as the adverse remarks were the outcome of the prejudiced mind of the Director and the objectivity and impartiality were totally absent in recording the remarks in the ACRs that as per the instructions, the recording of Confidential Reports should be a developmental one and not fault finding. The learned counsel for the applicant however contended that the Reviewing Officer ought to have recorded reasons in support of the adverse remarks, that the time schedule in recording the remarks were not adhered to and the Reviewing Officer has taken six months time to record his remarks, which is not in accordance with rules and we will have to interfere with. He also urged that the authority, who considered the representation is not indicated and order is cryptic bald and unreasonable. He further contended that there is absolutely no material about the observations regarding the management of the Guest House and the same cannot be sustained. Controverting, the above contentions, Shri Padmarajaiah, the learned counsel for the respondents brought to our notice that as per instructions of DOP OM dated 20.5.1972, counselling letters were written to the applicant relating to non-implementation of Government instructions and the directions and further contended that still Reviewing Officer has found a number of lapses and therefore, the recording of adverse remarks is just and proper.

4. Annexure A5, letter dated 11.12.1992 addressed by the Director of CIIL to the applicant communicating the observations in the ACR for the period from 1.1.91 to 31.3.92 mentions the adverse remarks, ~~thus~~. Instances of adverse remarks read thus:

"While your experience, intelligence, supervision and administrative ability have been favourably commended upon, it is also observed that there have been instances of non-implementation of Government orders and non-compliance of Institute's instructions with regard to pay bills and there have been instances of lack of propriety in official correspondence and noting. It has also been observed that there were instances of bills submitted without proper scrutiny with arithmetical errors and inadmissible claims. Complaints about the management of guest rooms have also been noted."

The remarks may be categorised as : (a) Instances of non-implementation of Government of India orders and non-compliance of Institute's instructions with regard to Pay Bills; (b) Instances of lack of administrative propriety in official communications and notings; (c) Instances of bills submitted without proper scrutiny with arithmetical errors and inadmissible claims; (d) Complaints about the management of Guest House have also been noticed.

5. After the receipt of this letter, the applicant had addressed letter dated 31.12.92 (Annexure A6) to the Director objecting to the manner of recording remarks or observations and also the time lapsed in furnishing evidence in support of such observations. The relevant portion of Annexure A6 reads thus:

"Since you have stated in your letter that my "observations", if any, on the "observations" contained in my ACR should be sent for finalising" my ACR. It follows that my ACR has still not been "finalised" even after nine months

of the expiry of the financial year 1991-92. In this connection I would like to state that according to Govt. of India rules regarding the writing of Confidential reports "A report should be recorded within a period of one month of the expiry of the financial year". (c/f Swamy's Hand book 1991, P.16). The use of the word "should" in the above rule suggests that the stipulation that the ACR should be finalised within a period of one month is mandatory and not left to the discretion of the reporting authority.

Therefore, the non-finalisation of the ACR within a period of one month of the expiry of the financial year and the communication of the so-called "observations" which are clearly of an adverse nature after a long delay of eight and half months is clearly violative of the Govt. of India rules.

As regards the "observations" on which I have been asked to make my "observations", I would like to state that the "observations" said to have been made in my ACR are too vague and have not been substantiated with any concrete evidence and therefore it is not possible for me to make any observations on such vague and unsubstantiated observations. Let me illustrate this point. You have stated: "it is also observed that there have been instances of non-implementation of Government orders and non compliance of Institute's instructions with regard to pay bills". Unless you cite instances of non-implementation of Govt. orders and non-compliance of Institute's instructions with regard to pay bills, how am I to know that these instances are and how can I make my observations without even knowing what you are talking about? There is no way in which I could, by some miracle or telepathic process divine what is in your mind, and make my observations on the basis of such divination. Similarly, you have stated that there were instances of administrative propriety in official correspondence. How am I do not cite such instances or substantiate this observation with concrete evidence, offer my comments? You have also stated that there were instances of bills submitted without proper scrutiny with arithmetical errors and inadmissible claims. Elementary principle of natural justice requires that you should cite such instances. Since you have not cared to cite any instance of bills being submitted without proper scrutiny etc., I have no other alternative but to assume that they are either a figment of imagination or based purely upon personal prejudice."

The Director has furnished the instances by his DO letter dated 23.2.93 (Annexure A7) and then required the applicant to give reply within 10 days. The instances have been categorised as (i) to (iv) read thus:

" i) Non implementation of Govt. orders.

- a) The additional DA for Group A officers drawing Basis pay of Rs.3500/- and above was not deposited to their GPF account as per Govt. of India orders until instructed to do so by this Institute.
- b) The Professional Tax for the Teacher-trainees from Karnataka were not deducted from their salary as per the orders of the Govt. of Karnataka.

ii) Non-compliance of Institute's instructions:

The instruction of the Institute to effect recovery of excess payment of HRA to Sri Muddukrishnan, caretaker was not complied with for a few months for some time forcing the Institute to repeat to insist on it repeatedly.

iii) Lack of administrative propriety:

Our letter No.F.1/10-325/87-Estt dated 20.4.1992 indicative of one instance of it.

iv) Non-scrutiny of bills: Our letters/notes dated 27.2.92, 1.4.92, 6.4.92 are a few instances of these."



By his letter dated 6th March, 93 addressed by the applicant refers in detail imputing motive to Dr. Annamalai, Director and finds fault with the lapses in his office but does not specifically give his reply to the instances brought to his notice (Annexure A7). Subsequently, the competent authority after examining the representation of the applicant had decided to retain the adverse remarks recorded by the Reviewing Officer in his ACRs for the year 1991-92 and the said adverse remarks were communicated to

the applicant by memo dated 8.7.93 (Annexure A10).

6. To substantiate his contention that Dr. Annamalai the Director of CIIL was prejudiced or biased against the applicant, he drew our attention to the adverse remarks communicated to the applicant for the years 1975 to 1981 as per Annexure A4 dated 15.6.83. The applicant has stated that these adverse remarks appeared to have been recorded in his Confidential Reports for the period from 1975 to 1981 at the instance of the Director and he further urges that these adverse remarks were deliberately kept away from his knowledge. Only on 15.6.83, the adverse remarks were communicated to the applicant for his comments giving only 15 days time to submit his representation. It is further urged that subsequently, the Ministry in their letter dated 17.8.83 clarified that there were no adverse remarks in his Confidential Reports for the said period of 5 years and the same clearly establishes that the action of the second respondent, the Director was unethical and malafide and that he had developed prejudice and there was malice in communicating the non-existent adverse remarks for the period from 1975 to 1981. Dr. Annamalai, who is impleaded as respondent No.2 has filed an affidavit meeting allegations levelled against him. Therein, it is stated by the Director that adverse remarks for the period from 1975 to 1981 were not recorded by himself or at his instance but by the regular Director of the Institute as Reporting Officer and this was only communicated by him in 1983 as

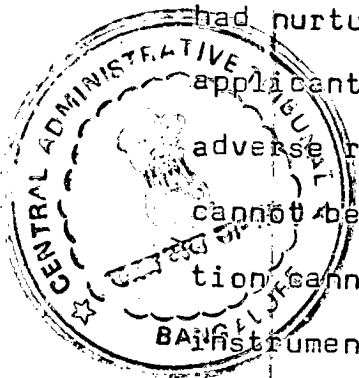
required by rules when he was acting as Director of the Institute in the leave period of the regular Director for two years. It is further clarified that Ministry had declared these adverse remarks as null and void on technical grounds that the changed system of CR writing did not come into effect retrospectively. In this regard we wanted the relevant file for our perusal and those files disclose that earlier view communicated to the CIIL was to record fresh Confidential Reports for the years 1975 to 1981 as per the revised instructions when proposal for confirmation of Principals of the Regional Language Centres were being considered, of whom, the applicant was also one of the persons. The relevant note on the basis of which it was conveyed that the new procedure was applicable with retrospective effect and therefore, fresh CRs were required to be recorded. In this connection the portion of note dated 18.4.83 in pursuance of which Annexure A4 dated 15.6.83 came to be issued to the applicant is relevant. It reads "



Ministry in their letter of 6th January, 83 informed that the approval conveyed in the Ministry's letter No. S.8-33/82 D-iv(L) dated 4th March, 82 should be deemed to have retrospective effect. Accordingly, the CRs of Principals from 1975 onwards were got re-written by the Director (RLCs) (Dr. M.S.Thirumalai) as Reporting Officer and the Director reviewed them as Reviewing Officer". From this note dated 18.4.83, it is clear that the then Reporting Officer namely Dr. M.S.Thirumalai had

had recorded the CRs and the then Director had reviewed those CRs for the years 1975 to 1981 and the same were communicated by Dr. Annamalai as Incharge Director and that he was not instrumental in getting those adverse remarks recorded delebrately against the applicant. Because of the direction of the Ministry, these ACRs for the years from 1975 to 1981 were re-written and because there were adverse remarks, the same were communicated to the applicant for his comments. Subsequently, after the applicant made the representation, the Ministry of Education and Culture took the view that revised system of reporting and Reviewing Officer as provided in the Ministry's letter No. F.8-33/82 D-iv(L) dated 4th March, 1982 will be operative only from the date of issue of the orders and not with retrospective effect and the same was communicated to the Director, CIIL, further informing that the CRs of the Principals written for the years earlier by the Director, CIIL, which are available in the file are to be accepted. It is also further stated in the letter addressed by the Ministry dated 26th March, 84 that the same implies that CRs written in accordance with the revised procedure are to be treated as null and void. As per the instructions contained in the said letter, the applicant Dr. Rao was informed of the same. From what is recorded in the files produced by the respondents, it is clear that R2 Dr. Annamalai was in no way responsible or instrumental in getting the adverse remarks recorded against the applicant for the years from 1975 to 1981 and the CRs for such period were re-written because of the instru-

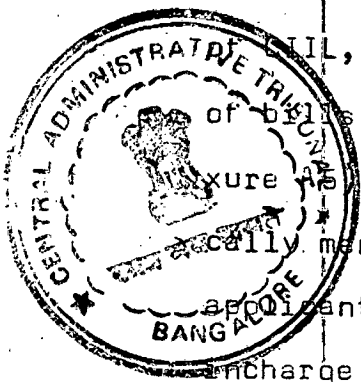
ctions of the Ministry of Education, which subsequently took the view that revised procedure of recording CRs would be prospective and not retrospective and therefore, the CRs subsequently written were treated as null and void. Thus, we are unable to accept the contention of the learned counsel for the applicant that at the instance of R2 Dr. Annamalai, these adverse remarks for the earlier period were recorded and were communicated at a later date and the same demonstrates bias, prejudice and malice on the part of Dr. Annamalai and from this background the adverse remarks recorded for the period from 1.1.91 to 31.3.92 will have to be viewed. To repeat at the risk of repetition, the strong ground sought to be made out by the applicant is that because R2 Dr. Annamalai was instrumental in getting the CRs recorded for the period from 1975 to 1981 and incorporating the adverse remarks therein it has to be accepted that Dr. Annamalai had nurtured, prejudice, bias and malice against the applicant for the subsequent period also and whatever adverse remarks recorded subsequently in this background cannot be said to be fair and justifiable. This contention cannot be accepted. Dr. Annamalai was not at all instrumental in following the revised procedure in re-writing the ACRs for the period from 1975 to 1981 and that he was not the Reviewing Authority that had recorded the adverse remarks. Therefore, we are unable to accept the contentions that Dr. Annamalai was prejudiced against the applicant and he had acted maliciously against him.



Consequently, the reliance placed by the learned counsel for the applicant on some decisions in this regard namely S.R.Venkataraman Vs. UOI reported in 1979 SCC (L&S) 216 is not in any assistance to the applicant. Dr. Nagaraja has also referred us to 2 more decisions of the Tribunal in Joginder Singh Vs. UOI reported in 1989 (9) ATC 147 and Ashok Kumar Vs. State of U.P. reported in 1988 (7) ATC 979 to support his contention that Dr. Annamalai was prejudiced against the applicant. We have perused these decisions also and the facts therein are quite different. Hence much support cannot be sought by the applicant from these cases.

7. The learned counsel for the applicant had rightly contended that the recording of CRs should be objective, impartial and the approach should be one guidance and developmental attitude and not fault finding one. He further contended that neither objectivity nor impartiality is exhibited by the Reviewing Authority in recording adverse remarks nor was there any guidance given for development and the Director had acted as a person to find fault with and therefore, the Director was prejudiced against the applicant. Controverting the above contentions Shri Padmarajaiah representing the respondents brought to our notice that as per instructions of DOP in OM dated 20.5.1972, counselling letters were issued to the applicant relating to non-implementation of Government orders and specifically he referred to the letters/Notes dated 25.2.92, 17.3.92 and 20.3.92 and also mentions that whenever the lapses on the

part of Southern Regional Language Centre, were pointed out to the applicant, who happened to be the Principal, he would rectify or comply with the instructions, but subsequently allow similar lapses to be committed and when pointed out again, the applicant would resort to find fault with the Director's office of similar lapses, which is unbecoming of the Government servant and therefore the Director deemed it proper to record the adverse remarks in the ACR of the applicant for the period from 1.1.91 to 31.3.92 and the same are justified. We have perused the records produced by the respondents and found sufficient material to sustain some adverse remarks recorded in the ACR of the applicant. Even the Director has communicated the instances to the applicant by his letter dated 23.3.93 (Annexure A7) which has been quoted earlier. The instances referred to in Annexure A7 specifically relate to non-implementation of Government orders, non-compliance of Institute's instructions, namely instructions III, lack of administrative propriety and non-scrutiny of bills, which are recorded in the impugned ACR (Annexure A5). The files produced by the respondents specifically mention about these lapses in the office and the applicant when he was working as Principal and who was in charge of the administration and whose duty was to see that such lapses are not repeated did not take such an outlook. The contention of the learned counsel for the applicant is that the lapses referred to in Annexure A7 are not of serious nature and such lapses would occur in any office and in fact, such lapses do occur in the



in the office of the Director and therefore, taking into consideration of trivial instances and recording adverse remarks on the basis of such instances is not justified. We are unable to take the view that the instances brought to the notice of the applicant in Annexure A7 and the other instances recorded in the files of the office of the Director are trivial in nature and are required to be ignored. This Tribunal is not an appellate authority to go into the details or nature of lapses on the part of the applicant and come to the conclusion that the same are not of serious nature and interfere with the view taken by the respondents. The applicant cannot expect this Tribunal to take the view that the Director was not justified in pointing out the instances, which constitute non-implementation of Government orders and non-compliance with the instructions of the Institute as at Annexure A.7.4

8. Coming to the remark about lack of administrative propriety the learned counsel for the respondents brought to our notice the letter dated 20.4.92 referred in Annexure A7 which in turn refers to the applicant's DO letter dated 10.3.92, which refers to his attending office on 26.12.91 and 27.12.91 and thereafter proceeding on CL/RH from 3.12.91 to 4.1.92, which period is covered for recording of CR for the period from 1.1.91 to 31.3.92. The Director had informed the applicant by his letter dated 20th April, 1992 about the nature and tone of the applicant's letter. We feel it proper to quote the contents of the letter of

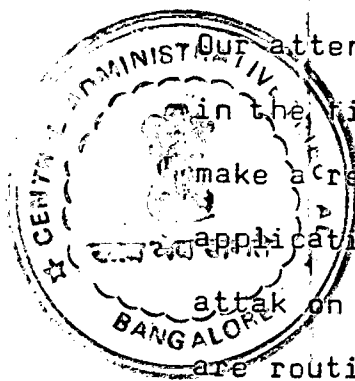
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the Director dated 20.4.92 which read thus:

"I do not appreciate the language and tone of your DG letter No.F.9-37/91-92/3985 dated 10.3.92 to Dr.A.K.Srivastava wherein you "ask the Director not to get worked up about trivial matters of little or no consequence." The matter is of importance for administrative propriety, which I expect the Principal as Head of an Office maintain and set model to others.

As you have observed in your letter "anyone officer being 'incharge' arises only when the original incumbant goes on EL or for long absences, that too only when he is specifically appointed as 'incharge' by the competent authority". In the present case you were on duty and therefore no other officer could be Principal incharge. It is shirting the responsibility when you say that Dr.K.P.Acharya had signed as Principal incharge while you asked him to sign 'for Principal' and that the Institute should advise him on this. The need for signing 'for Principal' does not arise in the present case because the note has been written in your handwriting and therefore you cannot say that you did not have the time to sign it.

Taking into account your long experience and the senior position you hold, I close the matter with this. I hope that administrative propriety and decorum will be maintained in future."



Our attention was drawn to several other communications in the file, which we do not think it is necessary to make a reference. Even in Annexure A9, enclosed to the application there is, what we may term as sort of counter attack on the Director contending that the so called facts are routine objections and trivial matters and such

objections can also be found in the office of the Director, which approach cannot be said to be proper, if not unbecoming of a subordinate officer. What this Tribunal is required to find is whether or not there are materials

available in the file to substantiate the remarks. We can intererere only in case the observations made adversely against the applicant are found to be without any support. Such is not the case in this application. There are materials available in the file to show that there was non-implementation of the Government orders on the part of the applicant, non-compliance with the instructions of the Institute and lack of administrative propriety on the part of the applicant. Similar is the case of non-scrutiny of bills. No doubt Annexure A2 refers to letters/ Notes written by the Director to the applicant on 27.2.92, 1.4.92 and 6.4.92, the latter two which happen to be of the date subsequent to 31.3.92. But it is made clear by the respondents that these letters/notes refer to the period from 1.1.91 to 31.3.92. Therefore, the learned counsel for the respondents contended that the contention of the applicant that the Director has dug out some incidents for the period subsequent to the period for which the CR was written is not correct and cannot be said to be justified. When the instances recorded by the respondents pertain to the period for which the CRs were recorded, no fault can be found in Director bringing to the notice of the applicant about the said lack of administrative propriety subsequently. This being the factual position, we do not think that the learned counsel for the applicant can draw much support from the decision that the remarks should not relate to earlier or later period. In view of this position, the decisions namely M.Karuppaiah Vs. UOI reported in 1992 SLR 759; M.P.Rajan Vs. State of

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Madhya Pradesh & Others reported in 1993 (3) SLJ CAT 157 and Laxmansingh Vs. UOI reported in 1993 (2) SLJ CAT 262 are not of any assistance to the applicant. The instance referred to by the Director in Annexure A7 and also the others pointed out to us during the course of argument refer to the period covered in Confidential Report.

Under the circumstances, we are unable to agree with the contentions of the learned counsel for the applicant that the instances and observations pointed out by the Director refer to the period subsequent to the one for which CR of the applicant was recorded.

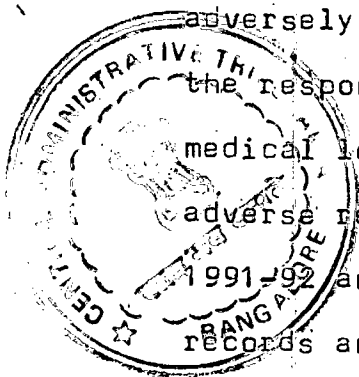
9. It was next contended by the learned counsel for the applicant that Reviewing Officer should not have diluted the remarks of the Reporting Officer and before doing so opportunity should have been given to the applicant and therefore, the remarks are not justified. In this connection, the learned counsel sought support from the decisions in Shri Gangadhar Rao Vs. UOI reported in 1993 (23) ATC 680. Shri R.P.Sharma Vs. UOI reported in 1989 (2) SLR 399 and Shri S.C.Jain Vs. State of Punjab reported in 1994 (26) ATC 418. Before referring to this decision, it is to be stated that the Reporting Officer has not made any adverse remarks in the CR of the applicant for the period under consideration and it is only the Reviewing Officer namely the Director, who has made adverse remarks. The contention of the learned counsel for the respondents in this connection is that Reviewing Officer has every power to make such comments when it has come to his notice, and when he has



been dealing with the scrutiny of bills and compliance or otherwise with the Government of India instructions as also the instructions of the Institute besides dealing with the correspondence of the applicant. He also contended that opportunity was given to the applicant before making adverse remarks by the Reviewing Officer and the instances for the period discussed by us. Whenever the objections raised by the office of the Director, the applicant would see that the objections are duly attended to but would allow such objections to be raised again, which is improper and it is not open to the applicant to contend that no opportunity was given to him before the adverse remarks were recorded by the Reviewing Officer. The decision in Gangadhar Rao Vs. UOI and SC Jain Vs. State of Punjab do not specifically refer to the scope of the Reviewing Officer in recording his own view in the CRs. The decision in R.P.Sharma speaks of assessment of performance to be made objectively and not remarks which deviate from this objectivity is not only unfair but should be struck down and that subjective prejudice in writing Confidential Rolls to be excluded. Referring to Swamy's Compilation of Reports at page 7, the learned counsel for the applicant contended that the Reviewing Officer should exercise positive and independent judgment on the remarks of the Reporting Officer in detail in the form of report as well as general assessment and that he should express clearly his agreement or disagreement with those remarks, more particularly with regard to adverse

remarks. In the instant case, the Reviewing Officer had not recorded any disagreement with the remarks of the Reporting Officer, but has made his own assessment with regard to the lapse on the part of the applicant and the same cannot be said to be improper. Particularly when the Reviewing Officer also had occasion to assess the work of the applicant. Viewed from this background, it is not possible to accept the contention that Reviewing Officer has to only record agreement or disagreement with the view of the Reporting Officer and that he cannot record his own view in the CR. Thus, we find no merit in the contention of the learned counsel for the applicant.

11. The learned counsel for the applicant brought to our notice that Reviewing Officer has not adhered to the time schedule i.e. recording of his view in the CR within one month but has taken six months and the same is not in accordance with the rule, which indicates that the Director was trying to take out something and record remarks adversely against the applicant. In para 7 of the reply, the respondents plead that the Reporting Officer was on long medical leave due to illness and he did not record any adverse remarks in the CR of the applicant for the year 1991-92 and the Reviewing Officer gone into all the relevant records and then recorded the adverse remarks reflecting the lapses committed by the applicant in total violation of instructions of Government of India with regard to number of issues from time to time. This may give an indication that Reviewing Officer wanted to go through the



papers before recording his remarks and therefore took some time. In Joginder Singh Vs. UOI reported in 1989 (9) ATC 147, it was observed that a belated CR would not become ipso facto bad. In the absence of any material to show that respondent No.2 Dr. Annamalai was prejudiced against the applicant and had recorded adverse remarks against the applicant without there being any support for such remarks from the records, the time lapse in recording his remarks cannot be said to be so serious a factor on the basis of which we can interfere and expunge these adverse remarks.

11. Coming to the contention that authority who considered the representation of the applicant against the adverse remarks is not indicated and the order rejecting the request of the applicant to expunge the adverse remarks is bald, cryptic, illegal and unjust, we have to only point out that we have gone through the relevant files of the Ministry of Human Resource Development, Department of Education, wherein the representation of the applicant was considered at various levels and ultimately at the level of Secretary. The remarks of the Reviewing Officer in the CR of the applicant for the period in question were directed to be retained. We do not find any fault in the consideration of the representation of the applicant against the adverse remarks and therefore, we are unable to agree with the contention of the learned counsel for the applicant that the authority, who disposed of the representation is not indicated and the applicant's

request to expunge the adverse remarks, which was rejected is illegal and unjust. The file discloses the reasons for rejecting the request of the applicant and therefore, it cannot be interferred with. Having considered the various contentions of the learned counsel for the applicant, we are of the view that the adverse remarks recorded by the Reviewing Officer relating to non-implementation of Government orders, non-compliance with the Institute's instructions, lack of administrative propriety and non-scrutiny of bills will have to be allowed to remain.

12. Coming to the observation in the adverse remarks as seen from Annexure A5, we have to say that no material is brought to our notice about the alleged complaints regarding management of Guest House. Even the learned counsel for the respondents was unable to point out such complaints at the time of arguments. Therefore, this observation "Complaints about the management of Guest House have also been noted" is not shown to ^{be} supported by any material and therefore, this remark which is adverse to the applicant will have to be directed to be expunged from the Confidential Report of the applicant.



In the result, the application is partly allowed directing the respondents to expunge the portion of adverse remark namely "Complaints about the management of Guest Rooms has also been noticed" from the CR of the applicant for the period from 1.1.91 to 31.3.92. As regards the

other remarks the application is dismissed for the reasons discussed above. The direction relating to the expunging of the portion stated herein should be carried out within a period of one month from the date of receipt of a copy of this order. No costs.

Sd-

(A.N. VUJJANARADHYA)
MEMBER (J)

Sd-

(V. RAMAKRISHNAN)
MEMBER (A)



TRUE COPY

[Signature]
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH: BANGALORE.

REVIEW APPLICATION NUMBER 25 OF 1995

OA 938/93

FRIDAY, THIS THE 18TH DAY OF AUGUST, 1995.

Mr. Justice P.K. Shyamsundar,

.. Vice-Chairman.

Mr. V. Ramakrishnan,

.. Member(A).

Dr. K.V.V.L. Narasimha Rao,
Aged 54 years,
S/o late Sri K.V. Krishna Rao,
M-43, 1st Phase, HUDCO,
Kuvempunagar, Mysore-570 023.

.. Applicant.

(By Advocate Dr. M.S. Nagaraja)

v.

1. The Director,
Central Institute of Indian Languages,
Mysore-570 006.
2. Dr. E. Annamalai,
Director, Central Institute
of Indian Languages, Mysore-6.
3. Union of India,
represented by Secretary to Govt.,
Department of Education,
Ministry of Human Resources,
Shastri Bhavan, 'C' Wing,
New Delhi.

.. Respondents.

ORDER

Mr. Justice P.K. Shyamsundar, Vice-Chairman:

We have heard Sri Sridhar for Dr. M.S. Nagaraja, learned counsel who appears for the applicant. This review application purports to arise from an order made by this Tribunal in O.A.No.938 of 1993 relating to the question of expunging some adverse remarks relating to the applicant that appears to have met with partial success, the resultant position being the application was allowed partly. The applicant being not satisfied has reverted back with this review application seeking for fuller reliefs. In the original application, applicant's case was

considered in depth, the contention urged being found not feasible, the Bench rejected the same vide para 11 of the judgment. The only ground on which the review is sought for is that the applicant should have been shown the records when the Court perused and reached certain conclusion for the purpose of ensuring justice has been actually done to the applicant. The mere fact that the Court had keenly perused the records does not enable the applicant to have a view of the records as there is no question of allowing the applicant to join issue with the findings recorded by the administrative authorities. This court does not sit in appeal against the findings recorded ~~by~~ by the administrative authorities. The contention that in all cases where the court peruses the records the party also should be shown the same, has been considered and found against the applicant in the case of NAGARAJAN SRINIVASAN v. UNION OF INDIA AND OTHERS [(1995) 30 ATC 248]. It is not the case of the applicant that he had ever made a demand for perusal of the remarks at the time of hearing. This apparently having not been done, it is too late in the day for the applicant to raise this objection and seek for a review of the order. On this short ground this application fails and is dismissed.

Sd-

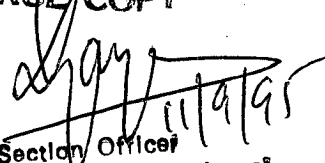
MEMBER(A)

Sd-

VICE-CHAIRMAN

np/

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Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore