

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 13 JUN 1994

APPLICATION NUMBER: 944 of 1993.

APPLICANTS:

RESPONDENTS:

1. Sri.R.S. Pandey v/s. Secretary, M/s Commerce, N Delhi & Others.

1. Sri.S.K.Mohiyuddin, Advocate,
No.11, Jeevan Building,
Kumara Park East, Bangalore-1.
2. The Director of Inspection,
No.185, S.C.Road, Seshadripuram,
Bangalore-560 020.
3. Sri.M.Vasudeva Rao, Addl.CGSC,
High Court Bldg, Bangalore-1.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 30-05-1994.

S. Hanuman
for DEPUTY REGISTRAR 12/6
JUDICIAL BRANCHES.

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CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.944/93

MONDAY, THIS THE 30TH DAY OF MAY, 1994

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI V. RAMAKRISHNAN .. MEMBER (A)

R.S. Pandey, 35 Yrs.,
S/o Sri Ram Sanjeevan Pandey,
Inspecting Officer (Engg),
O/D. Director of Inspection,
No.185, S.C. Road, Seshadripuram,
Bangalore - 20. .. Applicant

(By Advocate Shri S.K. Mohiyuddin)

Vs.

1. Union of India through
the Secretary, Dept. of Supply,
Ministry of Commerce,
Nirman Bhavan, New Delhi-110011.
2. Director General of Supplies & Disposal,
Parliament Street, New Delhi-110001.
3. R.C. Gupta, Director of Inspection,
D.G.S&D., Jeevan Taka Building,
Parliament Street, New Delhi-110001. .. Respondents

(By Advocate Shri M. Vasudeva Rao)
Central Govt. Addl. Stg. Counsel

ORDER

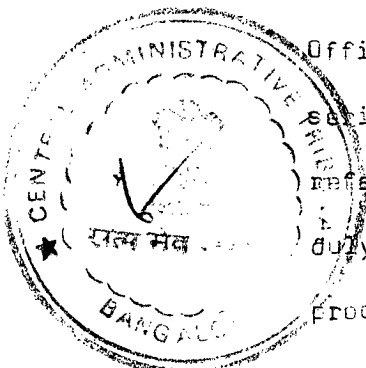
Shri Justice P.K. Shyamsunder, Vice Chairman:

Heard. Admit.

2. In the circumstances, we condone the delay in making this application. We propose to dispose it off on merits.

3. The applicant at the relevant date was an Inspecting Officer (Engg.) in the Dept. of Supplies & Disposals. He is seriously aggrieved by a set of adverse remarks recorded with reference to performance of his official duties in the year 1991 duly communicated to him under O.M. No.E-105/316, dated 12.7.1991

Produced at Annexure-A2, which reads:



"The Officer still lacks communication skills in putting up his note clearly to the point and in giving logical recommendations/decisions.

The officer on the whole does not apply his mind. The overall performance is just average."

4. Upon receipt of this communication, the applicant made a written representation complaining that the adverse remarks were unjust and he did not merit them at all. He urged that the adverse remarks were the result of a bias entertained by the Reviewing Authority who had set his face against the good chit issued by the Reporting Officer. The representation by the applicant as aforesaid was later turned down by the top rung of the department, viz., the Secretary in the Union of India, i.e., the Respondent No.1.

5. After the aforesaid rejection as per Annexure-A6 dated 21.1.1992 of his representation dated 2.10.91, the applicant had again represented to the Dy. Minister of Commerce. That also was rejected as per Annexure-A9, dated 18.8.1992.

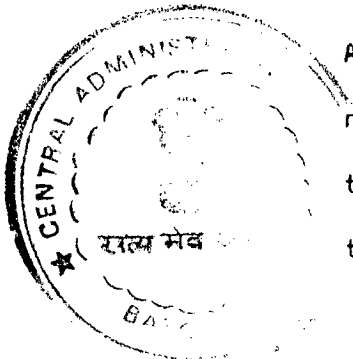
6. Shri Mohiyuddin for the applicant assails the rejection at Annexure-A6 and Annexure-A9 as unwarranted and that apart he also assails the adverse remarks as totally unwarranted being the product of biased mind of the superior officer Respondent No.3, who happens to be the Reviewing Authority.

7. The grounds in main against the rejection of his representation was sans-merit and no reason and therefore did not conform to the principles of natural justice. The other ground turns on the action of Respondent No.3 in differing with the Reporting Officer's views in the matter of commendation of his performance in the department and is assailed as wholly biased because of such representation against Respondent No.3 asserting that he was unnecessarily harsh and

vindictive towards the subordinate officers, many of whom are said to have suffered because of his arbitrary action and total vindictiveness. He lastly contends that the authority accepting the report not being an officer superior to Respondent No.3, acceptance by that officer is really not tenable.

8. ^{above} ~~We think~~ that we cannot accept this ~~fatal~~ contention ~~and~~ because the officer who accepted the recommendation of Respondent No.3 is not a party in this application and what is more, we do not see any substance in the said contention as well. The accepting authority was a selection grade Director whereas Respondent No.3 was only a Director. It is pointed out that the accepting authority was incharge of the entire zone as against Respondent No.3 whose supervisory powers was confined only to a particular unit. It becomes therefore apparent that the accepting authority was in fact superior to the Reviewing Authority, i.e., Respondent No.3 and therefore we do not find any substance in the argument that the accepting authority being one who ranked equal to Respondent No.3 was therefore not competent to accept the C.R. This argument has no substance and is therefore rejected.

9. Now, we go to the core of the matter which involves the complaint that the rejection of representation vide Annexures-A6 and A9 not being speaking orders and bereft of any reasons and is therefore urged to be untenable. We see no substance in this contention also particularly in the light of the judgment of the Supreme Court in the case of Union of India Vs. E.G. Nambudiri reported in AIR 1991 SC 1216. Therein it was held that where the statute does not enjoin furnishing reasons for the rejection of a representation the same is not an obligatory factor, ^{particularly} if the reasons are found in the file in which the representations are considered.



10. We find from the file produced to the court that the concerned authorities have recorded the reasons for the rejection of the representations and that factor we feel meets the requirement of the principles of natural justice and we therefore remain totally satisfied. We, ^{therefore} find the contention that there being no application of ^{the} mind on the part of the Reviewing Authority because reasons are not furnished in the very order ~~substantiating~~ rejection ^{of} the representation to be untenable. Non-furnishing of reasons does not entail our interference in the matter. On the other hand, as pointed out earlier, all the reasons supporting rejection of representation are found in the file in which the applicant's representations have been considered. We are completely satisfied with the situation in the handling ^{of} the applicant's representations and there being enough material to show that the adverse remarks had not been made off-hand and without the application of mind, it becomes obvious that the omission to state reasons in the communication does not vitiate the order rejecting the representations as ~~demanded~~ by the applicant.

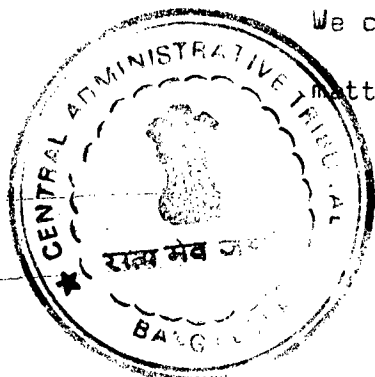
11. The second contention of Shri Mohiyuddin is that the rejection of the representation by Respondent No.3 was a result of arbitrary exercise of power, malice and out of sheer bias. We see no substance in that contention either. The strong argument advanced is that Respondent No.3 always came down with a heavy hand on his subordinates and such instances are referred to along with the representation made at Annexure-A6 which do indicate that Respondent No.3 had taken action against a number of people. But we are not concerned with Respondent No.3's action in other cases. We really do not know whether it ^{was} justified or not. That question does not arise. In the instant case, ^{we} are concerned is only with adverse

remarks recorded against the applicant. So long as these remarks are justified and we have already pointed out they are justified, it seems to us the allegation against Respondent No.3 with regard to the adverse remarks made against the applicant being totally biased and ^{thus} without any justification merits little consideration and hence this contention also fails.

12. No other point is raised for consideration. In the light of the above, viz., all the grounds against the administration having failed and rejected, this application stands rejected. No costs.

13. Shri Mohiyuddin says that his client is due for promotion and the rejection of this application should not come in the way of consideration of his case for further promotion in the department.

We cannot make any observation in his behalf because it is not a matter raised before us for consideration *to the contrary*



Sd-
(V.RAMAKRISHNAN)
MEMBER (A)

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Sd-
(P.K.SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY

psp.

P. S. Rauhar
SECTION OFFICER 13/6
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE