

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 850 OF 1994.

Date of Decision: JULY 08, 1999.

M. K. Anandan, Applicant.

In Person. Advocate for Applicant.

Versus

Union Of India & Others, Respondent(s)

Shri V. S. Masurkar, Advocate for Respondent(s)

CORAM:

Hon'ble Shri. Justice S. Venkataraman, Vice-Chairman.

Hon'ble Shri. S. K. Ghosal, Member (A).

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

(S. VENKATARAMAN)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 850 OF 1994.

Dated this Thursday, the 8th day of July, 1999.

CORAM : HON'BLE SHRI JUSTICE S. VENKATARAMAN,
VICE-CHAIRMAN.

HON'BLE SHRI S. K. GHOSAL, MEMBER(A).

M. K. Anandan,
Pay & Accounts Officer,
Dept. of Civil Aviation,
Juhu Airport,
Bombay - 400 054.

... Applicant

(In person).

VERSUS

Union Of India through

1. The Secretary to the Govt.
of India,
Ministry of Finance,
North Block,
Dept. of Expenditure,
New Delhi.
2. Controller General of Accounts,
Ministry of Finance,
Dept. of Expenditure,
Loknayak Bhawan, Khan Market,
New Delhi - 110 003.
3. Chief Controller of Accounts,
Ministry of Surface Transport,
Jam Nagar House,
Shajahan Road,
New Delhi - 110 011.
4. Financial Controller,
Ministry of Civil Aviation &
Tourism, Sardar Patel Bhawan,
Parliament Street,
New Delhi - 110 001. ... Respondents.

ORDER (ORAL)

PER.: SHRI S. VENKATARAMAN, VICE-CHAIRMAN.

The applicant has filed this application for
expunction of adverse remarks contained in the Confidential
Report for the year 1992-93 and also for a direction that

he should be promoted to the cadre of Senior Pay & Accounts Officer with effect from 01.11.1992.

2. At the outset we should point out that the applicant has not produced the communication of the adverse remarks which he received. In the application he has not even indicated as to what are the adverse remarks which have been passed against him. Without production of the communication contained in the adverse remarks and without even specifying what those adverse remarks are, the applicant could not have filed this application for expunction of the adverse remarks. On that score itself the application is liable to be rejected.

3. However, we have gone through the material placed by the respondents on record. The adverse remarks are stated to have been made against the applicant against column meant for showing the 'Inter Personal Relationship and Team Work' and against the column 'General Assessment'. The respondents in their reply have indicated as to what adverse remarks have been passed and they are as hereunder :-

"Part-III.

Serial No. 7 - Inter Personal Relationship and Team Work.

He acts in an authoritative manner with his superiors. He has no sense of proportion. He uses insulting language in communications with his superiors. He issues even ultimatums

to superiors in a rustic manner. He has been issued Memorandum to explain the circumstances leading to abovesaid use of rustic language."

PART-IV.

Serial No. 3 : General Assessment.

The Officer possesses excellent qualities as regarding official work but his autocratic attitude his superiors has shadowed his efficient performance of official duties. But for abovesaid conduct/shortcomings, he would have proved an outstanding officer. As such, he lacks maturity for appointment as DCA/ promotion to ICAS Cadre."

The respondents have alongwith their reply produced several letters written by the applicant to the higher officers. It is seen that in those letters the applicant has characterised the instructions given by the higher officer as "unwise advice" and he has gone to the extent of suggesting that such unwise advice should be avoided. In another letter he has stated that the instructions regarding "reimbursement to the extent of 1/12th of the sanctioned budget has no meaning at all as far as this office is concerned." In that letter he has stated that "a detailed study and scrutiny is required before giving such an unwise instructions." The instruction may pleased be withdrawn for the smooth functioning of the office." In another letter he has questioned the higher officer "to state in which category this type of actions will include ? Is this against office discipline and decorum?" It is not necessary to repeat several such

abrasive language used by the applicant in his letters to his superiors. In one of his letter at Annexure R-4 the applicant has gone to the extent of saying holding ~~and~~ of threat to the superior officer. The contents of the letters to the superior officers fully justify the remarks made in the A.C.R. We do not find any ground to interfere with the remarks made in the A.C.R.

4. With regard to the prayer of the applicant for his promotion, ~~he may~~ ~~there was~~ mention that the applicant could not have clubbed both these reliefs in one application. That apart, if the relief of promotion which he has sought for is considered to be consequential to the main relief of expunction of adverse remarks, then necessarily the applicant would not be entitled to this relief of promotion and as mentioned earlier, we are unable to expunge the adverse remarks. That apart, the application does not disclose as to whether any junior was considered and promoted and whether he was superseded in any D.P.C. The applicant submits that after the filing of this application, his junior has been promoted but we cannot give any relief in that regard, as in the application the applicant has not challenged the promotion given to anyone else. Merely because the applicant had become eligible for promotion he has no right to seek promotion. The applicant submits that in 1994 he has been promoted. If he has been superseded earlier on account of the above adverse remarks, we cannot give any relief as we are not ordering the expunction of the adverse remarks.

5. For the above reasons, the application is rejected. No costs.

(S. K. GHOSAL)
MEMBER(A).


(S. VENKATARAMAN)
VICE-CHAIRMAN.