

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR. (A)

O.A.No.676/88

Dt. of order: 30.6.94

N.K.Gautam

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.J.K.Kaushik

: Counsel for Applicant

Mr.P.N.Mathur

: Counsel for respondents

CORAM:

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

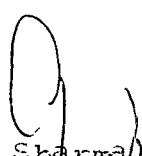
Heard the learned counsel for the parties and have perused the records. Mr.J.K.Kaushik, submits that from a perusal of Annx.A-5, it is clear that the FACAO has only accepted the assessment of Sr.D.A.O and has not passed a speaking order. In support of his case he cited before us the case of Dr.Hari Dev Goyal Vs. Union of India & Ors. reported in ATR 1988(1) CAT 145. The Tribunal has held that representation against adverse remarks must be disposed of by a speaking order and such a representation against the adverse remarks be examined by a person superior to the Reviewing Officer. In the instant case the Sr.D.A.O. has assessed as under:


"I feel that these remarks are fully justified. I have also personally counselled Shri Gautam, a number of times to improve his working and in the case of Audit Objections, I have seen total lack of initiative and ability to co-ordinate with the executive and ensure that proper reply is submitted to the audit."

Thus, there is an adverse remark based on the general observation and the assessment of the Reporting Officer has been accepted by the Reviewing Officer and the Reviewing Officer has also mentioned that he has also personally observed that the applicant has lack of initiative and ability. Thus there is an observation of 2 officers i.e. Reporting Officer and the Reviewing Officer which has been accepted by the senior authority to whom the representation was filed.

There are two types of adverse remarks. One is based on a general observation of day to day and the other is based on a particular fact. When the adverse remark is based on a particular fact then the speaking order is necessary the basis on which the remark has been given. However, when there is no particular fact but a general observation is made then the general observation has to be mentioned and it is not necessary to state the particular fact. In the instant case, the Reporting Officer and the Reviewing Officer under whom the applicant has worked have assessed the working of the employee and on representation nothing was found in favour of the employee and the same has been rejected, it is not a case in which the principle of speaking order will apply. It is a case based on day to day assessment of the working of the employee.

2. In the result, the O.A. is rejected with no order as to costs.


(O.P. Sharma)
Member (A).


(D.L. Mehta)
Vice Chairman.