

(S1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A. No. 969/89.

Date of Judgment 27.11.1991.

M. Satyanandam

.. Applicant

Vs.

1. Union of India,
represented by
Secretary,
Railway Board,
Rail Bhavan,
New Delhi.
2. General Manager,
S.C.Railway,
Rail Nilayam,
Secunderabad.
3. Chief Personnel Officer,
S.C.Railway,
Rail Nilayam,
Secunderabad.
4. The Divl. Rly. Manager,
S.C.Railway,
Guntakal Division,
Guntakal.

.. Respondents

Counsel for the Applicant : Shri M.C.Pillai

Counsel for the Respondents : Shri D.Gopala Rao,
SC for Railways.

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A).

This application has been filed by Shri M.Satyanandam under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, represented by Secretary, Railway Board, Rail Bhavan, New Delhi and 3 others, praying for quashing the impugned order No.2-184/VII/MS dated 30.11.88 of the 2nd respondent thereby expunging the adverse remarks made in his Annual Confidential Report for the period ending 31.3.88.

2. The applicant who joined the Railway service in March 1958 was, over a period of time, promoted to various grades at the relevant time he was functioning in the Junior Administrative Grade (J.A.G. for short) to which he was

promoted from 15.2.85. While functioning as Sr. D.P.O. at Guntakal he was reverted to the Senior Scale and posted at Secunderabad. Against this reversion he ~~has already~~ filed O.A.No.449/88. For the period from 1.4.87 to 13.9.87 when he was working in the J.A.G. he had earned certain adverse remarks which were communicated to him vide letter dated 30.11.88 and received by him on 8.12.88. According to the applicant, these remarks are made in gross violation of paras 1608 and 1610 of the Indian Railway Establishment Code Vol.I of 1971 Edition (Code for short). Even according to the applicant, para 1608 of the Code does not find a place in the revised Vol.II of 1987 Edition. It is also contended that items 6 and 7 of the instructions printed at the back of the new Annual Confidential Report forms had not been followed by the Reporting Officer. The applicant made a representation to the 2nd respondent and finally by his letter dated 31.10.89 the 2nd respondent had stated that the adverse remarks shall stand. The applicant is aggrieved that no specific instances of short-
^{Were} coming ~~was~~ quoted in the Annual Confidential Report and at no time was a warning administered to him as required under the rules before entering adverse remarks. It is also alleged that the General Manager who signed the letter communicating the adverse remarks and the General Manager who finally rejected his request are different persons and that the latter has not applied his mind while finally deciding the case. Hence he has come up with this application praying that the adverse entries be expunged.

3. The respondents have filed a counter affidavit and oppose the application. They deny that the promotion in February, 1985 of the applicant to the J.A.G. was a regular one and ^{that} ~~was~~ only an adhoc one. While working at Guntakal he was reverted and posted to the Senior Scale which was

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P.W.D.

challenged by him in O.A.No.449/88. It is stated that this Bench in its judgment dated 8.1.90 in the O.A. directed the respondents to re-assess the case of the applicant for regular promotion to the J.A.G. eschewing certain adverse remarks (not the ones under consideration in this case). It is stated that pursuant to the above directions the case of the applicant for inclusion in the select list of J.A.G. was considered in April, 1987 and since he was not found suitable he could not be empanelled in the select list of 1987. However, he was empanelled in the J.A.G. IRPS in the panel approved on 17.10.89 and it is stated that the applicant is working on a regular basis in the J.A.G. w.e.f. 21.5.90. The respondents deny that there was any delay in communicating the adverse entries. The adverse entries made in the report for the period ending 31.3.88 had been communicated to him well in time through their letter dated 30.11.88. It is also contended that the change of General Managers has nothing to do with the case and whoever is holding the post at the relevant time has only to take a decision.

4. I have examined the case and heard the learned counsels for the rival sides. The adverse entries pertain to the period from 1.4.87 to 13.9.87 forming part of the annual report for the period ending 31.3.88. It has been communicated in November, 1988 and I do not think there is any delay in communicating the same and there is no room for any grievance for the applicant on this score. The applicant relies on para 1608 of the Code which required that in the case of a gazetted Railway servant there should be prior warnings to the official before an adverse entry is made through letters and, if necessary, by personal interview. This provision does not find a place in the revised edition and the applicant cannot rely on this extinct provision. The applicant also relies on para 1610 of the Code which requires that when an unfavourable report is made

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O.A. 969/89

ASR
31/12

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

:V.C

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANTAN :M(A)

AND

THE HON'BLE MR.

M(J)

DATED: 27/11/1991

ORDER/JUDGMENT: ✓

M.A./R.A./C.A. NO.

O.A. No.

in
969/89. ✓

T.A. NO.

(W.P. No.)

Admitted and Interim directions
Issued.

Allowd.

Disposed of with directions

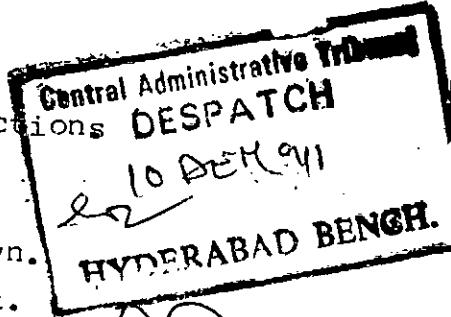
Dismissed. ✓

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

To order as to costs.



pvm

31/12/91

Copy to:-

1. Secretary, Railway Board, Union of India, Rail Bhavan, New Delhi.
2. General Manager, S.C.Railway, Rail Nilayam, Secbad.
3. Chief Personnel Officer, S.C.Railway, Rail Nilayam, Secunderabad.
4. The Divisional Railway Manager, S.C.Railway, Guntakal Division, Guntakal.
5. One copy to Shri.M.C.Pillai, Flat No.304, Kakatiya Apartments, Habshiguda, Hydbad.
6. One copy to Shri. D.Gopal Rao, SC for Rlys, C.A.T. Hyd.
7. One spare copy.

Rsm/-

Copy to:-
3/11/91.

he should be shown Section I of the Annual Confidential Report and his initial obtained in acknowledgment. He also he should be permitted to submit for consideration and record his comments in any adverse remarks contained therein and, if the officer higher than the Reporting Officer still feels that such an adverse entry should be made then he can make it after granting an interview to the official. There is no indication that this para finds a place in the revised edition of the Code. Moreover, in the revised form for writing Annual Confidential Reports such an elaborate procedure for making adverse entries had not been laid down. What is required is that once the adverse entries are made they are communicated to the officials who are entitled to make representation thereof and the competent authority has to take a final decision. The applicant also alleges that instructions 6 and 7 have not been followed in that no targets were given to him by his superiors. In fact, what the applicant fills up in Part I of the Annual Confidential Report form is just the target and I do not think there is any violation on this score also. I find on a study of the whole case that adverse entries had been given to him, communicated in time, he was given an opportunity to represent against them and finally the competent authority has rejected the same. These are administrative tools to keep a check on proper performance by various officials and the decisions taken are in administrative nature. So long as there is no illegality in the manner in which such entries are dealt with there is little scope for the ~~Codes~~ to interfere. In this case, I find no illegality whatsoever and therefore dismiss the application with no order as to costs.

R. Balasubramanian
(R. Balasubramanian)
Member(A).

Dated 27 November, 1991.

Regd. No. 83/12/91
Dy. Registration