



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD  
---

D.A. 660/92.

Dt. of Decision: 11-08-95.

Dr. M. Srinivas Rao

.. Applicant.

Vs

1. The Union of India, Rep. by  
its Secretary, Ministry of  
Finance, Dept. of Revenue,  
Personnel Section, New Delhi.
2. The Director General,  
National Academy of Direct Taxes,  
Chandwara Road,  
Nagpur-440 029.
3. The Dy. Director (Faculty),  
National Academy of Direct Taxes,  
Chandwara Road, Nagpur-440 029.
4. The Dy. Director (Admn.),  
National Academy of Direct Taxes,  
Chandwara Road, Nagpur-440 029.

.. Respondents.

Counsel for the Applicant : Mr. G. Mohan Rao

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

J U D G M E N T

[ as per Hon'ble Sri R.Rangarajan, Member (Administrative) ]

Heard Sri G.Mohan Rao, learned counsel for the applicant and Sri N.V.Ramana, learned Standing Counsel for the respondents.

2. The applicant herein is an MBBS graduate and he appeared for the 1986 Civil Services Examination. He was successful in the said Examination and joined as Probationer in the Indian Revenue Service (I.R.S.) as Assistant Commissioner of Income-tax (UT) in August, 1987 in the 41st batch. As per relevant rules, the Probationers of I.R.S. have to undergo residential training course at National Academy of Direct Taxes (NADT), at Nagpur during their probation period. He underwent this training course from 22.12.1987 to 6.4.1989. He successfully underwent this course and was posted as Assistant Commissioner of Income-tax (Company Circle), Hyderabad.

3. The applicant had submitted his self-appraisal report for initiating the confidential report for the year 1988-89 in the month of April, to R-3 viz. Deputy Director (Faculty), NADT, Nagpur.

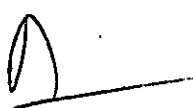
4. While undergoing training at NADT, Nagpur which is a residential training Institute, the trainees are the members of the mess attached to the said Academy. The mess is run by them on co-operative basis by all probationers and the mess is called 'Income Tax Officers' Mess'. The affairs of the mess is looked after by a

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mess committee consisting of 8 or 9 members including the President, Mess Secretary, Treasurer etc. Mess Committee will be elected for every three months by all the probationers undergoing training at NADT who are the members of the mess. It is stated for the applicant that the Deputy Director (R-3) and the Director General (R-4) will be supervisory role in the affairs of the mess and it is under their control. The financial matters relating to the mess will be looked after by the Treasurer and the Mess Secretary is responsible for routine administration of the mess. The Mess Secretary has no role to play in regard to cash transactions and the Treasurer is exclusively handles this portfolio.

5. In the month of October, 1988 elections were held for the Mess Committee of NADT, Nagpur and the applicant herein was unanimously elected as Mess Secretary and the period he had to act as Mess Secretary was three months from the date of assumption of charge as Mess Secretary. He had acted as Mess Secretary from 26.10.1988 to 17.1.1989. It is stated for the applicant that there were no complaints whatsoever by any member of the mess committee or the members of the mess regarding the affairs and management of mess during this tenure as Mess Secretary. He discharged his duties as Mess Secretary to the entire satisfaction of all the members of the mess. It is further stated for the applicant that the functions pertaining to the mess committee have no relevance to his normal duties as a trainee. Further, the mess



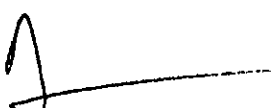
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committee is elected by the members of the mess and those who stand for such election is on voluntary basis. It is further stated for the applicant that the mess charges during the period ~~the expenditure~~ was brought to Rs.625/- from Rs.900/- and the applicant submits that this is a major achievement of the mess affairs during his tenure.

6. As the applicant had joined as a Mess Secretary on 26.10.1988 the time of three months expires on 26.1.89. But, on 17.1.1989, the Deputy Director (A) communicated on behalf of Director General (R-2) that he would cease to be the Mess Secretary with immediate effect. No reason was given to him as to why he should hand over the charge before the expiry of the full term of 3 months. <sup>stipulate that</sup> Mess Rules under sec.17, an office bearer of the Mess Committee can be asked to handover the charge before the expiry of the full term of three months only if good and sufficient grounds exist. As no reason was given to the applicant for curtailing his period of Secretaryship, he had submitted a representation to the Deputy Director (A) dt. 10.2.1989, which it is alleged not replied.

7. While working as Asst. Commissioner of Income-tax, Circle-IV, Hyderabad, he had received a Memorandum dated 2.1.1990 enclosing a DO letter dt. 29.12.1989 communicating adverse remarks recorded in the Annual Confidential Report (ACR) of the applicant for the year 1988-89. The above said remark is reproduced below:-

"21. General observations -  
Graded as "good". Conduct & Performance in regard to management of affairs of officers' Mess and handling of cash, however, were not upto the mark".



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He had submitted a representation to higher-ups for expunging the adverse remarks. In his representation he had pointed out that he performed his duties as Mess Secretary for the period from 26.10.1988 to 17.1.1989 very satisfactorily and there was no complaint from any quarters whatsoever in regard to his functioning as Mess Secretary. Further, he also requested to furnish him with the copies of the material and documents based on which the adverse remarks were made so that he could make a proper representation against the same. It is the case of the applicant that in the absence of supply of any material based on which the adverse remarks were made, the applicant was not in a position to make an effective representation as [redacted] he was totally in dark as to the areas in which he is lacking during his tenure as Mess Secretary. He received a reply from the Deputy Commissioner of Income Tax, Headquarters, Hyderabad communicating <sup>by</sup> the letter dt. 11.7.1991 from R-1 to the effect that the competent authority after carefully considering all the aspects contained in the representation given by the applicant did not find any justification to expunge the adverse remarks entered in the ACR of the applicant for the year 1988-89 and therefore, the representation has been rejected. The applicant submits that as no reason was given for rejection of his representation, the communication dt. 11.7.1991 bearing No.A.28018/27/90-DT(Per) lacks credibility and cannot be treated as a speaking order.

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8. The applicant further submits that a Group 'A' IRS Officer has to be promoted after completion of five years of service and after 4 years they will be placed in the Senior Time scale of pay. The promotion to Senior Time Scale of pay is on the basis of seniority-cum-fitness. Though he was not placed in the senior time-scale of pay, his juniors were granted senior time-scale of pay from 1.10.1991. It is the apprehension of the applicant that he was denied the senior time scale of pay on the basis of adverse entries entered in his ACR for the year ending 1988-89. It is also stated that there are no other adverse entries or disciplinary proceedings against the applicant. The applicant further submits that denying him promotion taking into account the adverse entries in the year 1988-89 is illegal and arbitrary. He also made a representation dt. 25.3.1992 for considering him for promotion to the senior time scale with effect from 1.10.1991, but the same was rejected by letter No.A.32012/24/92-Ad.VI dt. 20.5.1992. Hence, he has filed this O.A. praying for quashing the adverse entries in the ACR of the applicant for the year 1988-89 declaring that recording of adverse remarks against col.21 in the ACR pertaining to the year 1988-89 is arbitrary, illegal, without jurisdiction, contrary to the rules and regulations and violative of applicant's fundamental rights guaranteed under Articles 14 & 16 of the Constitution of India and for a consequential declaration that non-grant of senior-time scale of pay to the applicant is arbitrary and illegal and for a further direction to the respondents



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to grant him senior time scale of pay with effect from the date of granting the same to his juniors i.e. from 1.10.1991.

9. The main contention of the applicant for expunging the adverse remarks in the ACR for the year 1988-89 are discussed as under:-

(1) The Income Tax Officers' Mess is a co-operative one and the post of Mess Secretaryship is on voluntary basis. Whoever stands for that post is elected by the members of the mess and the duties and responsibilities of Secretary, Mess Committee have no connection whatsoever in his normal official duties. Further, he had run the mess as Mess Secretary in an efficient manner from 26.10.1988 to 17.1.1989 and there were no complaints from any sources. In view of this, making him to step out from the post of Secretary, Mess Committee by R-2 is arbitrary and as the same was done without giving him any opportunity and when he represented against the same no reply was given to him. Hence, the action of the respondents in giving adverse remarks in the ACR for the year 1988-89 against Column 21 stating that 'his conduct and performance in regard to the management of the affairs of the Officers Mess and handling of cash were not upto the mark' is not sustainable.

The main point for consideration here is whether the adverse CR can be given on the basis of his conduct and performance as Secretary of the mess. The respondents in their reply statement have stated "that conduct of community living is part of training programme imparted

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at NADT, Nagpur and therefore the performance of the office bearers of the mess-committee is part of their official function. Even otherwise it is well settled that even the CCS(Conduct) Rules, 1965 extend to the conduct of the Government servants in their non-official capacity. They rely on the Judgment of the Supreme Court reported in [ AIR 1967 SC 1274 - S.Govinda Menon Vs. Union of India and anor. ] in support of their case that the conduct of the Govt. servants while working in non-official capacity can be taken into account while initiating ACRs.

I have perused ~~the observation~~ of the ruling of the Supreme Court in the above mentioned case and in para-6, the apex court held as follows:

"It cannot be said that the expression any act or omission referred to in R.4(1) of the All India Services (Discipline and Appeal) Rules, 1955 relates only to an act or omission of an officer when serving under the Government which means subject to the administrative control of the Government. It cannot also be said, therefore, that the disciplinary proceedings could be taken only on the basis of the relationship of master and servant. It is not necessary that a member of the Service should have committed the alleged act or omission in the course of discharge of his duties as a servant of the Government in order that it may form the subject-matter of disciplinary proceedings. In other words, if the act or omission is such as to reflect on the reputation of the officer for his integrity or good faith or devotion to duty, there is no reason why disciplinary proceedings

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should not be taken against him for that act or omission even though the act or omission relates to an activity in regard to which there is no actual master and servant relationship. To put it differently, the test is not whether the act or omission was committed by the member of the service in the course of the discharge of his duties as servant of the Government. The test is whether the act or omission has some reasonable connection with, the nature and condition of his service or whether the act or omission has cast any reflection upon the reputation of the member of the service for integrity or devotion to duty as a public servant."

The apex court held that if the act or omission has some reasonable connection with the nature and conditions of the service of the Government servant outside his normal duties and that act or omission has caused any reflection upon the reputation of the member of the service for integrity or devotion to duty as public servant such act can be noted for initiating disciplinary proceedings or commenting upon his conduct in the ACRs even if there is no actual master and servant relationship. In view of the above observation of the apex court, it is clear that the conduct of a public servant while discharging the non official duties, can be commented upon in the ACR. The post of Mess Secretary is to run the co-operative mess exclusively meant for the IRS Probationers who are undergoing training at NADT, Nagpur. The post of Mess Secretary cannot be strictly held as purely non-official. It has reasonable relationship to the duties



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discharged by him as IRS probationer. However, in view of the ruling of the apex court that the act of omission can be taken note of when Government servant even while discharging duties outside his normal sphere of working, I see no reason why the conduct of the applicant as a Mess Secretary cannot

be commented upon while initiating the ACR. (Col. 21) the applicant

~~of the ACR~~ pertaining to the period when worked as

Member Secretary in the year 1988-89 ~~and his conduct~~

and commenting on his performance during that period in the ACR, cannot be treated as arbitrary or unreasonable. Hence, the contention that no ~~adverse~~ entry can be entered in the ACR commenting his performance as Mess Secretary cannot be held as tenable.

(ii) The adverse remarks communicated to the applicant consists of two limbs. In the first limb, it is said that "conduct and performance in regard to the affairs of the Officers Mess were not upto the mark", and the second limb of the adverse remarks state that "handling of cash by the applicant was also not upto the mark". It is the case of the applicant that both these limbs are not borne out by any records whatsoever. Even when he asked for the material/documents based on which these remarks were made in his representation dt. 22.1.1990 so as to enable him to prepare suitable representation against those remarks, no reply was given except rejecting his case for expunction of remarks by letter dt. 11.7.91.

The respondents in their reply statement stated that the Audit committee, in its report dt. 28.3.1989 (Annexure-R,2) pointed out number of irregularities, ~~and~~ some of which reflected on the conduct of the applicant and certain other office bearers in the mess committee. These lapses on the part of the applicant were ~~were~~ taken note of by the Course co-ordinator ~~of~~ the 41st batch of IRS Probationers while writing the ACR of the applicant. Submission of the applicant that he has no role to play in cash transaction is only to shift the blame on some others. It is the joint responsibility of the members of the mess committee to conduct the affairs of the mess smoothly and efficiently <sup>and</sup> to maintain the proper accounts. In the audit report there were instances of under-charging of the bills to the extent of Rs.6,000/- and this has been admitted by the applicant himself. In view of this, he cannot be absolved of the responsibilities though he did not handle the cash himself. In regard to the first limb of the ACR viz. "his conduct and performance in regard to the management of affairs of Officers' Mess is not elaborated in the reply statement. However, the learned Standing Counsel submitted that conduct of the applicant in the audit report brings out clearly the undercharging of the bills to the extent of Rs.6,000/- which has been admitted by the applicant and this admission itself is sufficient to come to conclusion that the performance in regard to the management of the affairs of the officers mess by the applicant is not upto the mark.

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The general observations made against col.21 are creptic. It does not elaborate why such observations were made. Even when the applicant asked for the material/documents based on which such observations were made, it is seen that no reply has been given to him. If any representation from the applicant is purposeful the remarks should be capable of being understood by those against whom such remarks are made. Normally before giving any adverse CR, the case is being built during the course of the year by reminding the concerned regarding his performance and on that basis the adverse reports are recorded. If no such opportunity was given during the course of the year to which the ACR pertains in which adverse entries are recorded, it will be difficult for an employee to correct himself and also to represent his case when he receives the adverse remarks as entered in the ACR. Hence, it is necessary that an employee is given an opportunity to watch his conduct and also explain his conduct at a later date if required. In this case the general observation as entered in col.21 of the ACR is based on his conduct and performance during the period he worked as Mess Secretary. Though, it is stated that he has admitted having under-charged of bills to the extent of Rs.6,000/- as can be seen from para-3 of the Audit Committee Minutes meeting held on 28.3.1989 (Annex. C-4 filed with Reply), the same could have been given to him and also how the said comment is related to the conduct and performance in regard to the management of the affairs of the Officers Mess. Then, he could have given a suitable reply based on which he could have represented his case for expunging the

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the remarks. But no such action has been taken by the respondents ~~when~~ the applicant requested for materials/documents based on which the adverse remarks were given to him. Further, it is also seen that adverse remarks are not very specific but appears to be bit ambiguous. CAT-Madras Bench in X 1990(7) SLR 662 - V.Jayaram Vs. Secretary to Govt. of India and Ors. I had observed that adverse remarks which are vague and ambiguous are liable to be expunged. The Principal Bench of this Tribunal in its reported case X 1988(5) SLR 356 - Tejinder Singh Vs. UOI and Ors. I had said that "Complaints touching the integrity of the applicant should be made available to him to make effective representation". Reviewing authority under obligation to enquire into the complaints touching integrity". Though, in this case there are no remarks about the integrity, the observation that handling of cash were not upto the mark may lead to interpretation that his integrity is of questionable nature. In view of this, it is necessary that he should have supplied with the material to effectively rebutt this remark.

In view of the above, I am of the opinion that though a direction to expunge the adverse remarks ~~may not be necessary at this stage, an opportunity has to be given to the applicant to explain his conduct on the basis of the material now available and on that basis observations made in reply by the respondents in this case and a final decision in regard to expunging the remarks or otherwise has to be taken by the competent authority by remitting this case back to them.~~



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(iii) The next contention of the applicant is that the reply given to him when he represented for expunging the remarks is a bald one and it does not contain any reason for refusing to expunge the remarks except saying that the representation has been rejected. It is also the case of the applicant that his request for giving necessary documents has also been rejected when he applied for the same immediately after receiving the communication regarding the adverse entries. Due to non-availability of documents he was not able to make an effective representation. In his OA in para-6(g) & (h), he submitted that his inability to make effective representation due to non-supply of requested materials by the respondents based on which the adverse entries are made and also not giving any reasons to ~~his~~ reject his representation has prejudiced his case. The applicant further submits that there is no reply given by the respondents in regard to the contention in para-6(g) and in regard to para-6(h) it is generally stated that representation of the applicant was dealt by the appellate authority in accordance with the procedure laid down for dealing such representations. Nowhere it is stated in regard to para-6(h) the procedure laid down. In view of this, the respondents have evaded answering the important contentions due to non-availability of any material and on that score also the adverse remarks are liable to be expunged.



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The learned Standing counsel for the respondents had submitted that there is no need for giving any material for representing his case as he is aware of undercharging of the bills to the tune of Rs.6,000/- which he had admitted as recorded in the audit ~~xxxxxx~~ committee minutes meeting held on 28.3.1989. It is also not necessary to give any further documents as the remark is on that basis <sup>and</sup> his conduct and performance because of that was not found to be upto the mark. In regard to the procedure laid down for dealing representation in such cases is well-known and needs no elaboration. ~~\_\_\_\_\_~~ of every Government ~~performance~~ servant is assessed only through the Annual Confidential Reports. Hence the ACR has immense importance in the career of the Government official. ~~The importance is~~ in the interest of efficiency of service ~~xxxxxx~~ also ~~needs~~ no emphasis. In view of this the Reporting Officer ~~should record his opinion~~ sincerely and based on some records. Even if the remarks do not indicate the basis on which the adverse entry has been given, the materials on which said entries are made, should be make available to the ~~reported~~ officer if he asks for the same so that a representation can be effective. The digest on 'Confidential Reports of Central Government Employees - Swamy's Compilation' indicates that "the competent authority is required to consider the representation on merits and pass a reasoned order. Only then it can be acted upon." From the above, it is evident that the officer concerned should be given <sup>by way of documents etc.</sup> reasonable opportunity <sup>while</sup> to explain his reasons for representing against the adverse remark and ~~rejecting~~ his

representation a reasoned speaking order should be issued. In this case, even if the applicant is aware of the audit report, he should have been informed so when he had asked for the material based on which the entries were made in his CR. It is also seen that the competent authority rejected the application creptically stating that his representation has been rejected after careful consideration. The Punjab and Haryana High Court in its reported judgment in [ 1991(2) SLR 570 - R.S.Dhull Vs. State of Haryana and Ors. ] had held as follows:-

"Government instructions cast a mandatory duty on the Reporting Officer that adverse remarks should be fortified by reasons - In the absence of reasons in recording adverse report, petitioner is deprived of the opportunity to represent against it. Instructions also lay down that report should be written by the officer who has actually seen the work and conduct of the official concerned"

"Adverse remarks/Speaking order - Representation against adverse remarks - Not disposed of by a speaking order - Such an order not sustainable"

The High Court of Calcutta in its Judgment reported in [ 1982(1) SLR 857 - Dr.Gopeswar Dutta Vs. Union of India ] had observed as follows:-

"Adverse remarks/Speaking order ... Adverse entries made in confidential roll - Appeal against - Rejected without assigning any reasons - Rejection of appeal without assigning any reasons bad - Authority making order in exercise of quasi judicial function must record its reasons in support of the order it makes - Competent authority to act fairly and justly and observe rules of natural justice before rejecting appeal"



From the above, it is clear that necessary facilities should be given to the applicant if he asks for it by way of documents etc. While disposing of the representation against the adverse entries made against employee, the same should be a speaking order<sup>by</sup> Recording its reasons in support of the order. As the above principles are not strictly adhered to an opportunity has to be given now to the applicant to represent his case afresh on the basis of materials now available and the same has to be disposed of by the competent authority in accordance with the rules.

(iv) The next contention of the applicant is that he joined as Mess Secretary only on 26.10.1988. In the audit report which is attached as C-3 to the reply affidavit, the irregularities are mentioned against daily purchases in DPS and Bill Account. The discrepancies mentioned in the audit report, as Mess Secretary most of such irregularities were not during his period<sup>of holding the post of Mess Secretary</sup> During his period<sup>it was mentioned only for once in</sup> each head. Whereas, there are so many irregularities found prior to his taking over of the post of Mess Secretary. He just followed the procedure laid down by his predecessors and he is in no way changed the procedure which resulted in the irregularities. Hence, he cannot be blamed for the minor irregularities reported by the audit of the mess account. Further, he being an MBBS degree holder, he is not in a position to appreciate the minute <sup>details</sup> ~~nuances~~ of the accounting procedure. Had this report been given to him when asked for certain documents, he could have offered the above explanation and on that basis the representation could have been suitably replied.

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This point has to be considered by the departmental official now.

(v) The next contention of the applicant is that an employee should have worked under the Reporting Officer and Reviewing Officer atleast for a minimum of 3 months and then only they are competent to pass any remarks on self-appraisal report submitted by the concerned probationer as indicated in para-29 of Swamy's Compilation on Confidential Reports of Central Government Employees under the caption 'Copies of orders'. It is the case of the applicant that the Reviewing Officer who has passed the remarks did not control him for three months during the relevant period 1988-89. To check this fact a direction was given on 25.1.1993 to the respondents to produce necessary records. The respondents produced the ACR folder for the year 1988-89 and the file containing the disposal of the representation of the applicant.

From the ACR folder, it is seen that one Sri Dilip K.Das had initiated the report and the adverse remarks were entered by him in the ACR for the year 1988-89. Further, the CR reveals that "the Reviewing Officer Mrs. Usha Savera, DG had already retired and these CRS could not be reviewed". In view of this there was nobody to review the CR initiated by the Reporting Officer. The adverse entries were communicated to the applicant by the Dy.Director (A). But, the reply affidavit is silent about the above facts. Nowhere it is stated that no review is done as the Reviewing Officer was retired and hence adverse entries were informed to the applicant without reviewing

by any Reviewing Officer. It is not known why this important fact has not been revealed in the reply. Had it been made clear the present contention that the applicant had not worked under the Reviewing Officer for more than three months would not have arisen. From para-4 of "Digest of Swamy's Compilation on CRS of Central Govt. Employees" it is seen that "two-tier system of reporting has been provided to minimise the operation of the subjective human element and of conscious/unconscious bias in reporting. The judgment of the immediate superior, though fair, might sometimes be too narrow and subjective to do justice to the officer reported upon." Hence the review of CRS assumes importance. In this case there is no review ~~as~~ and the Reviewing Officer ~~was~~ <sup>had</sup> retired. Care should be taken to ensure that the adverse remarks are substantiated by proper records.

From the file, notings containing the disposal of the representation of the applicant, it is seen that the remarks were obtained from the DG, NADT before replying his representation in regard to the adverse entries; but no specific remark has been given by the competent authority whether he accept the same and if so the reason for accepting the same. The competent authority just accepted the notes put up by the office. On the basis of the remarks, obtained from DG, NADT in regard to representation made against entries in the CR, the officer who has to dispose of the representation has to apply his mind before rejecting the representation as it affects the career prospects of an officer. The above aspect does not appear to have been appreciated by the competent authority. On this account, I am of the opinion that his representation needs review.

(vi) The next contention is that the adverse remarks must have been communicated within a period of six months which time schedule was not adhered to. But such time-schedule is only directory and not mandatory and hence, it is not necessary to further probe into this contention.

(vii) The next contention of the applicant is that he was superceded for the Senior Time scale promotion by his juniors and the promotion to senior-time scale is only on the basis of seniority-cum-suitability as can be seen from Schedule-II(4) attached to Appendix-V of "Cadre Management of the Indian Revenue Service". Hence, the supercession of applicant on the basis of adverse entries in the ACR of 1988-89 is not in order. The rejection of representation in connection with his promotion is also arbitrary. He relies on the reported judgment of Gujarat High Court X 1986(1) SLR 103 - K.L.Gadhvi Vs. Chief Conservator of Forests and others to state that the criterion for promotion ordered on the basis of seniority-cum-merit, the seniority cannot be ignored on vague remarks. The above point was considered by me. However, I feel that it is too pre-mature to comment anything on his supercession to senior time scale. The promotion to senior-time scale is on the basis of ACRs. Those who are found unfit in the case of promotions on the basis of seniority-cum-fitness, the next official is considered and he is promoted if he is found fit. In view of the above, it is not possible to examine this issue of supercession unless the decision is taken by the competent authority in regard to the adverse entries made in the


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ACR of the applicant for the year 1988-89. It may be possible that even if the adverse entries for 1988-89 are expunged the other ACRs may have to be taken into account to consider x his fitness for promotion. In view of the above, without the proper material and without perusing the DPC proceedings nothing can be said in regard to supercession. After the decision of the competent authority in regard to adverse entries in the ACR for the year 1988-89, the question of his promotion can be considered by the competent authority on that basis. In view of this no directions can be given in regard to his promotion at this juncture.

CAT-Madras Bench held in its judgment reported in X 1990(3) SLR 431 - Miss. N.Girja Vs. Director General, CSIR and anor. X that orders passed on the representation for expunging the adverse remarks by the appellate authority if not speaking one, case has to be remitted to the appellate authority to pass a speaking order. I feel that the above principle by Madras Bench will hold good in this case also. Hence, a direction has to be given to R-2 viz. DG, NADT, Nagpur to dispose of the representation of the applicant on the basis of the material available on record and on the basis of fresh points if any to be brought out by the applicant keeping in mind the observations made by me in this judgment. Though R-2 may not have controlled the applicant during 1988-89 I feel there is no other alternate now in view of the position explained in previous paragraph except to entrust the job of reviewing the CR of the applicant for the year 1988-89 to R-2.

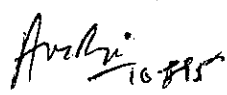
10. In the result, the impugned order dt.11.7.1991 bearing No.A.28018/27/90-DT(Per) rejecting the representation of the applicant against the adverse remarks recorded in the ACR for the year 1988-89 is set aside. The applicant is free to submit a representation, if so advised, on the basis of the material available now to him to R-2 on or before 20.9.1995. R-2 should dispose of that representation within two months from the date of receipt of such representation. If no such representation is received within the stipulated period, R-2 should dispose of earlier representation dt. 22.1.1990 of the applicant before 20.11.1995. R-2 while disposing of the representation will give a speaking order touching the various points made by the applicant in his representation in accordance with rules and regulations and also keeping in mind the observations made in this judgment.

11. The OA is disposed of accordingly. No costs.

  
( R.Rangarajan )  
Member(Admn.)

Dated 11<sup>th</sup> Aug., 1995.

Grh.

  
Deputy Registrar(J)CC

To

1. The Secretary, Ministry of Finance,  
Union of India, Dept.of Revenue,  
Personnel Section, New Delhi.
2. The Director General, National Academy of Direct Taxes,  
Chandwara Road, Nagpur-29.
3. The Deputy Director(Faculty) National Academy of  
Direct Taxes, Chandwara Road, Nagpur-29.
4. The Deputy Director(Admn.)  
National Academy of Direct Taxes, Chandwara Road, Nagpur-29
5. One copy to Mr.G.Mohan Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN)

DATED ---111-8--- 1995.

ORDER/JUDGMENT:

M.A./R.A./C.A.No.

OA.No.

in

660/92

TA.No.

(W.P.

)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

No Spec copy

