

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1478 of 1994

DATE OF ORDER: 12th August, 1996

BETWEEN:

V.A.NAGENDRA KUMAR

.. Applicant

and

1. The Director General,
Council of Scientific & Industrial Research,
Rafi Marg, New Delhi,

2. The Senior Deputy Secretary (Vigilance),
C.S.I.R. Rafi Marg.

3. The Administrative Officer,
Central Fuel Research Institute (CFRI),
Dhanbad, Bihar,

Central Fuel Research Institute,
Dhanbad, Bihar.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI Sd.SHAREEF AHMED

COUNSEL FOR THE RESPONDENTS: SHRI C.B.DESAI, CGSC

CORAM:

JUDGEMENT

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

None for the applicant. Heard Shri C.B.Desai,
learned standing counsel for the respondents.

2. This case was admitted on 8.12.1994. Reply was
filed on 11.8.95. Though a copy was marked for the
applicant's counsel, it appears that he has not taken that

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copy. This case came up for hearing on 7.8.96 when the learned counsel for the applicant was not present. It was posted for orders on 8.8.96. Mr.Moinuddin for Mr.Sd. Shareef Ahmed, learned counsel for the applicant was present. Both the OA and the reply were read in the court on that day ie, on 8.8.96. Hence it can be presumed that the applicant is in know of the reply. The learned proxy counsel for the applicant submitted that he will produce some more material over and above what is available on record and that his senior will argue on Monday i.e, ~~today~~ ~~Even though it is posted for dismissal today and a~~ pass over was given as requested by one of the learned Advocates present in the court, the learned counsel for the applicant did not make his appearance in the Forenoon. In view of the above, the OA is disposed of on the basis of the material available on record after hearing Shri C.B.Desai, learned standing counsel for the respondents.

3. The applicant while working as a Section Officer under R-4 was informed by the letter No.3/65/1/91-O&M dated 31.7.91 . (Annexure A-4) in regard to certain shortcomings as entered in the Confidential Report for the period ending 28.2.91. As can be seen from this Memo dated 31.7.91, the applicant had failed to coordinate for payment of salary to the outstation staff. It is further for desk work and performing routine duties only. It is also informed ~~to xx him xx that xx he xx has xx no xx in xx his xx work xx~~

to him that he has no initiative to work. Against this Memo, he filed a representation dated 22.8.91 (Annexure A-5). In that representaiton, he claimed that his Confidential Report was written without obtaining self appraisal report~~s~~ from him and hence the remarks entered in the CR for the period ending 28.2.91 is not factual on the basis of the work turned out by him. That representation was disposed of by the Memo No.3/65/1/91-O&M dated 18.9.91 (Annexure A-6) rejecting his representation. It is stated in that memo dated 18.9.91 that the self appraisal report was given by him in his own hand writing before writing the CR and on that basis only,
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 given by the applicant is enclosed at Annexure A-7. He was further informed by the letter dated 18.9.91 that if he wishes to make a further representation against the adverse remarks the same may be made to the Director General, SIR, CSIR within 15 days of the receipt of the memo dated 18.9.91. In pursuance of the above memo, he filed a representation to the Director General, CSIR by his representation dated 4.10.91 (Annexure A-8). In the above representation, he has denied all the allegations made against him and requested for expunging the adverse entries in the CR for the period ending 28.2.91. The representation dated 4.10.91 was disposed of by the memo No.3/65/1/91-O&M dated 30.8.93 (Annexure A-2) rejecting his representation. He made another representation by name to Dr.S.K.Joshi, Director General, CSIR, New Delhi by

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was also disposed of by the impugned memo No.3/65/1/93-O&M dated 5.11.93 (Annexure A-1) wherein it has been stated that the competent authority has reconsidered the material carefully and came to the conclusion that the adverse remarks appearing in the said CR cannot be expunged. It is also stated in the impugned Memo that no speaking order is necessary in view of the reported judgement of the Supreme court in 1991(2) SCR 675 (Union of India v. EG Namboodri).

4. Aggrieved by the above, he has filed this OA for setting aside the proceedings No.3/65/1/93-O&M dated 5.11.93 issued by R-2 and for consequential direction to the respondents to expunge the adverse entries in the CR for the period ending 28.2.91.

5. A reply has been filed in this OA. The main contention of the applicant for expunging the adverse remarks are as follows:-

(i) that the self appraisal report was not obtained from him before initiating the CR and hence the CR is not borne on the facts.

(ii) He has discharged his duties properly. He was not the official to make disbursement of salaries and allowances to staff. The salaries and allowances are to be paid by the Cashier incharge and he is only responsible for ensuring that the salary bills are prepared in time.

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Hence he is not responsible for disbursement of salaries and allowances to the staff as per the schedule.

(iii) He had discharged his duties to the satisfaction of his superiors and hence the remarks and entries in the CR have no basis and are liable to be expunged.

6. The first contention of the applicant is that the CR was initiated by the reporting officer without obtaining from him the self appraisal report for the period in question. But in the Annexure A-7 which is enclosed to the Memo No.3/65/1/91-O&M dated 18.9.91 (Annexure A-6) a copy of the self appraisal report as obtained from the applicant is enclosed. This has not been disputed by the applicant in this OA. Even in the reply it has been mentioned that his draw backs have been pointed out to him on the basis of the material obtained from him. This statement is also not controverted by filing a rejoinder. Hence it has to be held that the applicant did give a self appraisal report for the period ending 28.2.91 for initiating the CR and on that basis the this contention has no basis.

7. The next contention is that he is not responsible for disbursing the salaries and allowances to the staff of

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Coal Survey Laboratory (CSL for short) staff and he had prepared the bills in time and hence he cannot be responsible for the lapses mentioned in CR.

7. In Para 10 of the reply, it has been stated that "the salary drafts of outstation staff (CSLs) were required to be despatched by 20th of every month. This needed coordination between DDO/FAO/Cash Section and Section Officer E-III. But the primary responsibility lies with the Section Officer E-III to make timely coordination so as to make salary drafts reach in time. This has been rightly pointed out by the then Administrative Officer in his comments against the representation dated 4.10.1991 of the applicant (Annexure A-8)". From the above it is clear that the applicant has ~~not made necessary coordination~~ incharge for the specified work with various agencies of the Department to ensure despatch of salary drafts in time. If salary drafts are not received in time, there is bound to be commotion. The applicant as an incharge for the despatch of salary drafts in time, though not an officer for actual disbursement of salaries and allowances, is fully responsible to ensure that salary drafts are despatched in time, received by the disbursing officials in time so that there is no delay in payment of salaries and allowances to the industrial staff. This failure on the part of the applicant appears to be held that the applicant has nothing to say on

this averment reproduced as above.

8. I have also seen a memo bearing No.AO/CSL/90 dated 21.5.90 (Annexure A-10) issued to the applicant wherein it has been brought to his notice in regard to the deficiency in his work. The allegations made in this letter are in regard to non disposal of the cases pending on his table including urgent files, improper accountability of PF advance granted to one Shri S.S.Temburne, CSI, Nagpur and also non issual of the notices to the retiring employees during the periods 1990 and 1991. The applicant had filed a reply addressed to one Shri G.S. Mitra, Administrative Officer of the organisation. In this reply he himself had accepted in regard to improper account of GPF Advance to Shri S.S.Tamburne as a mistake on his part, committed by him inadvertently. Though he sustained his case by saying that each and every such a case cannot be looked into by the Section Officer, the explanation in this connection does not appear to be very satisfactory as a Section Officer is bound to check cases put up to him for signature. The Section Officer cannot leave it to the lower clerical staff for correctness of the statement as he is the first Supervisor incharge of the statements etc. If he is going to make only superficial or random check even at his level, it will be difficult for any organisation to run.

No satisfactory reply has been given in regard to non issual of notices to the retiring employees in his

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representation.

9. Thus from the above instances it ^{may} be seen that the lack of initiative and lack of motivation on the part of the applicant has been brought to his notice even earlier to the initiation of CR for period ending 28.2.91 by the letters quoted above. In view of the material available that the applicant was guided to discharge his duties properly even before initiation of CR, it cannot be stated that the CRs were initiated without giving any opportunity to the applicant to correct his lapses. The applicant has the same during the course of the year for which the CR was initiated. It is seen from the impugned memo that this point has been brought to the notice of the applicant also. In view of the foregoing, it cannot be said that the applicant was given adverse confidential remarks without alerting him earlier and hence the CR has been written without any fault. The applicant was given opportunity to correct himself and as the reporting official felt that he has not taken the opportunity as given to him to rectify his mistake, the having been alerted earlier in regard to the deficiency in his work, cannot now submit that the CR has been written prejudicially without giving opportunity to him to correct his working behaviour. The contention also has no merit.

10. The third contention needs no scrutiny as it follows from the above that the applicant has not discharged his duties to the satisfaction of his superiors and hence he was given adverse confidential remarks for the period ending February 1991.

11. I find from the OA that no malafides have been attributed to any of the officials who were responsible for initiating, reviewing and accepting the entries in the CR.

12. In view of the above, I find that there is no merit in this OA and this OA is liable to be dismissed.

13. In the result, the OA is dismissed as having no merit. No costs.

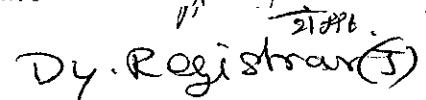


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: - 12th August, - 1996

dictation.

vsn


Dy. Registrar (S)

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O.A.NO.1478/94

Copy to:

1. The Director General,
Council of Scientific & Industrial Research,
Rafi Marg, New Delhi.
2. The Senior Deputy Secretary (Vigilance),
C.S.I.R., Rafi Marg, New Delhi.
3. The Administrative Officer,
Central Fuel Research Institute (CFRI),
Dhanbad, Bihar.
4. The Director,
Central Fuel Research Institute,
Dhanbad, Bihar.
5. One copy to Mr.Sd.Shareef Ahmed, Advocate,
CAT, Hyderabad.
6. One copy to Mr.C.B.Desai, CGSC,
CAT, Hyderabad.
7. One copy to Library,CAT, Hyderabad.

One duplicate copy.

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN: M(A)

DATED - 12/8/84

ORDER/JUDGEMENT
C.A. NO./R.A./C.P. No.

in

O.A. NO. 1478/84

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