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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. NO. 641/93

Date of decision: 15.11.93

LAXMI NARAIN

: Applicant.

VERSUS

UNION OF INDIA & ORS.

: Respondents.

Applicant present in person.

CORAM(S.B.)

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

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

Time has changed; requirements have been made and  
is necessary  
change in approach to see that the administration does not  
suffer on account of inefficiency, technicalities and undue  
interference of the court. At the same time, it is the pious  
duty of the court to see that good officers do not suffer on  
account of the bias of their immediate officers and their  
service records are not spoiled. It is expected from the  
courts to exercise the checks and balances between the two  
while considering the cases of ACRs.

2. A.C.R. is not a condition of service but it is an  
evaluation and assessment of the quality and the work of the  
officer concerned. Wherever there is an infringement of the  
condition of service, it may lead to illegality. Whenever  
an ACR is written it is an evaluation and assessment of the  
quality of the officer. Rajasthan High Court in the case of  
Dr. Dinesh Mathur Vs. U.C. Gupta held that ACR is not a  
condition of service but it is an evaluation and assessment  
of the work of the officer. The same matter was referred to  
the larger Bench in the case of Tayyab Ali which was presided  
over by the then Chief Justice, Hon'ble J.S. Verma (now the  
Judge of the Hon'ble Supreme Court) and the same view was  
accepted and it was held that it is not a condition of service.

3. Mr. Laxmi Narian, appearing in person, submitted that  
there is a circular or guidelines issued vide Annexure A-8,  
dated 19.2.1962 and advice has been given to the officers to  
take a broad view of the overall performance of the officer

during the entire year and the officer should take into consideration the performance and adverse remarks should be recorded only on the basis of specific and substantial failings, after the officer concerned has been warned and given adequate time to improve himself. He has also referred Annexure A-9, dated 22.5.64 wherein it has been mentioned that penalties imposed may be recorded in the annual confidential report of the officer concerned. He has also invited my attention to Annexure A-10 dated 3.3.71 and submitted that the strict compliance is necessary.

4. There is a hierarchy of officers. His immediate officer is the reporting officer, then there is a reviewing officer and head of the department. Apart from that, the representations are made to the higher authority, sometimes even against the entries made by the reporting officer and approved by the reviewing officer. One has to understand that if the technicalities of laws are applied by the courts, then courts will be blamed by the citizens that courts are impediments in the improvement of the administration, and, at the same time, if courts do not interfere in such matters when there is a question of bias or gross irregularities or gross negligence, then also the freedom of the officers and their honesty and integrity will be shaken as they will have no protection from the courts. Courts will have to give protection to the good officers; courts cannot substitute their opinions ordinarily with the opinion of the officer who is looking after the work of the officer daily and throughout the year. He can better evaluate; he can better assess the work of the officer and the court has no business to interfere with his assessment unless it is shown it is on account of bias or extraneous circumstances. All the guidelines issued are directive in nature and it should be followed as far as practicable and there should not be any violation.

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5. As far as the applicant is concerned, he has been given remarks by the reporting authority - (A) Nature and Quality of work: "There was no specific contribution from his side to improve the out-turn further." This remark is a remark which can be disapproved by the facts that what was the out-turn earlier and what was the out-turn in the current year during which the remarks have been given. What was the staff available in the current year and what was the staff available prior to that. There is nothing on record to show the comparative figure to disapprove this remark, showing that the out-turn has increased or decreased. The applicant has submitted that in the representation he has submitted to the General Manager that he has mentioned that there was no short-fall. There is a difference between short-fall and improvement in the out-turn and that too, one has to assess the comparative and relative <sup>modern sophisticated instruments are provided</sup> way. If the staff is increased, there may be an increase in the out-put but it cannot be said to be an increase as the consideration will be the increase in the number of staff. The reverse will also be true; if the staff is decreased and there may be short-fall on account of non-availability of the staff which is required, for one reason or the other. There is no specific material available on the record to show that the comment given by the officer concerned is against the record. As far as the second adverse remark relating to the attitude towards work is concerned, the officer has mentioned that "he is not very dedicated and finds difficult to motivate his juniors. Sense of responsibility is not very good." It is a day to day assessment about the dedication and how the officer motivates his juniors to perform. This is an administrative matter purely and there is no bias against the applicant and I will not like to interfere in this matter also. The third remark about his inter-personal relations and team-work has been stated that "he did not have good relations with some of his colleagues and subordinates. He found it difficult

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to work as a team". This is also an evaluation and assessment which is broadly taken into consideration after seeing the day to day working. It has also come on record that he has been advised by his officer to improve the output verbally. I have gone through Annexure A-2 and I do not find it that it is against the facts.

6. The next limb of the argument is that the C.M.E. is not the reporting officer but the Deputy C.M.E. is the reporting officer and the CME is the Head of the department and he is the reviewing authority. As far as Annexure A-2 is concerned, it is a letter by which the remarks have been communicated to the applicant. Here this fact is not mentioned who is the reporting officer and who is the reviewing officer. The C.R. becomes final after the signature of the reviewing officer and the reviewing authority has a right to modify, change or rescind any adverse entry given against any officer. Thus, the final authority lies in the CME who is the Head of the department, according to the applicant and after the signature of the CME, the C.R. becomes final. So the part of the reporting officer is not to be communicated but final approval by the Head of the department is to be communicated and the applicant has rightly been communicated by the reviewing authority, i.e. CME about the adverse remarks given against him.

7. Thus, I do not find any force in the application and the same is rejected, with no order as to costs.

  
(D.E. MEHTA )  
Vice-Chairman