

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.115/1997. Date of order: 24/7/2001.

Dr.R.N.Rawat, S/o Sh.Vijai Narain Rawat, R/o 60/192,
Hira Path, Mansarovar, Jaipur, posted as Medical
Supdt, Rly.Hospital, Jaipur.

...Applicant.

Vs.

1. Union of India, through Chairman, Railway Recruitment Board, Rail Bhawan, New Delhi.
2. General Manager, Western Rly, Churchgate, Mumbai.
3. Chief Medical Director, W.Rly, Churchgate, Mumbai
4. Sh.Ashok Kumar Chopra, CPO, W.Rly, Churchgate, Mumbai.

...Respondents.

Mr.P.P.Mathur Proxy of Mr.R.N.Mathur - for applicant

Mr.U.D. Sharma : for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

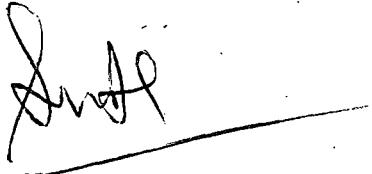
PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer:

- i) to expunge the adverse remark entered in the APAR of the applicant for the year 1994-95;
- ii) to quash and set aside the orders at Annxs.A1 & A2;
- iii) to grant consequential benefits such as promotion, etc.

2. In brief the case of the applicant as stated by him is that while working on the post of DMO, the following adverse remarks were entered in the APAR of the applicant for the year 1994-95:

- (1) In para 4 in the column of general assessment of the



officer, the applicant was described by the Reporting Officer "He is a weak administrator"

(2) In para 5, the Reviewing Officer remarked:

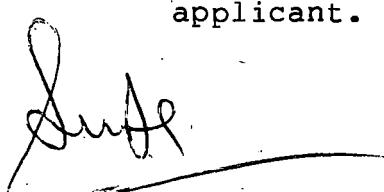
(i) Sanitation - As incharge of health and sanitation his contribution has been very little.

(ii) Capacity to get work from subordinate - The applicant has not been able to extract work from his staff.

(iii) With regard to DAR cases - Out of 29 cases, warning has been given only in 24 cases.

(iv) With regard to reputation - Many patient would not like to consult him.

It is stated that these remarks were entered malafidely without any basis and with a view to deny him promotion on the higher post. It is also stated that while entering adverse remark in the APAR of the applicant, the Reporting Officer and Reviewing Officer did not follow the instructions issued by the Govt of India for this purpose. It is stated that performance of sanitation etc, has been very good in the hospital and a cash award of Rs.5000/- was given to the Hospital for good sanitation. Therefore, the reviewing authority has committed a serious error in not appreciating the work/performance of the applicant. It is stated that the applicant was not given any warning before entering the adverse remarks in the APAR. It is also stated that on account of undue influence of respondent No.4 the reporting officer gave adverse remark in the APAR and the reviewing authority did not considered objectively while writing the above adverse remarks in the APAR of the applicant. It is stated that the applicant filed

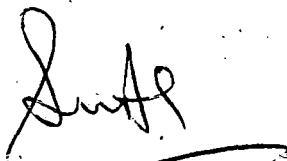


representation but the same was wrongly rejected by a nonspeaking order, therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. In the reply it is stated that adverse remarks were rightly given by the reporting/reviewing officer and the same has been communicated to the applicant in time. It is also stated that representation filed by the applicant against the adverse remarks was objectively/properly considered by the competent authority, therefore, the applicant should not have any grievance in the matter. It is stated that on perusal of letters Annx.R1 to Annx.R4, it becomes abundantly clear that the applicant was informed for his short-comings from time to time, therefore, it is wrong to say that no opportunity/warning was given to the applicant before entering the adverse remark in the APAR of the applicant. It is stated that while writing the adverse remarks in the APAR of the applicant, the reporting/reviewing authority has followed the instructions issued by Govt of India from time to time and it is denied that these remarks are without any basis and written malafidely with a view to deny the applicant from promotion on the higher post. Therefore, in view of the reply filed by the respondents, it is stated that the applicant has no case and this O.A devoid of any merit is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. Normally Court/Tribunal should not interfere in the matters concerning the expunging of adverse remarks but when the order passed is arbitrary and with a bias mind without



any material or justification, it will be the duty of the Court/Tribunal to save the aggrieved person from the rigmar of such illegal orders.

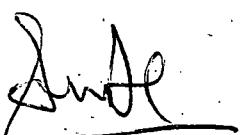
6. The objective of writing of APAR is to enable the employee to improve his performance in the public service so that the reported officer gets an opportunity either to improve himself or to explain his conduct. On the other hand it serves the purpose to improve the quality of excellence and efficiency of public service therefore, it is the primary responsibility of the reporting and reviewing officer to write down the APAR objectively by following the guidelines.

7. In State Bank of India & Ors Vs. Kashinath Kher & Ors. (1996) 8 SCC 762, Hon'ble Supreme Court pointed out that the object of writing the CR is two fold i.e. to give an opportunity to the officer to remove deficiencies and to inculcate discipline. Secondly it seeks to serve improvement of quality and excellence and efficiency of public service.

8. In Sukhdeo Vs. Commissioner, Amravati Division, (1996) 5 SCC 103, it is also laid down that attribution of malice and arbitrariness to reporting and reviewing officers who are not impleaded as respondents and who have no opportunity to explain their conduct, could not be accepted.

9. In State of U.P Vs. Y.S.Misra, 1997 4 SCC 7, it is laid down by the Apex Court that a confidential report is written to enable an employee to improve the performance in public service.

10. In Baidyanath Mahapatra Vs. State of Orissa & Anr., the Apex Court held that the purpose of communicating adverse entries to the govt servant is to inform him



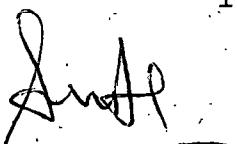
regarding his deficiency in work and conduct and to afford him an opportunity to make, amend and improvement in his work and further if the entires are not justified the communication affords him an opportunity to improve his work and conduct and also to make representation in the event of the entry being unjustified.

11. In the instant case it becomes abundantly clear that the applicant was communicated about his shortcomings from time to time vide Annxs.R1 to R4 and thereafter only the reporting officer and reviewing officer has recorded the adverse remark in the APAR of the applicant and the applicant ^{also} filed representation to controvert the fact therefore, it is wrong to say that these adverse remarks were written without bringing the shortcomings to the notice of the applicant.

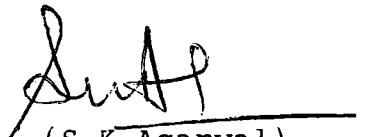
11. The applicant also failed to establish the fact that there was any malafide on the part of respondent No.4 to initiate the reporting officer/reviewing officer to write down the adverse remarks in the APAR of the applicant with a view to deny him promotion. The applicant also failed to establish the fact that there was no basis of the aforesaid adverse entries and these adverse entries were merely recorded to deny the applicant the benefit of promotion, etc.

12. In view of above, I do not find any ground to expunge the adverse entries made by the reporting officer and reviewing officer in the APAR of the applicant for the year 1994-95 and in this way the O.A devoid of any merit is liable to be dismissed.

13. I, therefore, dismiss the O.A having no merit with



no order as to costs.



(S.K. Agarwal)

Member (J).