

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00384/2015

ORDER RESERVED ON 19.07.2016

DATE OF ORDER: 22.07.2016

CORAM

**HON'BLE MRS. JASMINE AHMED, JUDICIAL MEMBER
HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER**

S.D. Pandey S/o Shri Harihar Prasad a/a 56 years, R/o C/3/226, Chitrakoot Scheme, Jaipur, presently posted as Dy. Chief Engineer/Works/NWR/Jaipur.

....Applicant

Mr. S. Shrivastava, counsel for applicant.

VERSUS

1. Union of India through Secretary, Railway Board, Rail Bhawan, Raisina Road, New Delhi.
2. General Manager, N.W.R., H.Q. Office, Jawahar Circle, Jagatpura, Jaipur.
3. C.P.D.E., North Western Railway, H.Q. Office, Jawahar Circle, Jagatpura, Jaipur.
4. Principal Chief Engineer, North Western Railway, H.Q. Office, Jagatpura, Jaipur.

....Respondents

Mr. Anupam Agarwal, counsel for respondents.

ORDER

(Per MRS. JASMINE AHMED, JUDICIAL MEMBER)

By way of filing of this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant herein is seeking the following reliefs:

"(A). That this Hon'ble Tribunal may graciously be pleased to quash and set aside the impugned order dated 31.10.14 (A/1) by which representation of the petitioner was rejected on the ground of delay in filing representation.

(B) That the respondents may further be directed to decide an appeal / representation dated 13.10.14 on merit by

Jasmine Ahmed

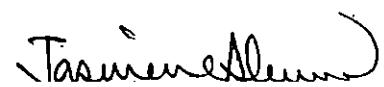
ignoring the impugned orders in question passed by the respondents in this regard.

(C) Any other order which this Hon'ble Tribunal may deem fit and proper may also be passed in favour of the petitioner."

2. The issue involved in this matter is that the applicant preferred a representation dated 13.10.2014 for up-gradation of his APAR for the year 2010-11 from Very Good to Outstanding after getting Very Good grading in his APAR. It is the contention of the learned counsel for the applicant that the applicant was expecting an Outstanding grading as he has been given various appreciation from the department for his service rendered with the respondents. He contends that the Reporting Officer graded him Very Good, which was confirmed subsequently by the Reviewing Authority and also by the Accepting Authority. The applicant's contention is that by dint of his hard work, he was in expectation that he would be graded as Outstanding in his APAR. The applicant after coming to know that he has been graded Very Good for the period 2010-11; he preferred a representation dated 13.10.2014, which is after a period of three years for review of his gradation in the APAR for the period of 2010-11. The respondents by letter dated 31st October 2014 (Annexure A/1) have rejected his representation on the issue of time barred. In the rejection / impugned letter dated 31st October, 2014, it has been stated as under: -

"As per instructions contained in Para (IV) of 'DOP&T's letter dated 14.05.09 circulated by Railway Board's vide their letter no. 2009/SCC/3/6 dated 18.08.2009.

"(IV) The concerned officer shall be given the opportunity to make any representation against the entries and the final grading given in the report within a period of fifteen days from the date of receipt of the entries in the APAR. The representation shall be restricted to the specific factual observations contained in the report leading to assessment of the officer in terms of



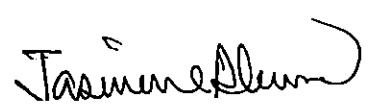
attributes, work output etc. While communicating the entries, it shall be made clear that in case no representation is received within the fifteen days, it shall be deemed that he has no representation to make. If the concerned APAR Section does not receive any information from the concerned officer on or before fifteen days from the date of disclosure the APAR will be treated as final."

3. Learned counsel for the applicant states that his case should have been decided on merit but not on limitation i.e. time barred.

4. Per contra, learned counsel for the respondents vehemently opposes the contentions of the learned counsel for the applicant and states that the case of the applicant is time barred and as per the instructions contained in Para (IV) of 'DOP&T's letter dated 14.05.09 circulated by Railway Board's vide their letter dated 18.08.2009 (supra), he was supposed to prefer a representation against the entries and the final grading given in the report within a period of fifteen days from the date of receipt of the entries in the APAR but here in this case, the applicant has preferred representation after a period of three years, hence as per above said instructions, his representation cannot be considered, being time barred.

5. Heard the rival contentions of the learned counsels for the parties and perused the pleadings and documents available on record.

6. It is surprising that the applicant, who is before this Tribunal with a prayer that his representation shall be considered on merit ignoring the issue of time barred / limitation, has given very vague justification for preferring delayed representation against the entries and final grading given to him in the APAR.

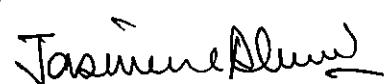


The applicant has taken pleas of illness of his octogenarian mother and also preparation of marriage of his youngest son, which was scheduled to be held on 21st November, 2011 and he has also taken a plea in his OA that in an apprehension that if he represents his matter against the grading for the year 2010-11 for upgradation from Very Good to Outstanding, the applicant could / might invite annoyance of the respondents concerned and the same could destroy his future grading in APARs. Firstly it cannot be claimed by any employee that his APAR has to be graded Outstanding as he has done good job in the department. It cannot be claimed as a matter of right and also his justification of annoyance of the concerned authority of destroying his future APARs is nothing but in other way biased allegation against his senior officers, which is not appreciable. Even the applicant has not claimed any mala fide has taken place in his grading. It is a settled law that the Court / Tribunal is not to interfere in the matter of grading of APARs as it is the domain of the officers who have seen the applicant's working.

7. Taking into consideration of the above facts and circumstances of the case and justification given by the applicant, we do not feel that there is any need of interference in the impugned letter dated 31st October, 2014 (Annexure A/1). Accordingly, the Original Application is dismissed. No order as to costs.



(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER



(MRS. JASMINE AHMED)
JUDICIAL MEMBER