

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 213 of 1997

16.11.1999  
DATE OF DECISION.....

Shri Harendra Narayan Singha

(PETITIONER(S))

Mr B.K. Sharma, Mr M. K. Choudhury and  
Mr S. Sarma

ADVOCATE FOR THE  
PETITIONER(S)

-VERSUS-

The Union of India and others

RESPONDENT(S)

Mr B.S. Basumatary, Addl. C.G.S.C.

ADVOCATE FOR THE  
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.213 of 1997

Date of decision: This the 16th day of November 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Harendra Narayan Singha,  
Area Organiser (Staff),  
S.S.B., Kohima, Nagaland. ....Applicant  
By Advocates Mr B.K. Sharma,  
Mr M. K. Choudhury and Mr S. Sarma.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Cabinet Affairs, New Delhi.
2. The Director General of Security, New Delhi.
3. The Principal Director, S.S.B., New Delhi.
4. The Director, S.S.B., New Delhi.
5. Shri S.K. Sharma, Retired Divisional Organiser, S.S.B., C/o Director, S.S.B., New Delhi. ....Respondents

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

.....  
O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged the Annexure 2 Memorandum dated 27.6.1994 communicating the adverse remarks to the applicant and also seeks direction to the respondents to consider his case for promotion to the next higher grade of DIG within a time frame and also other consequential benefits.

*BB*

2. Facts of the case are:

The applicant joined service as Circle Organiser in the year 1967. Thereafter he was promoted to the rank of Sub Area Organiser in 1975. In 1984 he was further promoted to the post of Area Organiser. In 1992 his next promotion to the rank of DIG/Deputy Director became due on completion of 'eight' years of service as Area Organiser. According to the applicant he is the seniormost Area Organiser. During his tenure he performed his duties diligently and earned reputation as a meritorious officer. According to him in addition to his normal duties, he achieved double the annual target in respect of National Integration Camp. All these have been reflected in his ACR for the period 1993-94.

3. On 27.6.1994 the applicant received a communication about the adverse remarks as mentioned in the Annexure 2 Memorandum. Because of the adverse remarks the applicant, though he was the seniormost and had otherwise a good reputation, was not promoted. According to the applicant the adverse remarks made by the Reviewing Authority was without any basis. There is nothing in the record to show that he deserved such adverse remarks. Being aggrieved, the applicant submitted Annexure 3 representation dated 12.8.1994. But the said representation was not disposed of within the period of six months. Situated thus, the applicant filed the present application on or about 29.7.1997. The application was admitted and notice was issued.

4. In due course the respondents have entered appearance and filed written statement.



5. During the pendency of the application the 4th respondent disposed of the representation rejecting the claim of the applicant and it was communicated to the applicant by Annexure 8 order dated 17.3.1998 issued by the Deputy Inspector General, A.P. Division, SSB, Itanagar.

6. The subject matter of this application is mainly for expunction of the adverse remarks against which the representation was filed, but not disposed of and also for subsequent promotion. We do not understand how the 4th respondent could dispose of the representation pending disposal of this application in view of the provisions contained in Section 19 (4) of the Administrative Tribunals Act, 1985.

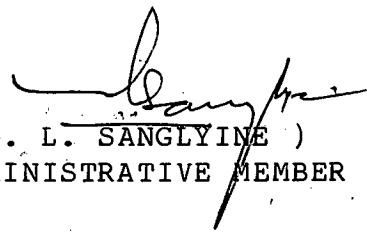
7. We have heard both sides. Mr S. Sarma, learned counsel for the applicant submits that there was no meaning in disposing of the representation in view of the fact that as per provision of Section 19 (4) of the Administrative Tribunals Act, 1985, after admission of the application, every proceeding under the relevant service rules as to redressel of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate. Mr Sarma further states that the adverse remarks were entered into the ACR without any reason and not supported by records. Mr B.S. Basumatary, learned Addl. C.G.S.C. very fairly submits that there is no record available to come to that conclusion. If according to the Reviewing Officer the applicant deserved such adverse remarks, at least, there should be some explanation for that.



8. We have perused the contents of the ACR and the adverse remarks. The ACR shows the summary of the courses attended by the applicant and the grading obtained by him is 'very good'. Besides, the ACR also shows that the applicant can read, write and speak a number of languages including Bodo language. In the general remarks section it is shown that the applicant is a fit person to get promotion in turn. The Reporting Officer also found him an experienced officer with average quality. Besides the applicant belongs to the Other Backward Community. The Reviewing Officer has opined that the applicant's performance has been made very objectively by the Reporting Officer. However, the Reviewing Officer summed up his remark as "A experienced officer, but his performance has not been upto expectation". On what basis the Reviewing Officer came to this conclusion is not known. The Annexure 8 order dated 17.3.1998 disposing of the representation of the applicant is also not a speaking order and it does not indicate anything.

9. In view of the above we find it difficult to accept the adverse remarks made by the Reviewing Officer. Accordingly we set aside the Annexure 8 order dated 17.3.1998 and direct the respondents to dispose of the representation of the applicant by a reasoned order as to how the adverse remarks could be made. This must be done as early as possible at any rate within a period of one month from the date of receipt of this order.

10. The application is accordingly disposed of. No order as to costs.

  
(G. L. SANGLYINE)  
ADMINISTRATIVE MEMBER

  
( D. N. BARUAH )  
VICE-CHAIRMAN