

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

CIRCUIT SITTING AT BILASPUR

OA No.136/03

Bilaspur, this the 18<sup>th</sup> day of March, 2005

CORAM

Hon'ble Mr.M.P.Singh, Vice Chairman  
Hon'ble Mr.Madan Mohan, Judicial Member

R.M.Mishra  
S/o Sri S.D.Mishra  
Supdt., Central Excise  
Range III, Near Raipur Naka  
Bhilai Division No.1  
Distt. Durg.

Applicant

(By advocate Shri S.K.Nagpal)

Versus

1. Union of India through  
The Secretary  
Govt. of India,  
Ministry of Finance  
New Delhi.
2. Commissioner  
Central Excise, Civil Lines  
Raipur.
3. Assistant Commissioner  
Central Excise, Bilaspur.

Respondents.

(By advocate Shri S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) To quash the impugned order dated 15.3.02 (Annexure A1) direct to
- (ii) To expunge the adverse remarks in the ACR of the applicant for the period from 1.4.2000 to 31.3.01.


2. The brief facts of the case are that the applicant was appointed as an Inspector in the Central Excise Department w.e.f. 29.4.82 and was promoted as Superintendent, Central Excise w.e.f. 25.1.99. The applicant has unblemished record of service. He has always earned very good ACRs and as a result,



he was promoted as Supdt (Group 'B' post) w.e.f. 25.1.99. Shri Pankaj Kumar Singh, Asstt. Commissioner of Central Excise, Bilaspur, was the immediate superior officer/controlling officer of the applicant. For reasons best known to him, he became prejudiced against the applicant and spoiled his ACR for 2000-2001. Immediately on receipt of the above communication, the applicant by his letter dated 20.8.01 (Annexure A3) requested the Dy.Commissioner P&V Central Excise, Raipur for copy of entire report, ground and facts, if any, for the adverse remarks so that he could give proper representation against the adverse remarks. But it was replied that no grounds or facts are available with his office except the adverse remarks mentioned in the ACR. The applicant submitted a detailed representation dated 2.11.2001 (Annexure A5) to the Commissioner of Central Excise but the representation was rejected vide order dated 15.3.02 (Annexure A1). Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant has unblemished record of service. He has always earned very good ACRs and was given a reward of Rs.17,000 for seizing silver in the year 1994. As a result he was promoted as Supdt. w.e.f. 25.1.99. The respondents did not inform him of his shortcomings so that he could improve himself, which is mandatory according to the ruling 1997 (4) SCC 7 State of U.P. Vs. Yamuna Shankar Mishra, decided on 21.2.97. Hence the OA deserves to be allowed.

4. In reply, the learned counsel for the respondents argued that the adverse remarks have been recorded on the basis of the performance of the applicant during the period in question and in accordance with the rules and the same have been communicated to him. The representation of the applicant has



also been considered by the Commissioner and it was rejected vide order dated 15.3.2002. There was no reason for Pankaj Kumar Singh, Assistant Commissioner, Central Excise, Bilaspur, the immediate controlling officer of the applicant to be prejudiced against the applicant. Several reminders have been issued to the applicant for early submission of his reply in case of Statement of Facts. He was supplied with the copy of standing order dated 17.5.2001. Our attention is drawn towards Annexure R1 and the applicant was well aware about his shortcomings as he was present in the meeting. The action of respondents is perfectly legal and justified.

5. After hearing the learned counsel for both the parties and on careful perusal of the records and pleadings we find that the respondents have annexed alongwith the reply the details of the memos and reminders issued to the applicant from time to time by the division officer and the headquarter office. Hence, the adverse remarks communicated to the applicant by the respondents vide Annexure A-2 dated 10.8.2001 is fully justified. The applicant also could not show us any reason for Shri Pankaj Kumar Singh, Assistant Commissioner, Central Excise, Bilaspur, the immediate Controlling Officer of the applicant to be prejudiced against him. The adverse remarks in the ACR for 2000-2001 awarded to the applicant have been recorded on the basis of the performance of the applicant and also based on the facts and objective analysis, without any bias. The adverse comments in the ACR of the applicant for the period 200-2001 was awarded by the reporting officer on 11.7.2001 which was confirmed by the reviewing officer on 30.7.2001. Thereafter, within a period of one month of its recording the remarks were communicated to the applicant on 10.8.2001. We also find

considered and decided by the Commissioner, Raipur on the basis of the facts available on record as well as the facts supplied by the applicant with his representation. Thus, there is no violation of the principles of natural justice.

6. Considering all the facts and circumstances of the case, we are of the considered view that the applicant has failed to prove her case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

प्रमाणिक सं ओ/न्या.....जबलपुर, दि.....  
पतिलिपि अचो दित:-  
"SA"/aa. (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर  
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल S.K. Singh  
(3) प्रत्यक्ष श्री/श्रीमती/कु.....के काउंसल S.A. Chandra  
(4) ग्रामपाल, के.प्र.अ., जबलपुर न्यायपीठ  
सदना एवं आवश्यक कार्यवाही हेतु  
जु. न्यायालय

Issued  
On 22.3.05  
BS