

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

Circuit Sitting at BIJASPUR

Original Application No. 173/2002

Bilaspur, this the 8th day of December, 2003

Hon'ble Shri M. P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Virendra Kumar Sharma
Income Tax Inspector
265, Sunder Nagar
Mahadeo Ghat Road
Raipur (Chhattisgarh). ... Applicant

(By Advocate: Sh. M.N. Banerjee)

Versus

1. Union of India through
its Secretary
Ministry of Finance
North Block
New Delhi.
2. Chief Commissioner of Tax, Central
Revenue Building
Raipur
Civil Lines (Chhattisgarh).
3. Commissioner of Income Tax
Central Revenue Building
Civil Lines, Raipur
(Chhattisgarh).
4. Tax Recovery Officer (Income Tax)
Raipur (Chhattisgarh). ... Respondents

(By Advocate: None)

ORDER (Oral)

By M. P. Singh, Vice Chairman -

None is present for the respondents nor reply has been filed on their behalf inspite of the direction of the Tribunal dated 22.9.2003. Accordingly, we are disposing this case by invoking the provision of Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicant has filed this Original Application claiming relief by seeking direction to quash/expunge the adverse remarks in his ACR for the year 1998-99.
3. The applicant is working as Income Tax Inspector at Raipur. The following remarks were recorded in his ACR:

PART - III

Col. 17 :

Relationship with (i) Superiors -

“अपवाचत”

PART-IV

Col. 22:

Does the Reviewing Officer agree with the remarks of the Reporting Officer? If not, the reasons for disagreeing and extent of disagreeing and extent of disagreement may be mentioned in brief:

Col.23:

General Assessment:- " ਅਨੇਕ ਸਿਰਫ਼ਿਲਾਂ ਦੀ ਸਾਰੀ ਅਤੇ ਉਮੀਦ ਤਾਫ਼ਰੇਖ
ਵੇਂ ਕਾਰ੍ਹੀ ਦੇ ਅਨੇਕ ਅਗੁਆਲੇਵਾਂ ਵਿੱਚ ਇਸਲਾਂ ਵਿੱਚ ਵੱਡੇ ਵੱਡੇ ਹੋ ਜਾਂਦੇ
ਹਨ ਅਤੇ ਅਨੇਕ ਦਰ ਆਖਰੀ ਅਗੁਆਲਾਵਾਂ ਵਿੱਚ ਜ਼ਿੰਦਗੀ
ਕਾਰਨ ਰਹ੍ਯੇ ਹਨ, ਸਿਰਫ਼ਿਲਾਂ ਵੇਂ ਜ਼ਿੰਦਗੀ ਅਤੇ ਜ਼ਿੰਦਗੀ ਵਿੱਚ ਵੱਡੇ
ਮਾਤਾ ਅਤੇ ਅਨੇਕ ਲੋਕਾਂ ਦੀ ਸ਼ੁਦਾਰ ਲਾਗ ਹੈ ਅਤੇ ਵੱਡੇ
ਤਾਫ਼ਰੇਖ ਲੋਕਾਂ ਦੀ ਅਨੇਕ ਸ਼ੁਦਾਰ ਲਾਗ ਹੈ, "

It is alleged by the applicant that because these above mentioned remarks were treated as adverse remarks, he has not been considered for further promotion. He has submitted a representation against these remarks on 08.09.1999 (Annexure A-2). But till now the respondents have not taken any decision on his representation. Aggrieved by this he has filed this Original Application.

4. Heard the learned counsel for the applicant.

5. The learned counsel for the applicant has submitted that in fact, the remarks contained in Col. 23 are not adverse remarks. It only indicates that the applicant has improved his performance to a great extent. However the respondents are treating these remarks as adverse and are ignoring him for promotion to the next higher grade. In the result, certain junior persons have been promoted to the higher grade. He has therefore submitted that these remarks be quashed or ignored while considering him for further promotion.

6. We have carefully considered the submissions made by the learned

counsel for the applicant and we find that except the remarks recorded under Col. 17(i)(Part-III), there is no other adverse remark in the gist of CR communicated to the applicant. We find from the records placed before us that the respondents have not issued any note of advice to the applicant before recording this adverse remarks nor have they taken any decision on the representation of the applicant. As per Rules and settled law position, adverse remarks cannot be taken into consideration by the DPC unless and until a decision is taken on the representation submitted by the individual concerned.

7. In the circumstances we are of the considered view that ends of justice would be served, if we direct the respondents not to take into account these remarks while considering the case of the applicant for further promotions. We do so accordingly.

8. The Original Application is disposed of in terms of the above direction. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

पूळांकन सं ओ/न्ना.....जबलपुर. दि.....
प्रतिवेदन दाता दिनांक:-

(1) राजिका नाम - नवाज शाह बुर्जीवाला, जबलपुर

(2) नाम - बिल्ली/कुमारी - व. बांडल M N Banjare, Ach.

(3) नाम - नवाज शाह बुर्जीवाला M N Banjare

(4) नाम - बिल्ली/कुमारी - व. बांडल SP Singh, Ach.

"SA"


B. J. Joshi


M
17-12-03