

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

Circuit Sitting at BHILASPUR

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 (Chhatisgarh). ... 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  
Central Revenue Building  
Civil Lines, Raipur (Chhatisgarh).
3. Commissioner of Income Tax  
Central Revenue Building  
Civil Lines, Raipur  
(Chhatisgarh).
4. Tax Recovery Officer (Income Tax)  
Raipur (Chhatisgarh). ... 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 -

"अग्रणी"

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 mention in brief:

की प्रविष्टि "सहमत है। कालम 17(1) के कारण कार्यक्षेत्र सुरक्षित है। कार्य के दौरान।"

Col.23:

General Assessment:- "मैंने निरीक्षण की गई मर की आधिकारिक व वर्क के अन्य अभिलेख व इसका कार्य देखा है और समस्त समय पर आकर आधिकारिक की सुने सुनिश्चित करने रहे हैं। निरीक्षण ने किन्हीं बर्त/बर्तों की प्रतिक्रियाओं को अपने कार्य में सुधार लाया है अतः बर्तों के अन्य काम को अच्छी शैली में रखा जावेगा।"

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.

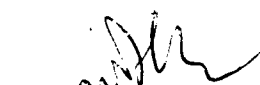
6. We have carefully considered the submissions made by the learned

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 DFC 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

पुस्तक सं ओ/व्या.....जबलपुर दि.....

पतिविधि: अजो दिवा:-

(1) अतिरिक्त न्यायालय न्यायाधीश, जबलपुर

(2) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(3) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(4) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(5) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(6) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(7) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(8) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(9) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(10) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(11) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(12) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(13) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(14) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

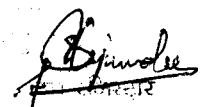
(15) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(16) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(17) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

(18) न्यायाधीश/न्यायाधीश-अधीनस्थ, जबलपुर

M N Banerjee, A.M.  
SP Singh, A.M.



"SA"

Filed  
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17-12-03