

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 188 of 2001

Jabalpur, this the 13th day of February, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman

M.Krishna Kumar S/o Shri R.Muthusubraian
R/o LIG - 48, Housing Board Colony, Near Head
Post Office, Jabalpur.

APPLICANT

(Applicant in person)

VERSUS

1. U.O.I.
Through/Chairman, Railway Board,
Rail Bhawan, New Delhi.
2. General Manager, Central Railway,
Mumbai CST
3. Chief Signal Telecommunication
Engineer, Central Railway, Mumbai
CST.
4. Chief Signal Engineer,
Central Railway, Mumbai CST, Mumbai
5. Senior Divisional Signal Telecommunication
Engineer, Central Railway, Jabalpur

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

ORDER (ORAL)

By filing this OA, the applicant has sought the main
reliefs :-

(i) To quash/set aside expunge the adverse remarks
passed in the confidential report of year ending 99,
dated 10.11.97 No. JBP.N.Staff.CR.Conf. received by the
applicant on 7.1.2000 and the correlated letter dated
1.3.2000 received on 8.3.2000 issued by DRM(S&T)/JBP
not agreeing with the representation against adverse
remarks given in the confidential reports, which would
affect the applicant's service records, including other
malafide remarks/letters/reports/irregular orders passed.

(ii) To quash/set aside/expunge the adverse remarks
passed in the confidential report of year ending 2000,
dated 10.7.2000 issued by DRM(S & T) No. JBP.N. Staff
Conf.Cr.366 and the correlated letter No.JBP.N.Staff.
Conf.CR444 dated 17.8.2000 issued for DRM(S&T)/JBP
not agreeing with the representation against adverse
remarks given in the confidential report, which would
affect the applicant's service records, including other
malicious/malafide remarks//reports/letters/irregular
orders passed.



2. Heard the applicant and learned counsel for the respondents.

3. The applicant has contended that it was the duty of the reporting officer or other officers to make an objective assessment of his work and qualities and also to give all times necessary advice, guidance and assistance to correct the faults and deficiencies as the applicant should have known what his defects are so that he could try to remove them. No attention was paid to the manner and method of communication and the memo was couched in such a language as if to produce a sense of resentment depicting malafide intention or else the format or the language couched should be such that it does not produce resentment but it is given as a chance to try and improve himself in those defects. In para 5(j) of his OA, the applicant has contended that the remarks show major default at various stages and indicate negligence on the part of the recording officer which has lead to grave injustice to the applicant marring his future. The applicant has also contended that the remarks have neither been reported or recorded within the stipulated period/time basis, as both the remarks have been passed in the year 2000.

4. The applicant has also contended that the respondents have expunged part portion of his adverse remarks vide their order dated 20.5.2001(Annexure-RJ-1).

5. The learned counsel for the respondents on the other hand submits that the applicant has been given oral warning repeatedly by the respondents.

6. I have considered the rival contentions of the parties. I find that certain adverse remarks were recorded in the ACRs of the years ending 1999 and 2000. As per instructions given from time to time the reporting officer is required to give counselling to bring to the notice of an employee about the short-comings observed by him during the period of reporting &

shortcoming observed by the reporting officer should be communicated to the employee in writing. In case, the employee does not show any improvement and does not make any effort to overcome the shortcomings, the same should be recorded in his confidential reports. In the instant case the respondents have not been able to convince the Tribunal that such a course was adopted by them while recording the adverse remarks in the ACRs of the applicants for the years 1999 and 2000. The Hon'ble Supreme Court in the case of State of UP Vs. Yamuna Shanker Mishra, (1997) 4 SCC 7 has held that "Before forming an opinion to be adverse, the reporting officers writing confidentials should share the information which is not a part of the record with the officer concerned, have the information confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgment, conduct, behaviour, integrity or conduct/corrupt proclivity".

7. In the facts and circumstances of the case we quash and set aside the adverse remarks communicated to the applicant for the years 1999 and 2000. The O.A. is accordingly disposed of. No costs.


(M.P. Singh)
Vice Chairman

rkv.

कृत्तिकान रां ओ/ज्या.....जबलपुर, दि.....

प्रमिलीनीति दिनी १००८/०८/०८

(1) रामेश, नाम नहीं दिया एवं रुद्रा, जबलपुर

(2) विश्वास, नाम नहीं दिया एवं कान्तिल

(3) विश्वास, नाम नहीं दिया एवं कान्तिल

(4) विश्वास, नाम नहीं दिया एवं कान्तिल

सूचना एवं आवधान दर्शायदी है


M.B. Shrivastava


B. Singh
16/08/08

Issued

16-8-04