

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 70 of 2002

Jabalpur, this the 17<sup>th</sup> day of November, 2003

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

N. Patra, S/o. Sri S.C. Patra,  
Aged 41 years, Inspector, Central  
Excise, Range Champa, Distt.  
Bilaspur (Chhattisgarh)

.... Applicant

(By Advocate - Shri S.K. Nagpal)

V e r s u s

1. Union of India, Through :  
The Secretary, Government  
of India, Ministry of Finance,  
New Delhi.

2. Chief Commissioner, Central  
Excise, New Central Revenue  
Building "C" Scheme, Statute  
Circle, Jaipur.

3. Commissioner, Central Excise,  
Civil Lines, Raipur.

4. Commissioner, Central Excise,  
Manik Bagh Palace, Indore.

.... Respondents

(By Advocate - Shri Om Namdeo)

O R D E R

By G. Shanthappa, Judicial Member -

The above Original Application is filed to quash the impugned order dated 20th March, 2001 as per Annexure A-1, by which the representation of the applicant for expunging adverse remarks in his Annual Confidential Report for 1996-97 recorded by Shri Shrawan Kumar has been rejected and further direction to the respondents to hold a review DPC for grant of first financial upgradation under ACP and if the applicant is found eligible, he should be given the same from the due date with all consequential benefits including arrears of pay and allowances with interest @ 12% per annum.



2. The case of the applicant is that he was appointed under the respondents as Inspector, Central Excise at Range Champa, Distt. Bilaspur. The applicant was working under his superior officer by name Shri Shrawan Kumar who was a Divisional Officer. The said Shrawan Kumar was competent authority to record the ACR for the year 1996-97. The applicant was not in good terms with the said Shrawan Kumar. The ACR written by the said officer was malafide and only with intention to spoil the ACR of the applicant.

3. The said authority has recorded the ACR in which the performance of the applicant was assessed as "Just Adequate". He further recorded that the applicant does not have disciplined behaviour, he once instigated the Staff members and misbehaved and threatened the senior officers. Hence he is indisciplined and poor. In view of the said assessment the adverse remarks are entered in the ACR of the applicant for the period from 31.12.1996 to 31.03.1997. The applicant submitted his appeal before the appellate authority and the appellate authority has rejected the appeal by <sup>not</sup> ~~not~~ assigning the proper reasons. The order of the appellate authority is dated 20.03.2001, as placed at Annexure A-1.

4. Per contra the respondents have filed their reply stating that there is no illegality or irregularity committed by the respondents while assigning the assessment of the C.R. <sup>to</sup> ~~to~~ the applicant by the reporting authority and also the accepting authority has also accepted the report of the reporting authority. Though the applicant has filed an appeal before the appellate authority, the appellate authority has considered all the aspects and passed a reasoned order. There is no procedural irregularity or illegality or any kind of violation of the rules while passing the order.



5. The applicant has filed a rejoinder to the reply filed by the respondents. In the said rejoinder the applicant has not brought any fresh facts clarifying the reply of the respondents. The applicant has alleged the malafides against Shri Shrawan Kumar, Assistant Commissioner, who was the reporting authority and under the said officer the applicant worked for only 90 days. Hence the said officer cannot assess his performance during the year 1996-97. Therefore the said report shall not be considered which violates the procedure in reporting the adverse remarks.

6. Subsequently the respondents have filed an additional return to the applicant's rejoinder dated 12.03.2003. The respondents have also not brought any fresh facts clarifying the contents of the rejoinder.

7. After hearing the advocate for the applicant and the advocate for the respondents and also perusing the pleadings and documents on record, we are deciding the case on merits.

8. Before deciding the case we have directed the respondents to produce the relevant ACRs pertaining to the applicant. The respondents have produced the ACRs for the year 1990-91, 1991-92, 1993-94, 1995-96 and of 01.04.1996 to 31.03.1997. The relevant year to consider the ACRs are only for the year 1996-97. The point for our consideration in this Original Application is that whether the procedure followed by the respondents to record the adverse remarks of the applicant for the year 1996-97 is proper or not.

9. Admittedly Shri Shrawan Kumar, Assistant Commissioner, Central Excise, Divn.-I, Bhilai was the reporting officer of the service of the applicant. Though the applicant has made some malafides against the said officer he has not made him



as one of the respondents in the present Original Application. We have perused the ACR submitted by the respondents. In the ACRs we do not find any mistake or illegality or violation of the procedure to be followed. We are not the authority to assess the services of the applicant. We have to decide only whether the procedure followed by the respondents is proper or not. When the applicant has challenged the impugned order of the appellate authority, the applicant has not made out any case to <sup>annul</sup> ~~and~~ the order passed by the Commissioner i.e. the Appellate Authority. The appellate authority has considered all the aspects and passed the reasoned and considered order taking all the aspects of the case.

10. Hence the applicant has not made out any case for grant of the reliefs as claimed in the Original Application. The is said OA/ dismissed. There shall be no order as to costs.

*G. Shanthappa*  
(G. Shanthappa)  
Judicial Member

*M.P. Singh*  
(M.P. Singh)  
Vice Chairman

दृष्टिकोण के लिए अनुचित है।

प्राप्ति के लिए अनुचित है।

(1) राज्य सेवा के लिए अनुचित है।

(2) राज्य सेवा के लिए अनुचित है।

(3) राज्य सेवा के लिए अनुचित है।

(4) राज्य सेवा के लिए अनुचित है।

सूचना एवं आवश्यक कार्यकारी हेतु

*S.K. Naik*  
S.K. Naik, Adm.

*D. Naik*  
D. Naik, Adm.

*J. Head (Awa)*  
J. Head (Awa)  
19.11.03

*Recd. 19/11/03*

"SA"