

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 747 of 2001

Jabalpur, this the 6th day of September, 2004

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

Vishwaranjan Singh,
S/o late Ram Vilas Singh,
aged about 40 years,
Junior Engineer Grade-I,
R/o D-19, 12 Bungalow,
Railway Colony,
Harda (M.P.)

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India,
Through its Secretary
Ministry of Railway,
Rail Bhawan,
New Delhi.
2. General Manager,
Central Railway,
Mumbai C.S.T.
Mumbai (M.S.)
3. Chief Electrical Engineer
Central Railway,
Mumbai, C.S.T
Mumbai (M.S)
4. Chief Personnel
Officer, Central Railway,
Mumbai, C.S.T.,
Mumbai (MS)
5. Divisional Railway Manager
Central Railway, Bhopal Division,
Bhopal (M.P.)
6. Senior Electrical Engineer
(TRD), O/o Divisional
Railway Manager, Central
Railway, Bhopal Division,
Bhopal (M.P.)

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

ORDER

By Madan Mohan, Judicial Member -

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

"(ii) Set aside the ACRs dated 13th August, 1999
Annexure A/1 and also the order dated 3.3.2000
Annexure A/5;

(iii) Command the respondents to convene a
review selection/reconsider/review the applicant's

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case for promotion to the post of Section Engineer minus the ACRs dated 13.8.1999 and also August 2,2000;

(iv) In the event of applicant's selection as Section Engineer, he be given promotion on the said post w.e.f. 10.1.2001 with all consequential benefits including seniority, pay-scale, etc".

2. The brief facts of the case are that the applicant was holding the post of Chargeman Grade-A in the pay scale of Rs. 1600-2660/-. The post of Chargeman was subsequently redesignated as Junior Engineer Grade-I in the same pay scale. The applicant is holding the said post in a substantive and regular capacity. The applicant was shocked to receive a letter dated 13th August, 1999, whereby an adverse report for the year ending 31.3.1997 was communicated to the applicant. The applicant preferred a representation dated 4.9.1999. Subsequently an ACR for the year ending 31.3.2000 was also communicated to the applicant vide order dated August 2, 2000. The applicant preferred his representation to the aforesaid ACR. Thereafter the CR dated 2.8.2000 was expunged by the competent authority by issuing order dated 19.1.2001. Hence, but for the adverse report dated 13th August, 1999, there is no other ACR in the service record of the applicant. On careful perusal of the ACR dated 13.8.1999 shows that the authority has drawn certain conclusions without assigning any reason and instances. It is necessary to quote the instances and examples so that he can improve upon and act as per the desired performance and conduct of the authorities. The applicant was not communicated by any information and it was mandatory before issuing the adverse ACR. The applicant's representation against the adverse ACR dated 13.8.1999 was rejected vide order dated 3.3.2000. It lacks application of mind. The applicant feeling aggrieved with the rejection order dated 3.3.2000, preferred a representation through proper channel which is not yet decided by the authorities. The action of the respondents is



arbitrary, unjust and violative of Article 14 and 16 of the Constitution of India. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that the service record of the applicant is unblemished and absolutely ~~adverse~~ satisfactory before and after issuance of the alleged ACR on 13.8.1999. Though subsequently an ~~adverse~~ remark was communicated to him but on his representation the same was expunged. The impugned ACR is absolutely baseless as no instances is quoted in the same. The learned counsel for the applicant further argued that it is a settled legal proposition that it is the duty of the reporting officer to issue a memorandum bringing out the short comings of a person and incase of no improvement then only the adverse remarks were to be recorded in the ACR.

5. In reply the learned counsel for the respondents argued that the applicant has not challenged any particular confidential report nor any specific orders were passed to hold review/selection or screening. No particular order passed by the respondents has been challenged. The service records of the applicant clearly reveals that certain charge sheets/letters of dis-pleasure have been issued to him during 1995-96 and onwards. The adverse entries in the confidential report of the applicant dated 13.8.1999 have been made looking to his performance during the particular year. In the year 1998-99 also certain adverse letters were issued to the applicant before making any adverse entry in his confidential report. There is no motive to record adverse confidential remarks in the CR of the applicant. The contention of the applicant that his performance has

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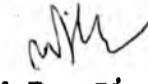
become suddenly poor or below average is erroneous. There has been no sudden change in over all grading given to the applicant. The competent authority has considered the representation with due application of mind and rejected the same after considering the various issues raised therein. Hence, the OA is liable to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that as mentioned in para 4.5 of the reply several ~~adverse~~ letters were issued to the applicant before making any adverse entry in his confidential report. In rejoinder filed against this para, the applicant has simply mentioned that the contents are denied. The applicant could not deny the issuance of these letters, when the respondents have mentioned the dates of issuance of each letter. Thus, the applicant was given every opportunity before making any adverse entry in his confidential report. We also find that by these letters the short comings of the applicant was informed to him in due time and every opportunity was given to him to improve his short comings. The argument of the applicant that his previous and subsequent ACRs are excellent and good is also not correct, as we have perused the original records submitted by the respondents which included the ACRs of the applicant. On perusal of Annexure A-4 dated 19.1.2001 it reveals that the applicant's earlier remark, "Not fit for Group-B" has been expunged and changed to "Not yet fit". It is also adverse remark. But this remark has also not been challenged by the applicant. Hence this adverse remark is ^{the} intact against applicant. We perused the impugned orders and we find that there is no irregularity or illegality committed by the respondents while passing these orders.



7. Hence, we are of the considered opinion that the applicant has failed to prove his case and the Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

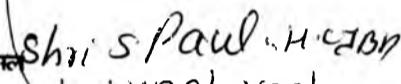
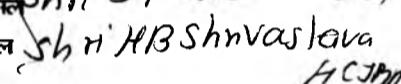
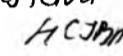

(Madan Mohan)
Judicial Member

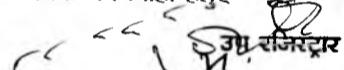

(M.P. Singh)
Vice Chairman

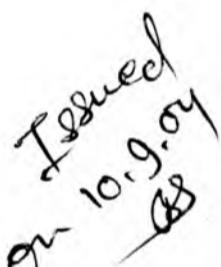
"SA"

पूछांकन सं. ३०/न्या.....जबलपुर, दि.....
प्रतिलिपि दाता नामः—

(1) सचिव, उच्च अदायालय वार एम्प्रेसेशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल
(3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
(4) ग्रंथालय, रोड़ा, जबलपुर न्यायालय

सूचना एवं आवश्यक कागदकारी हेतु 




श्री राजसदार


Issued
on 10.9.04