

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.358 of 1999

Jabalpur, this the 3rd day of November, 2003

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

Ashok Kumar Mehta S/o Shri Chandradeo Ram,
aged 34 years, Deputy Controller of Explosives,
Government of India, resident of C/o Shri Ramjit
Ram, Qtr. No. 119-A.RMN-2, D-Sector, Barkheda,
B.H.E.L., Bhopal (M.P.).

- APPLICANT

(By Advocate - Shri S.Paul)

Versus

1. Union of India through the Development Commissioner, Small Scale Industries, Nirman Bhavan (South Wing), 7th Floor, New Delhi.
2. Director, Regional Training Centre (Countersigning Authority), Government of India, Kurla, Andheri Road, P.O. Sakinaka, Mumbai.
3. G.D.Gidwani, Deputy Director (Elect), Small Industries Service Institute, Govt. of India, Industrial Estate, Pole grounds, Indore-452003 (M.P.).
4. G.M.Ambhore, Director, Small Industries Service Institute, Govt. of India, 10, Industrial Estate, Pole Grounds, Indore-452003 (M.P.).

- RESPONDENTS

(By advocate - Shri S.A.Dharmadhikari for official respondents)

O R D E R (Oral)

By this Original Application, the applicant has
main
prayed for the following reliefs:-

"(i) Set aside the adverse C.R. dated 15.4.97 for the year 1993-94 and 1994-95.
(ii) Set aside the order dated 1.7.98."

2. The brief facts of the case are that the applicant has been communicated adverse remarks for the years 1993-94, 1994-95 and 1995-96 vide orders dated 15.4.1997 (Annexure-A-3 celly.). The applicant preferred a representation on 12.5.1997 (Annexure-A-4) for expunction of these adverse remarks, however, the same was rejected vide order dated

1.7.1998 (Annexure-A-5). Hence he has filed this application.

3. Heard the learned counsel for the parties and perused the record.

4. The learned counsel for the applicant has submitted that the adverse remarks for the years 1993-94, 1994-95 and 1995-96 have been communicated to the applicant at a very late stage. The order passed by the respondents rejecting the representation of the applicant against the adverse remarks is a very cryptic order. He has also submitted that one of the adverse remarks communicated to the applicant is that "the officer could have exerted still more for achieving better revenue". The applicant in para 8 of his representation (Annexure-A-4) has given the details of the revenue earnings for the years 1986-87 to 1995-96 and it is seen from those figures that every year there has been significant increase in the revenue earnings. He further submitted that before recording the adverse remarks, it was the duty of the reporting officer to issue a memorandum bringing out the short-comings of the applicant and in case of no improvement, then only the adverse remarks were to be recorded in the ACRs. In this context the learned counsel for the applicant has relied on a decision of Jaipur Bench of this Tribunal in the case of A.K.Yadav Vs. Union of India and others, 2002(2) ATJ 423. He has also submitted that the remarks recorded by the reporting officer are vague and in general, and in support of the adverse remarks no shortcomings have been brought to the notice of the applicant. The purpose of writing ACRs is to bring to the notice of the short-comings of the officer so that he can improve upon in future. In the instant case the ACRs for the last three years i.e. 1993-94, 1994-95 and 1995-96 were communicated simultaneously on 15.4.1997 which shows that the respondents have not followed the prescribed procedure and had just recorded the adverse remarks. It also reflects the bias attitude of the reporting officer.

5. The respondents on the other hand submitted that the reporting officer had recorded his assessment as per the

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over-all performance of the applicant during the relevant years and also as per the procedure laid down for the purpose. Accordingly these adverse remarks are not liable to be quashed.

6. I have carefully considered the submissions of the learned counsel for the parties. I find that the reporting officer has not followed the laid down procedure while recording the adverse remarks in the ACRs of the applicant. The short-comings recorded in the ACRs of the applicant were never brought to the notice of the applicant during the course of the relevant years and no such communication was issued to him asking him to improve upon those short-comings. The remarks given by the reporting officer are also very vague and the figures of the revenue earnings during the years 1986-87 to 1995-96 stated by the applicant in his representation shows that there has been better results every year during the period for which adverse ACRs have been recorded. For these and relying on the decision of A.K.Yadav(^{supra}) reasons, the adverse remarks communicated to the applicant for the years 1993-94 to 1995-96 are liable to be expunged.

7. In the result, the Original Application is allowed. The adverse remarks for the years 1993-94 to 1995-96 are expunged. The respondents are directed to obliterate these adverse remarks from the concerned ACRs of the applicant within a period of four months from the date of communication of this order. No costs.

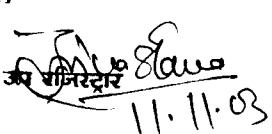

(M.P.Singh)
Vice Chairman

कार्यालय सं. ओ/व्या..... जबलपुर, दि.....
प्रतिनिधि आच्युत हितः—

- (1) सचिव, उत्तर ज्यायात्रा वार एवं विदेश, जबलपुर
- (2) आरोग्य विभागीय विभाग के काउंसल
- (3) प्रबन्धी, विभागीय विभाग के काउंसल
- (4) विधायक, विभागीय विभाग

सूचना एवं आवश्यक विवरण द्वारा

S. Paul, Adv.
SA Dharmadikari, Adv.


अध. विभागीय
11.11.03


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