

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

Original Application No.722/99

Jabalpur, this the 5th day of December, 2003

Hon'ble Shri G.Shanthappa, Judicial Member

S.C. Kanojia
s/o Late Shri S.R. Kanojia
Works Manager
Regional Training Institute
Khamaria, Jabalpur (MP)
r/o 166/W, Westland, Khamaria
Jabalpur (MP).

... Applicant

(By Advocate: Sh. S.Nagu)

Versus

1. Union of India through
the Secretary
Department of Defence Production
Government of India
South Block
New Delhi.
2. Director General
Ordnance Factories
10-A, Shaheed Khudiram
Bose Road
Calcutta - 700 001.
3. Regional Director
Regional Training Institute
Khamaria, Jabalpur (MP).
4. Member (personnel)
Ordnance Factories
10-A, Shaheed Khudiram
Bose Road
Calcutta - 700 001.
5. Om Prakash Rawat
Joint General Manager
Ordnance Factory
Khamaria
Jabalpur, M.P.

.. Respondents

(By Advocate: Sh. P. Shankaran)

O R D E R (oral)

This case pertains to expunction of
adverse remarks mentioned in the ACR of the applicant.

2. The above OA is filed for a direction
to quash the adverse remarks dated 19.7.1999 (A-1)
and the impugned memo. dated 21.10.1999 (A-3)
as being void, illegal and arbitrary. The applicant

by an amendment also sought further relief to direct the respondents as a consequence of the reliefs prayed above.

3. The main grievance of the applicant is that the respondents had issued the impugned order dated 19.7.1999 which pertains to communication of adverse remarks/shortcomings mentioned in the ACR of the applicant for the period from 1.4.1998 to 31.3.1999. Wherein the following shortcoming has been noticed:

"(a) You were having indifferent attitude to work, although lately you are showing improvement."

Against the aforesaid order, the applicant has filed representation which was disposed of by an Office Memorandum dated 21.10.1999, wherein it has been mentioned as under:

".... It has been held by him that the advice given to Shri S.C.Kanojia, WM/RTIKH was with a view to afford him an opportunity to overcome the shortcomings in his ACR and that he should take the same in the correct spirit."

4. The respondents, per contra, have filed their reply and also produced the relevant record pertaining to the applicant regarding his ACRs and DPC proceedings held for promotion of the applicant. The respondents have taken a specific contention that during the reporting period the applicant was not only advised verbally but in writing also vide writing advice notes dated 10.10.1998 and 14.10.1998 served on him by Respondent No.3 as such there is no truth in his contention that adverse remark was recorded without following instructions and without giving an opportunity to improve. It has also been mentioned in the reply that while rejecting his

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representation dated 24.8.1999 vide memo. dated 21.10.1999, it was clearly indicated that there was no sufficient and valid ground in his representation which call for interference. Thus the contention of the applicant that his representation was rejected without assigning any cogent reasons is not born out by facts. Hon'ble Supreme Court in UOI vs. G.Nambudiri, AIR 1991 SC 1216 has held that no order of an administrative authority communicating his decision is rendered illegal on the ground of absence of reasons *ex facie*, illegal and it is not open to the court of interference with the orders merely on the ground of absence of reasons.

5. It is also stated by the respondents' counsel that the remarks mentioned in the ACR of the applicant referred above are not to be treated as adverse remarks but are advisory in nature which will not come in the way of the applicant for promotion, etc.

6. I have considered the matter carefully. I have also perused the material on record and also the relevant official records produced by the respondents and also given careful consideration to the rival contentions of the parties.

7. After perusal of the relevant ACRs and DPC proceedings, I find that no adverse remarks have been mentioned in the ACR of the applicant pertaining to the year 1998-99.

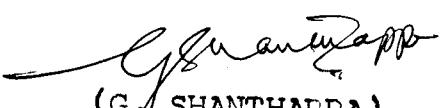
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8. After perusal of the records and pleadings and after consideration of the arguments of both the parties, I am of the considered view that this OA can be disposed of by directing the respondents to treat the shortcomings/remarks mentioned in the ACR, pertaining to the year 1998-99, of the applicant are advisory in nature which will not come in the way of the applicant's promotion, etc. I order accordingly.

9. As far as other reliefs of consequential benefits like promotion, etc. are concerned, as the Single Bench has no jurisdiction to pass any orders pertaining to the promotion of the applicant, if the applicant wants to agitate for the above other reliefs, he may file a separate OA in accordance with rules.

10. The OA is accordingly disposed of. No costs.


(G. SHANTHAPPA)

Judicial Member

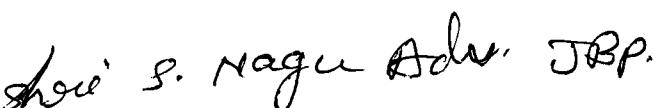
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~~Question of law~~

~~Per. Secy.~~

~~Recd. by~~


T. N. Rao
16/12/03


Shri S. Nagu Adv. J.B.P.

Shri P. Shankaran Adv. J.B.P.


T. N. Rao
16/12/03