

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 775 of 1999

Jabalpur, this the 2nd day of December, 2003.

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

Nazarious Ekka
aged about 38 years,
S/o Shri B. Ekka,
Works Manager,
Ordnance Factory, Itarsi
Qr, No. 519/415, Type-V
Ordnance Factory, Itarsi,
Estate, Distt. Hoshangabad.
461122.

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India
through Secretary,
Ministry of Defence,
New Delhi.
2. Chairman/Director General
Ordnance Factory Board,
10-A, Khudi Ram Bose Marg,
Calcutta.
3. General Manager,
Ordnance Factory,
Itarsi.

RESPONDENTS


(By Advocate - Shri P. Shankaran)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

The applicant has filed this DA seeking a direction to set aside orders dated 13.8.99 (Annexure-A-2) and 21.10.99 (Annexure-A-6), and direct the respondents to provide all consequential benefits including promotion.

2. The facts of the case in brief are that the applicant has been issued a memorandum dated 13.8.99 whereby he has been informed about certain shortcomings noticed by the authorities as recorded in his Annual Confidential Report for the period 1.4.1998 to 31.3.1999. The applicant has filed a detailed representation against the aforesaid short-comings. The same has been rejected by the respondents vide order dated 21.10.99.




Aggrieved by this order, he has filed this OA.

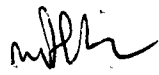
2. Heard both the learned counsel and perused the records.

3. The learned counsel for the applicant has submitted that the applicant has been communicated certain adverse remarks in confidential report for the period of 1.4.98 to 31.3.99. According to him, the applicant has never been communicated any adverse remark either during the earlier period or in the later period. Moreover, the memo of advice which was given to the applicant on 23.3.99(Annexure-A-3), was passed a week before the period for which the confidential report was to be written by Reporting Officer. The learned counsel has submitted that a person who has always been ^{of} good performance through out his career cannot be suddely graded ~~average~~ as average or given average remarks. This shows that the work of the applicant has not been assessed objectively. In support of his claim he has relied on the decision of Hon'ble Supreme Court in S.Ramchandra Raju Vs. State of Orissa, (1994)28 ATC 443 and also certain others judgments.

4. On the other hand, the learned counsel for the respondents states that the remarks communicated vide memorandum dated 13.8.99 are not the adverse remark recorded in the confidential report but are only advisory in nature. Therefore, these remarks should not be construed as adverse remarks recorded in the ACR for the period from 1.4.98 to 31.3.99.

5. As the learned counsel for the respondents himself has stated that these are not the adverse remarks in the confidential report and have only been conveyed to the applicant vide memo dated 13.8.99 ~~to the applicant~~ ^{said} as an advice to improve his performance, we direct that the ~~the~~ remarks should not form part of the confidential report of the applicant for the period of 1.4.98 to 31.3.99. The OA is disposed of in the aforesaid terms. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman