

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

APPLICATION NO.: 509/2008

Applicant(s)

Vijay Singh

Respondent(s) V. O. D & Ors.

Advocate for Applicant(s)

Advocate for Respondent(s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

6-1-2009

Mr. V.K. Mathur - Counsel for applicant -

Heard the learned Counsel
for the applicant.

For the reasons dictated
separately, the OA stands disposed of.

B.L.Khatri
(B.L.Khatri)

Member (A)

M.L.Chauhan
(M.L.Chauhan)

Member (T)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 6th day of January, 2009

ORIGINAL APPLICATION No.509/2008

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMINISTRATIVE)

Vijay Singh
s/o late Shri Daya Nand,
ASI (M), Force No.941600027
Office fo D.I.G.P.,
CRPF Range-I,
Golf Course Road, Ajmer

.. Applicant

(By Advocate: Shri V.K.Mathur)

Versus

1. Director General of Police,
Directorate, Central Reserve Police Force,
CGO Complex,
Lodhi Road,
New Delhi.
2. Inspector General of Police,
Northern Sector,
Central Reserve Police Force,
R.K.Puram,
New Delhi.
3. Deputy Inspector General of Police,
Central Reserve Police force,
Range-I, Ajmer,
Rajasthan.
4. Additional DIGP,
Group Centre,
CRPF,
Bantalab, Jammu.

.. Respondent

(By Advocate: -----)

O R D E R (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- a) By an appropriate order and direction the whole act of the respondent and the order dated 12.6.2007 and 9.1.2007 (Annexure A-1 and A-2) communicated to the Applicant on 19.3.2008 may kindly be quashed and set aside being illegal, arbitrary, discriminatory, unlawful and against the Constitution of India.
- b) By an appropriate order and direction the respondents may be directed to reconsider the case of the Applicant and he may be given benefit of first financial upgradation under the ACP Scheme from the date of his entitlement.
- c) Any other order, relief or direction, which this Hon'ble Tribunal may deem fit and proper be also passed in favour of the applicant.
- d) Cost of the Original Application may kindly be awarded to the applicant.

2. Briefly stated, grievance of the applicant is that vide impugned order dated 12.6.2007 (Ann.A1), the applicant has been denied benefit of Assured Career Progression (ACP) Scheme as the applicant was not found fit for the financial upgradation. The applicant has also made representation dated 16.9.2008 (Ann.A3) to respondent No.1. From perusal of para-2 of this representation, it is clear that adverse remarks for the period from 1.4.2001 to 31.3.2002 were

communicated to the applicant vide order dated 22.6.2002. The representation submitted against these adverse remarks was also rejected vide order dated 7.6.2003. It is further stated in the said paragraph that departmental appeal filed by the applicant was also dismissed vide order dated 30.1.2004. Further, from the material placed on record, it is also evident that the applicant was issued a penalty of 'Censure' and as can be seen from the aforesaid representation and the appeal filed against the punishment order before the Hon'ble Jammu and Kashmir High Court is still pending.

3. We have heard the learned counsel for the applicant at admission stage.

4. The learned counsel for the applicant argued that simply because he has been awarded punishment of 'Censure' and has been communicated adverse remarks is not sufficient ground to declare the applicant unfit for ACP scheme, more particularly, when on this account matter is sub-judice before the J&K High court.

5. We have given due consideration to the submissions made by the learned counsel for the applicant. We are of the view that so long as the order regarding adverse entries in the ACR for the

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aforesaid period as well as penalty of 'Censure' are not set-aside by the competent court, no direction can be issued to the respondents to grant benefit of the ACP scheme to the applicant as admittedly, the adverse remarks and penalty will come in the way of the applicant for granting benefit of upgradation under the aforesaid scheme in terms of the ACP scheme formulated by the Government of India. Thus, we are of the firm view that no relief can be granted to the applicant at this stage. It is however, clarified that in case the adverse entry in the ACR for the aforesaid period as well as penalty of 'Censure' is quashed by the Hon'ble J&K High Court, in that eventuality, it will be permissible for the applicant to make appropriate representation before the competent authority to review the impugned order Ann.A1 and grant relief from due date. In case, no relief is granted to the applicant, in that eventuality, it will be permissible for the applicant to approach before the competent court again for the purpose of aforesaid relief thereby praying for reviewing the impugned order dated 12.6.2007 (Ann.A1) and the matter can be decided in accordance with law.

6. With these observations, the OA stands disposed of at admission stage.


(B.L.KHATRI)
Admv. Member
R/


(M.L.CHAUHAN)
Judl.Member