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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

08.05.2012

OA No. 299/2011

Kumar

Mr. Tej ~~Prakash~~ Sharma, Proxy counsel for
Mr. P.K. Sharma, Counsel for applicant.
Mr. V.K. Pareek, Counsel for respondents.

Heard. The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

ahq

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

Jaipur, the 8th day of May, 2012

ORIGINAL APPLICATION No. 299/2011

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Peeyush Gautam son of Shri Y. K. Gautam, aged about 43 years, working as Assistant Master of Mathematics, Office of Military School, Dholpur.

... Applicant

(By Advocate : Mr. Tej Kumar Sharma proxy to Mr. P.K. Sharma)

Versus

1. Union of India through its Secretary, Ministry of Defence, New Delhi.
2. The Principal, Military School, Dholpur (Rajasthan).
3. The Director MT-15, General of Military Training, MT-15, General Staff Branch, Integrated Headquarter of Military of Defence (Army), P.O. New Delhi 110011.
4. The Deputy Director General Army Education, Office of the Directorate Genral of Military Training, MT-15, General Staff Branch, Integrated Headquarter of Ministry of Defence (Army), P.O. New Delhi 110011.

... Respondents

(By Advocate: Mr. V.K. Pareek)

ORDER (ORAL)

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

"It is, therefore, most humbly prayed that this Hon'ble Tribunal be pleased to call for the record of the respondents pertaining to the case of the humble applicant, examine the same in detail and accept/allow the application and further be pleased to:

- (i) allow this application and quash and set aside the impugned order dated 20.04.2011 as non speaking and unreasoned.
- (ii) to issue an appropriate order or directions thereby declaring the action of the respondents in inflicting the

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adverse remarks in the ACR for the period of 01.07.2008 to 30.06.2009 as illegal and unjustified and the ACRs be pleased to expunge the remarks inflicted in the ACR of the applicant for the session 01.07.2008 to 30.06.2009.

- (iii) issue an appropriate order or directions the respondents be directed to award the applicant all the benefits in service irrespective of the remarks inflicted in his ACR for the period 01.07.2008 to 30.06.2009 and hold as if no such remarks were inflicted in the ACR of the applicant so far all the service benefits are concerned to him.
- (iv) issue an appropriate order or directions, the respondents be directed to pay heavy costs to the humble applicant for dragging him unnecessarily to approach this Hon'ble Tribunal again and further causing him huge financial loss and mental agony for none of his fault.
- (v) issue such order or directions as may be deemed just and proper by this Hon'ble Tribunal in the facts and circumstances of the case and in favour of humble applicant.

2. Learned counsel for the applicant argued that the applicant is performing his duties regularly, punctually with utmost honesty and to the entire satisfaction of the respondent authorities. That the applicant was completely surprised to go through the ACR for the period from 01.07.2008 to 30.06.2009 in which the remark of 'Average' was recorded. According to the applicant this adverse remark will disqualify him for further promotion as well as other future benefits, thus jeopardizing his career. The applicant, therefore, sent a detailed representation dated 26.09.2010 (Annexure A/3). The respondent no. 4 thereafter passed the impugned order dated 20.04.2011 (Annexure A/1) in which he has not given any reason as to why the applicant's representation has been rejected. It is a non speaking order. That the applicant is a Maths teacher and his performance should be judged by the result of the students to whom he has taught. So far as the applicant is concerned, his result has been outstanding during the period under report. On an average more than 25% of the students

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got above 90% marks and only about 10% students were in the range of 41 to 50% marks and no student has failed. It is in the knowledge of the applicant that there were other teachers in the same school whose students have failed but their ACRs are not 'Average'. He further argued that all the points which are verifiable by record could not be branded adversely but those points which are matter of discretion and opinion have been branded as average without any basis. This whole exercise shows the intentional part of the reporting officer who actually wanted to spoil the career of the applicant. The applicant was never given any letter about his work performance, behaviour or any other thing during this period. Therefore, he requested that the order passed by the competent authority dated 20.04.2011 (Annexure A/1) be quashed and set aside and the remarks inflicted in his ACR for the period from 01.07.2008 to 30.06.2009 should be treated as if no such remarks were inflicted in the ACR of the applicant so far it relates to the service benefit to the applicant.

3. On the contrary, learned counsel for the respondents argued that the applicant did not perform his duties with devotion and commitment. Further his relation with the pupils and with colleagues was also found as average. Therefore, the same remarks were entered by the Reporting Officer. If the applicant is worried about his future prospectus, then he should have shown his performance up to the satisfaction of the superiors and not an average performance. The respondents have no grudge with the applicant otherwise such remarks would have also been mentioned in the ACRs of the applicant and would have been communicated to the applicant. Therefore, the

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allegations leveled by the applicant against the respondents are not correct. He further argued that competent appellate authority had rejected the appeal of the applicant after going through the fact and material available on record. The competent appellate authority after applying his mind and considering the entire explanation, pleadings of the applicant denied to expunge the remarks vide letter dated 20.04.2011. The applicant's representation has got no merit and the same has been rightly rejected by the competent authority vide order dated 20.04.2011. He, therefore, stated that the present OA has no merit and it should be dismissed.

4. Heard the rival submissions of the parties and perused the documents on record. A bare perusal of the order dated 20.04.2011 (Annexure A/1) passed by the competent authority on the representation of the applicant shows that it is not a reasoned & speaking order. I am inclined to agree with the arguments of the learned counsel for the applicant that the ACR of an employee is an important document which influences the career of an employee. Therefore, ACR should be written with due care. The learned counsel for the respondents did not deny about the quality of the result of the applicant during the period 2008-2009. Looking to the facts & circumstances of the present case that the order dated 20.04.2011 is a non speaking and non reasoned order, it is quashed & set aside, Respondent no. 4 is directed to consider the representation of the applicant dated 26.09.2010 (Annexure A/3) afresh and pass a speaking and reasoned order within a period of three months from the date of receipt of a copy of this order.

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5. With these observations, the OA is disposed of with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

AHQ