

Central Administrative Tribunal
Principal Bench: New Delhi

RA No. 272/2015

In

OA 3986/2012

New Delhi this the 01st day of September, 2016

Hon'ble Shri P.K.Basu, Member (A)

Hon'ble Shri Raj Vir Sharma, Member (J)

Ruby Adhikari Sehgal

W/o Vinay Kumar

R/o A-36, (GF), Shankar Garden

New Delhi-110018

...Applicant

(By Advocate: Shri M.S. Ramalingam with Mr. C. Bheemanna)

Versus

1. The Union of India through
The Secretary
Ministry of Defence, South Block
New Delhi.
2. The Joint Secretary (Trg) &
Chief Administrative Officer,
Ministry of Defence,
E-Block, Dalhousie Road,
New Delhi.
3. Assistant Chief of Air Staff (Air Force Works)
Air Head Quarters,
Rafi Marg, New Delhi. ...Respondents

(By Advocate: Mr. B.K. Berera)

ORDER (ORAL)

Shri P.K.Basu, Member (A):

M.A. 3986/2012 has been filed for condonation of delay. For the reasons stated therein, the said MA is allowed.

Heard the learned counsel for the Review Applicant as well as learned counsel for the respondents.

2. Four issues raised before us, alleging that there are errors apparent on the face of the record are as follows:

(i) In Para 14 of our order, we have stated that the representation was considered and rejected through a reasoned order. It is the contention made by the learned counsel for the applicant that the relevant order dated 08.10.2012 was signed by one SAO, who is very junior officer, and, therefore, this could not be taken as a consideration by the competent authority. From the order dated 08.10.2012, it is seen that the order has been signed on behalf of JS (Trg.) and CAO, and, therefore the SAO has just signed the order on behalf of JS (Trg.) and CAO. Therefore, the applicant cannot take a ground that it has not been approved by the competent authority.

(ii) In Para 14 of the order, it was made clear that the Superior Authorities have also agreed with the assessment, whereas in the ACR for the period from 1st July 2007 to 31st December, 2007, it was only the reporting officer, who had signed and the remarks of the reviewing authority were not recorded. The contention made in the OA was regarding three periods in which the ACRs were below the benchmark. The remark made by us was for all the three periods put together. For the two other periods, even the Reviewing Officer has accepted the report of the Reporting Officer. For the period from 01.07.2007 to 31.12.2007, the Reporting Officer has recorded his remarks but reviewing officer has not recorded his remarks. This could be for various reasons, including that under the Reviewing Authority the period was below three months or that the Reviewing Officer has since retired, etc., which does not take away the basic argument that Superior authorities have agreed with the assessment. Therefore, this argument is also rejected.

(iii) The third argument put forth by the learned counsel is that the Reporting Officer was in the same rank of Air Vice Marshal, and, therefore, he could not have decided the appeal of the applicant. We have expressed our view in Para 14 of our Order in this regard. Therefore, this is an attempt of the applicant just to re-argue the case, and hence the same is rejected.

(iv) That the time-frame laid by DOP&T guidelines has not been adhered to. Regarding this, in Para 15 of our Order clear findings had been given by us.

3. None of the four grounds, stated above in the RA, are found to be admissible grounds, and the RA is thus not maintainable. The learned counsel for the applicant is, of course, at liberty to question our reasoning and conclusion but these cannot be grounds to review the order passed by us. The RA, is therefore, dismissed.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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