

Central Administrative Tribunal
Principal Bench: New Delhi

RA No.73/2016
MA No. 1139/2016
in
OA No. 2090/2014

Reserved on: 03.05.2016
Pronounced on: 31.05.2016

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)

Union Public Service Commission
Through Secretary,
Dholpur House, Shahjahan Road,
New Delhi-110 069. ...Review Applicant

(By Advocate: Mr. Ravinder Aggarwal)

Versus

1. Sh. Yogender Babu Sharma,
R/o 54/2, Kirpa Kunj Ater Road,
Bhind (MP) – 477 001.
2. Union of India through Secretary,
Ministry of Water Resources,
Government of India,
Sharam Shakti Bhawan,
Rafi Marg, New Delhi – 110 001.
3. Chairman,
Central Ground Water Board,
Bhoojal Bhawan, N.H.-IV,
Faridabad-121001.
4. J.C. Borogohain,
Executive Engineer,
Central Ground Water Board,
Bhoojal Bhawan, N.H.-IV,
Faridabad-121001. ...Respondents

O R D E R

By Hon'ble Dr. B.K. Sinha, Member (A):

The instant Review Application has been filed by the respondent-Union Public Service Commission [hereinafter referred to as UPSC] principally on the ground that there is

inconsistency in the Tribunal's order dated 12.03.2015 passed in OA No.2090/2014. This Bench having correctly appreciated the prevailing rule position that the DPC enjoys complete autonomy and independence directed that the ACR for the period 2006-07 be treated "as it is there on record". The review applicant submits that this restricts the autonomy and independence of DPC which has been left with discretion to device its own method and procedure for objective assessment of the suitability of candidates. It is further contended that para 6.2.1 (e) of the OM dated 10.04.1989 categorically stipulates that DPC should not merely be guided by the overall grading but should make its own assessment on the basis of entries in the ACRs. Making a reference of the decision of Hon'ble Apex Court in *UPSC Vs. K. Rajaiah* [2005 (10) SCC 15], it has been submitted that the power to classify as 'Outstanding', 'Very Good', and 'Unfit' is vested with the Selection Committee. The respondent applicant has further referred to decision of the Apex Court in *Union Public Service Commission Vs. Hiranyalal Dev* [1988 (2) SCC 242] to state that it was not for the Tribunal to make assessment and *Union of India Vs. S.K. Goel* [2007 (14) SCC 641] to this every effect.

2. In *R.S. Dass Vs. Union of India* [1986 (Supp) SCC 617], the Hon'ble Supreme Court has gone ahead to hold

that principles of natural justice do not require an administrative authority or a selection committee or an examiner to record reasons for the selection or non-selection of a person. In absence of a statutory provision, administration is under no legal obligation to record reasons in support of its decision.

3. The learned counsel for the review applicant strongly argued that the Tribunal's order, by no stretch of imagination, impinges upon the autonomy of the UPSC which has in fact been upheld in the order. Therefore, the order should be allowed to continue as it is. For the sake of better clarity, the relevant part of the Tribunal's order dated 12.03.2016 is reproduced as under:-

"13...It is obvious from the above rule that the DPC is not to be guided merely by the overall gradings as recorded in the ACRs and is entitled to make its own assessment based on the entries in the ACRs because at times the overall grading in ACR may be inconsistent with the gradings under various parameters and attributes. It is further recorded that if the accepting authority has overruled the reviewing and reporting authorities, the remarks of that authority should be taken as the final remarks for the purpose of assessment, as the three authorities namely reporting, reviewing and accepting authorities are complementary to each other and one does not have the effect of overruling the other.

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18. *In the facts of the case, we are of the view that the ACR of the applicant for the year 2007-08 should not have been taken into account by the DPC in its meeting held on 15.05.2014, as he had worked hardly for 52-53 days during the aforesaid period, which is less than three months, and it should have been treated as no ACR in view of the General Principles on Preparation and Maintenance of APAR for Central Civil Services and DOP&T OM*

No.51/5/72-Estt. 'A' dated 20.05.1972. We, therefore, dispose of this Application with the direction to the respondents to hold a review DPC treating the ACR for the year 2007-08 as no ACR, and in place thereof to consider the ACR for the year 2003-04. It is further provided that the DPC should also consider the ACR for the year 2005-06 as it is there on record, and give specific finding as to how it has been treated. The above direction is to be carried out by the respondents within three months from the date of production of certified copy of this order."

4. From a harmonious reading of the above two parts of the decisions, it is abundantly clear that the autonomy of the DPC to take decision in relation to the categorization of ACRs has been respected by this Tribunal in its order under review. The decision in respect to ACR for the period 2005-06 is only for consideration as it is in the records of the department.

5. In view of the above position, we find no reason which may warrant review of Tribunal's order dated 12.03.2016 passed in OA No. 2090/2014. Hence, the instant Review Application stands dismissed. MA No.1139/2016 also stands disposed accordingly. No costs.

(Dr. B.K. Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)