

**Central Administrative Tribunal  
Principal Bench, New Delhi**

**O.A.No.1706/2015  
MA No.4337/2015**

**This the 27<sup>th</sup> day of July, 2016**

**Hon'ble Shri Shekhar Agarwal, Member (A)**

Shri T M Sampath  
S/o Late Shri Munisamy Mudaliar  
Aged about 59 years, Administrative Officer  
National Water Development Agency  
Flat No.117, Palika Bhawan  
R K Puram, Sector-13  
New Delhi-110066

.. Applicant

(By Applicant in person)

Versus

Union of India through

1. The Secretary to Government of India  
Ministry of Water Resources  
& Ex-officio Chairman, Governing Body of NWDA  
Shram Shakti Bhawan  
Rafi Marg, New Delhi.
  2. The Director General  
National Water Development Agency  
18-20, Community Centre  
Saket, New Delhi-110017.
  3. Shri R K Jain  
Chief Engineer & Reviewing Officer  
National Water Development Agency  
18-20, Community Centre  
Saket, New Delhi-110017.
  4. Shri R K Kharbanda  
Then in-charge Deputy Director (Admn.) &  
Presently Deputy Director (Technical)  
Reporting Officer for 2011-2012  
National Water Development Agency  
18-20, Community Centre  
Saket, New Delhi-110017.
- ..Respondents

(By Advocate: Shri S N Verma)

**O R D E R (ORAL)**

**Shri Shekhar Agarwal:**

This Original Application has been filed seeking the following reliefs:-

“(i) direct respondents to disregard the APAR for the period 26.08.2011 to 16.1.2012 as the same has been written & reviewed during November, 2013 by giving a false date of 27.7.2012 by the reporting officer and a false date of 31.7.2013 by the reviewing officer even with false date it is after forfeiture of reporting officer’s right on 30.6.2012 and disclosed on 20.1.2013 to the applicant against the prescribed date of 1.9.2012;

(ii) direct the respondents to disregard the Review Part of the APAR for the period 1.4.2012 to 31.3.2013 as the review has been done without any right and without application of mind by the Reviewing Officer;

(iii) quash the Office Memorandum No.2/72/2011-Admn/Vo.X/3798 dated 16.03.2015 of the applicant;

(iv) direct the respondent No.2 to initiate action against respondent Nos. 3 and 4 as provided in DOP&T OM dated 16.2.2009 for not completing the APAR in the prescribed time limit;

(v) impose heavy cost on Respondent Nos. 3 & 4 for misusing their official position to victimize the applicant for being a whistleblower and for giving false dates in the APAR with the malafide intention of spoiling the career of the applicant;

(vi) allow the OA with exemplary cost; and

(vii) pass any further orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

2. The applicant who argued this case in person, submitted that as far as his report for the period from 26.08.2011 to 16.01.2012 is concerned, a mere perusal of the same would

indicate that the Reporting Officer recorded his remarks on 27.07.2012. The applicant relying on the instructions of M/o Water Resources issued on 01.02.2012 based on DOP&T's OM No.21011/02/2009-Estt.(A) dated 16.02.2009, stated that it is provided in these instructions that if the Reporting Officer does not record his remarks by 30<sup>th</sup> June of the year, then he forfeits his right to enter any remarks in the APAR of the officer reported upon. Thus, according to him, his APAR, in question, is vitiated as the remarks recorded by the Reporting Officer were recorded after the Reporting Officer had forfeited his right to record any remarks in the applicant's APAR.

3. Regarding the APAR for the period 01.04.2012 to 31.03.2013, the applicant has stated that the Reviewing Officer in Column 2 had stated that he was disagreeing with the Reporting Officer. Yet in Col. 5, the overall numerical grading awarded by him was 6.98 which was same as the numerical grading given by the Reporting Officer. Thus, there was contradiction in the Reviewing Officer's remarks.

4. In reply, learned counsel for the respondents argued that the instructions relied upon by the applicant regarding the time schedule for recording the remarks in the APAR were only in the nature of guidelines and could not be strictly applied. He has also stated that the applicant himself had contributed to the delay as he had not submitted his self appraisal on time.

5. I have heard both sides and have perused the material on record. I do not agree with the learned counsel for the respondents that the instructions dated 01.02.2012, relied upon by the applicant, were only in the nature of guidelines and were not meant to be strictly adhered to. In fact, on going through these instructions, I find that the Reporting and Reviewing Officers have been directed to adhere to the schedule of writing APARs strictly and not delay the same for any reason beyond the dates mentioned in the schedule. It has also been provided in these instructions that any delay in recording the APAR be brought to the notice of the Secretary of the concerned ministry, who may call upon explanation of the concerned officers for not having performed their public duty of writing APARs, within the prescribed schedule. It is also provided in these instructions that even if there was delay in submission of self appraisal by the officer to be reported upon, the reporting officer need not wait for the same till the last date and may take another appraisal form from the office and initiate the report (page 88 of the paper book).

6. In view of the aforesaid, I hold that the Reporting Officer had forfeited his right to record remarks in the APAR of the applicant for the period 26.08.2011 to 16.01.2012. As such, the remarks of the Reporting Officer cannot be taken into consideration for any purpose and have become *non est* in the eyes of law. Since the Reviewing Officer has only reviewed the

remarks of the Reporting Officer, consequently, his remarks also have to be ignored. Thus, the APAR of the applicant for the period 26.08.2011 to 16.01.2012 has become nonest in the eyes of law and has to be ignored for all purposes.

7. Regarding the APAR for the period 01.04.2012 to 31.03.2013, it is evident from perusal of the same that there is contradiction in the remarks of the Reviewing Officer. While in Col. 2, he has disagreed with the Reporting Officer, yet in Col. 5, he has given the same numerical grading as has been given by the Reporting Officer. This shows complete non application of mind. Under these circumstances, these remarks also deserve to be expunged.

8. I, therefore, allow this OA and hold that APAR of the applicant for the period 26.08.2011 to 16.01.2012 has become nonest in the eyes of law and has to be ignored for all purposes. As far as, APAR for the year 01.04.2012 to 31.03.2013 is concerned, the remarks of the Reviewing Officer deserve to be expunged. Ordered accordingly. This benefit may be given to the applicant within a period of sixty days from the date of receipt of a certified copy of this order. There shall be no order as to cost.

**( Shekhar Agarwal )**  
**Member(A)**

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