

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

OA-3881/2016

New Delhi, this the 23rd day of November, 2016.

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Shekhar Agarwal, Member (A)

Arun Kumar Mittal
S/o Late Shri Jagnandan Nath
Aged about 50 years
R/o A-64, Malka Ganj
Delhi – 100007
Presently working as
Executive Engineer, Gr. "A"
TSO-III, Northern Railway Headquarter
Baroda House, New Delhi – 110 001. Applicant

(through Sh. K.S. Dhingra)

Versus

1. Union of India through Secretary
Railway Board
Rail Bhawan, New Delhi – 110 001.
2. General Manager
Northern Railway
Baroda House, New Delhi – 110 001.
3. Chief Administrative Officer/Construction-II
Northern Railway
Kashmere Gate, Delhi – 110 006.
4. Shri Vijay Pratap Singh
Chief Engineer,/Construction-II/Survey
Northern Railway
Kashmere Gate
Delhi – 110 006.
5. Shri Y.S. Chaudhry
Deputy Chief Engineer (S&C)/TKJ
Northern Railway
Tilak Bridge
New Delhi – 110 001. Respondents

ORDER(ORAL)**Hon'ble Mr. Justice Permod Kohli**

Issue notice to respondent No. 1, 2 and 3 only. Learned counsel Sh. R.N. Singh appears and accepts notice on behalf of the respondents. Even though respondent nos. 4 and 5 have been impleaded as party by name, however, from the averments made in the OA, we find that there is no specific allegation of mala fide or bias against the said respondents. Hence, no notice is required to be issued to them.

2. The applicant is aggrieved of the gradings awarded to him in his ACRs for the period 2014-15. He made a representation dated 07.09.2015 against the grading awarded to him. The said representation has been rejected vide impugned order dated 06.11.2015. The impugned order is reproduced hereunder:

"The competent authority viz CAO/C-II has considered our representation against the entries & final grading in the APAR YE 31.03.2015 and has decided as under:-

"Based on the comments received from Dy. CE/C/Survey and CE/C/Survey, I infer that Sh. Mittal is an unreliable and lax officer who appears to have a negative attitude towards works. In spite of having considerable experiences as AEN/ XEN, he seems to need directions from higher up at every step and does not appear to have initiative. The quality of work has also not been found satisfactory.

In view of the comments of the Dy. CE/C/Survey and CE/C/Survey and having gone through his representation carefully and the remarks of Dy. CE and CE/C. Survey on the ACR, I do not intend to make any changes in the remarks and grading given in the report for the year end March, 2015."

3. From the perusal of the impugned order we find that no reasons have been recorded for rejecting the representation of the applicant. Apart from that, we find that certain comments were obtained by respondent no. 3 from Deputy Chief Engineer/C/Survey and Chief Engineer/C/Survey and based upon

such comments, the impugned rejection order has been passed. Such recourse does not seem to be in consonance with law, as the competent authority has only relied upon the comments obtained without applying its own mind to facts of the case. The impugned order thus suffers from non-application of mind and being unreasoned is liable to be set aside. It is settled law that even the order passed by an administrative authority if it affects the civil rights of any person, must be a reasoned one.

4. In this view of the matter, the impugned order dated 06.11.2015 is hereby set aside and the matter is remanded back to respondent no. 3 to reconsider the representation of the applicant and dispose of the same with due application of independent mind and pass a fresh reasoned and speaking order within a period of two months from the date of receipt of certified copy of this order.

(Shekhar Agarwal)
Member (A)

(Justice Permod Kohli)
Chairman

/ns/