

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

OA No.4078/2014

This the 3rd day of February, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

(Muna Lal Kanojia)
S/o Sh. Manku Lal
Age 50 years
Dy Manager (Finance)
B-21/B, Chankaya Place,
Pankha Road,
Near Delhi-110059. Applicant

(By Advocate: Shri Vinod Zutshi)

Versus

- 1) Union of India
(through its Secretary),
Ministry of Urban Development (MOUD)
Nirman Bhawan,
New Delhi-110011.
- 2) National Buildings Construction Corporation Ltd.
(through its Chairman-cum-Managing Director),
NBCC Bhawan,
Lodhi Road,
New Delhi-110003.
- 3) Shri Manas Kaviraj
General Manager (HRM),
Ministry of Urban Development (MOUD)
NBCC Bhawan,
Lodhi Road,
New Delhi-110003. Respondents

(By Advocate: Dr.Ch.Shamsuddin Khan for R-1
Shri S.T.Venkatachala for R-2 & 3)

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

The applicant joined the office of R-2 on 17.08.1987 in the Finance Department after acquiring M.Com degree. He earned various promotions from time to time and reached the position of Assistant Manager Finance. It is stated that the applicant has earned all along 'outstanding' grading on account of his efficiency and hard work except for the period 2007-08 when he was graded as 'outstanding' by the Reporting Officer but the Reviewing Officer graded him 'Very Good', as also during the year 2011-2012 when he was graded as 'Outstanding' by the Reporting and Reviewing Officers but the officiating Countersigning Authority downgraded his ACR from 'Outstanding' to 'Very Good'. Hence, the applicant has filed the present OA seeking following relief:-

"8.I Direct the respondent No.2 to address the grievance of the Applicant with respect to the ACR's of 2007-08 and 2011-12 and bring them at par with the earlier ACR's as these have not been communicated and cannot be considered at any time even for the future benefit, if at all it accrues in future."

2. The applicant represented against the entries downgrading him from 'Outstanding' to 'Very Good'. His representation has been declined vide letter dated 10.06.2014 with the following remarks:

"Please refer your grievance dated 23.11.2013/15.01.2014 requesting therein for review and up gradation of ratings recorded in his ACRs for the period 20.11.12 which was further registered at Sl.No.191 in the Grievance register.

It is to inform you that your grievance was put up to CGC in its meeting held on 07.05.2014. Your grievance was examined by the committee in reference to the rules of the Company. The recommendation of the committee is given hereunder:

" Since the employee has mentioned in his self appraisal that he was assigned the job of salary preparation for entire border fencing and NER. Besides, he has also performed other accounting functions pertaining to the above region. Hence, the committee is of the view that the appraisal of the Competent Authority is well in line with the self appraisal of the Competent Authority is well in line with the self-appraisal of the employee and there is no anomaly in APAR process. Therefore, the grievance of the employee has no merit. Hence, the same stands disposed off."

3. Learned counsel for the applicant submits that the ACRs for the year 2007-08 are not relevant now, and thus the said entries may be ignored. He however, has argued that the downgrading of his ACR for period 2011-2012 is contrary to law. As a matter of fact, the accepting authority was Director Finance and in his absence the then CMD

downgraded the ACR of the applicant. His further contention is that no reasons have been recorded while downgrading the ACR of the applicant even though unanimously concurred by the Reporting and Reviewing Officers.

4. Learned counsel for the respondents has however, submitted that the service prospects of applicant have not been affected on the ground of said entries. It is further submitted that the applicant has earned all promotions when due to him and thus these impugned entries have been rendered irrelevant. In response to the aforesaid submissions, learned counsel for the applicant submits that the applicant has all along earned outstanding entries, which fact is not disputed by the learned counsel for the respondents. In this context, the impugned ACR for the period 2011-12 have been assailed.

5. We have heard the parties and perused the record.

6. The relevant remarks of the Accepting officer in the ACR of the applicant for the period 2011-12 are as under:-

"Border Fencing accounting needs improvement.
Hence rated Very Good
(B)"

7. We find that the remarks in fact do not reveal the specific reasons. The remarks are so vague that it is difficult to find out the exact deficiency in the working of the applicant, though his overall ACRs was 'Outstanding' except one as referred to herein above. The accounting work is the job of finance unit and is not exclusively in the domain of the applicant. There are various officers entrusted with the work of accounting of the said zone. No specific deficiency in performance of the duty by the applicant has been pointed out. This cannot be said to be reason for downgrading the applicant, notwithstanding the fact that applicant has earned promotion, adverse remarks in the service record of the applicant, particularly when he was entitled to be considered for accelerated promotion on the basis of ACRs grading is prejudicial to his interest. The representation of the applicant has been rejected by the respondents as already referred to herein above.

8. Though the rejection of representation of the applicant has not been challenged, but the fact remains that even in the said order no specific reasons have been recorded except that there was no anomaly in APAR process. We are

of the view that the applicant's ACR grades have been downgraded without recording any specific valid reason.

9. In view of the above reasons, this OA is allowed. The impugned downgraded entry from 'Outstanding' to 'Very Good' for the period 2011-12 is set aside. The matter is remitted back to CMD for re-consideration of the representation of the applicant in the light of his service record and his performance during the said period. Let the decision be taken within a period of three months from the date of receipt of a copy of this order. No costs.

(K.N. Shrivastava)
Member(A)

(Justice Permod Kohli)
Chairman

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