

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA-2128/2012
MA-2811/2018
MA-2812/2018

New Delhi, this the 12th day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Dr. Chandra Shekhar Sahukar,
Assistant Commissioner (AH),
Department of Animal Husbandry & Dairying,
Ministry of Agriculture, Krishi Bhavan, New Delhi 110001
Resident of C-376, DDA Flats,
East Loni Road, Delhi-110093. **Applicant**

(through applicant in person)

Versus

Union of India through
Secretary, Department of Animal husbandry & Dairying,
Ministry of Agriculture,
Krishi Bhavan, New Delhi-110001. ... Respondents

(through Sh. G.S. Virk)

ORDER(ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

MA No-2811/2018 and MA No-2812/2018

The OA was filed by the applicant feeling aggrieved by the gradation, as regards his ACR for the year 2004-05. The OA was dismissed for default through order dated 17.12.2012. He filed an application with a prayer to set aside the

said order. The applicant also filed application for condonation of delay in filing the same.

2. After hearing both the parties, we are satisfied that the applicant was prevented from appearing before the court when the case was taken up and accordingly, we set aside the order dated 17.12.2012. The applications are accordingly allowed.

OA-2128/2012

The applicant was working as Assistant Commissioner (Piggery) in the Ministry of Agriculture, Government of India, in the year 2004-05. His ACR for that year was rated as 'Average' by the Reporting Officer and the same was confirmed by the Reviewing Officer. The Accepting Authority has also maintained the same. The representation submitted by the applicant in this regard did not yield any result. Therefore, he filed the OA with prayer to set aside the ACR for the year 2004-05. The applicant contends that though his performance was graded as 'Very Good' in the previous years, it was assessed as average for the year 2004-05 and that there is no basis for that.

2. The respondents filed counter affidavit. It is stated that the applicant himself did not furnish the particulars as required under Part II of the ACR and on the basis of the observation made by him, the Assessing Authority, rated the applicant's performance as 'Average'. It is also stated that the higher authorities did not find any defect in the assessment made by the Reporting Officer and accordingly confirmed the same.

3. We heard the applicant who argued his case in person and Sh. G.S. Virk, learned counsel for the respondents.

4. The occasion to interfere with an ACR by a Court or Tribunal is very rare. It is only when a specific mala fide is alleged against a Reporting or Reviewing Officer or when the record itself does not support the conclusions arrived at by the said authority, that a possibility may exist for interference with the same.

5. The information furnished by an officer under consideration becomes relevant in the context of the assessment of his performance by the Reviewing Authority. Obviously, for this reason, the standard proforma has devoted an independent Part i.e., Part 2 for furnishing the information by the concerned officer himself. The applicant did not furnish any information whatsoever for the period in question. Observations made by the Reporting Officer indicate that in spite of oral and written reminders, the applicant did not furnish the information. Left with no alternative, he proceeded to make his assessment, which ultimately turned out to be ' Average' .

6. The Scheme framed by the Government in the context of evaluation of ACRs stipulates a hierarchy of authorities. If the assessment by the Reporting Officer does not accord with the facts borne out by the record, the Reviewing Authority would have an opportunity to rectify the same. Added to that, the Accepting Authority may have its own view, on a perusal of the entire record. In the case of the applicant, the Reviewing Authority did not find any ground to interfere with the assessment made by the Reporting Officer. The Accepting Authority also did not find any basis to differ with the observations made by the Reporting and Reviewing Authority. While considering the representation submitted by the applicant, the competent authority furnished valid reasons as to how he does not find any basis to interfere in the matter to accede to the request of the applicant to upgrade the ACR.

7. The applicant is not able to satisfy us that the respondents have violated any specific provision of law or norm, in the entire exercise. The Tribunal cannot act as an appellate authority. Even otherwise it is not pointed out that the ACR was wrongly recorded.

8. The OA is accordingly dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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