

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.2905/2017

New Delhi this the 27th day of November, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)

S. Bhowmick, Age-51 years,
Under Secretary, Group-A,
S/o late Sh. T.K. Bhowmick,
R/o-RB-2, Inderpuri,
New Delhi-12

- Applicant

(By Advocate: Mr. Sachin Chauhan)

VERSUS

1. Union Public Service Commission,
Through the Secretary,
Dholpur House, Shahjahan Road,
New Delhi

2. The Joint Secretary (Confidential),
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi

- Respondents

(By Advocate: Mr. Naresh Kaushik)

ORDER (Oral)

The applicant has filed this Original Application (OA), seeking the following reliefs:-

“8.1 To quash and set-aside the order dated 7.09.2016 and to further direct the respondent that applicant be given “honorarium” for the duty relating (Confidential Branch) to Civil Service (Main) Examination 2012 with all consequential benefits.

Or/and

Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the applicant.”

2. The applicant is an officer in the UPSC. He was aggrieved by the fact that he was overlooked/not given honorarium the period when he performed duties relating to holding of the Civil Service Examination.

3. The major ground for the representation dated 05.05.2014 filed by the applicant seeking payment of honorarium for duty rendered by him with regard to Civil Services (Main) Examination, 2012 is that all persons in the Branch concerned, excluding him, were granted the honorarium. When his request for honorarium was not replied to, the applicant sought details through RTI and was finally informed by UPSC vide letter dated 07.09.2016 on the basis of the copy provided by him in his RTI application dated 08.09.2014 that *“on the basis of the examination, it is found that your tenure in Confidential Branch during the evaluation of CS(Main) was very short and your work performance was not satisfactory to merit grant of honorarium. Accordingly, while seeking the approval of the Commission for payment of honorarium to the staff of Confidential Branch, your name was not proposed for grant of honorarium.”*

4. Counsel for the applicant draws attention to the contradiction in the reply given by the UPSC and APAR recorded for the year 2012-13 in question. He takes us through the APAR and is able to show that the applicant has, in fact, received an “outstanding” APAR for the period in question. It is, therefore, his contention that had he not rendered his services satisfactorily, as stated by the respondents in his reply dated 07.09.2016 to his representation dated 05.05.2014,, then the same would have been reflected in his APAR.

5. Counsel for the respondents refutes the contentions of the applicant and states that the applicant has made a mistake even in stating the period during which he worked in the Confidential Branch but acknowledges that the same has subsequently been corrected by him. He does not deny the facts recorded in the APAR.

He also seeks to state that because the officer in-charge of the Confidential Branch did not recommend the applicant of this OA for payment of honorarium, hence, he was not given the same. He has also raised a preliminary objection regarding delay in filing the OA.

6. Both the parties were heard and record perused.

7. As regards the preliminary objection of the respondents regarding delay in filing the OA, it is noted that the applicant has, in fact, relied on his APAR for year 2012-13 which would have been finalized only after conclusion of the said period and, therefore, we do not find that there is delay in this matter.

8. Quite clearly, nobody has a right to get an honorarium and the same is awarded by the employer based on evaluation of the services rendered by an employee. But in this case, we find that the employer has only stated that because the Head of the Confidential Branch did not recommend the grant of honorarium, it was not given. Had this been the only answer, there would not have been any reason to go into the merits of the matter. But an adverse comment has been made in the communication dated 07.09.2016 in which it has been clearly said that because his tenure in Confidential Branch was short and his performance was not satisfactory to merit grant of honorarium, hence he was not given the same/they have denied the same. While we accept the grant of honorarium is not a right but at the same time, to make an adverse comment against the applicant and to deny him the honorarium on that basis is totally uncalled for and without merit. The APAR for the period 2012-13 is quite clear and to deny the honorarium to only one person out of the whole Confidential Branch can only be termed as exceptional and in fact, casting a blot on the working of

the applicant. The APAR does not bear out any of the averments made in the counter affidavit. Hence, it is quite clearly a case in which a decision of omitting to give honorarium is sought to be justified. This type of justification is not as per rules and cannot be upheld. Accordingly the decision to not award honorarium for the said period is set aside. In case there is any monetary difficulty in awarding the honorarium for the period in which the financial year is closed, the authorities shall ensure that the matter is considered under the head "Miscellaneous Expenses" etc. and in view of the directions of this Court, pass an order giving him the honorarium for the said year.

9. With the above directions, the OA is allowed. No costs.

(Nita Chowdhury)
Member (A)

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