

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

...

OA NO. 290/00156/2016

**THIS, THE 11TH DAY OF
JANUARY, 2018**

...

**CORAM: HON'BLE MR. R.RAMANUJAM, MEMBER (A)
HON'BLE MR. SURESH KUMAR MONGA, MEMBER(J)**

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**ISMAIL KATHAT S/O SHRI KHANGARA KATHAT, AGED 50 YEARS, RESIDENT
OF VILLAGE DHOLIGHATI POST OFFICE, JHAK VIA BEAWAR, DIST. AJMER,
WORKING AS IMMIGRATION OFFICER (ACIO-D) AT BOI MUNABAO, BARMER
(SIB JAIPUR)**

...APPLICANT

BY ADVOCATE : MS. NASRAT BANU

VERSUS

- 1. UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF HOME
AFFAIRS, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI.**
- 2. DIRECTOR, INTELLIGENCE BUREAU, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI.**
- 3. JOINT DIRECTOR, SUBSIDIARY INTELLIGENCE BUREAU, MINISTRY OF
HOME AFFAIRS, GOVERNMENT OF INDIA, 2B, LAVAN MARG, JHALANA
DOONGRI, JAIPUR.**
- 4. REVIEWING OFFICER, SUBSIDIARY INTELLIGENCE BUREAU, MINISTRY OF
HOME AFFAIRS, GOVERNMENT OF INDIA, 2B LAVAN MARG, JHALANA
DOONGRI, JAIPUR.**
- 5. REPORTING OFFICER, RAJESH KUMAR, SUBSIDIARY INTELLIGENCE
BUREAU, MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA,
CHANDIGARH.**
- 6. REPORTING OFFICER, KAILASH MEGHWAL, BUREAU OF IMMIGRATION
(ICP-MUNABAO), MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA,
BHAGWATI NIWAS, RAI COLONY, BARMER.**

....RESPONDENTS

BY ADVOCATE: MR. K.S.YADAV

ORDER (ORAL)

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PER R.RAMANUJAM, MEMBER (A)

LEARNED COUNSEL FOR THE APPLICANT SUBMITS THAT THE APPLICANT IS AGGRIEVED BY ANN.A/1 IMPUGNED ORDER DATED 20.10.2015 BY WHICH HIS REPRESENTATION DATED 18.06.2015 AGAINST DOWNGRADING OF HIS APAR FOR 2014-15 HAD BEEN REJECTED.

2. THE GRIEVANCE OF THE APPLICANT IS THAT THE NUMERICAL GRADING OF THE APPLICANT WAS BROUGHT DOWN FROM 7 TO 5 BY THE REVIEWING OFFICER, WHO HAD NOT OBSERVED THE WORK OF THE APPLICANT AS CLOSELY AS REPORTING OFFICERS. THE IMPUGNED ORDER STATES THAT THE REPRESENTATION DID NOT CARRY ANY DETAILS OF EXTRA-ORDINARY PERFORMANCE BY THE APPLICANT. HIS CLAIMS WERE MAINLY BASED ON ROUTINE PERFORMANCE OF DUTIES. IT ALSO STATED THAT ONE OF THE REPORTING OFFICER (SHRI RAJESH KUMAR) IN HIS COMMENTS HAD AGREED TO THE DOWNGRADING OF THE OVERALL SCORE. THEREFORE, THERE APPEARED NO REASON TO REVIEW THE OVERALL GRADING.

3. LEARNED COUNSEL FOR THE APPLICANT WOULD ARGUE THAT THE APPLICANT WAS INDEED PERFORMING ROUTINE DUTIES ONLY. HOWEVER, IT WAS NO FAULT OF THE APPLICANT THAT HE DID NOT PERFORM ANY EXTRA-ORDINARY TASK DURING THE SAID PERIOD. IT WAS NOT POSSIBLE FOR THE APPLICANT TO PERFORM ANY EXTRA-ORDINARY TASK, AS NO SUCH TASK WAS ASSIGNED TO HIM. THE APPLICANT SUBMITTED A DETAILED REPRESENTATION RAISING A NUMBER OF ISSUES IN THIS REGARD, NONE OF WHICH HAD BEEN ADDRESSED IN THE IMPUGNED ORDER. THE ORDER IS NON-SPEAKING AND WITHOUT APPLICATION OF MIND AND, THEREFORE, LIABLE TO BE QUASHED.

4. LEARNED COUNSEL FOR THE RESPONDENTS SUBMITS THAT APPLICANT'S REPRESENTATION WAS CAREFULLY CONSIDERED IN TERMS OF PROCEDURE ESTABLISHED BY THE COMPETENT AUTHORITY. THE APPLICANT DID NOT DESERVE MORE THAN THE GRADING AWARDED TO HIM BY THE REVIEWING OFFICER. EVEN ONE OF THE REPORTING OFFICERS WHO HAD GRANTED A GRADING OF 7 TO THE APPLICANT AGREED AT THE TIME OF CONSIDERING HIS REPRESENTATION THAT THE REVIEWING OFFICER WAS IN A BETTER POSITION TO ASSESS THE PERFORMANCE OF THE APPLICANT AS HE HAD BEEN MONITORING THE PERFORMANCE OF EACH OFFICER VERY MINUTELY AND JUDICIOUSLY FOR ALL STAFF UNDER HIS SUPERVISION. IN VIEW OF THIS, THERE IS NO INFIRMITY IN THE IMPUGNED ORDER AND THE OA IS LIABLE TO BE DISMISSED, IT IS CONTENTED.

5. WE HAVE CAREFULLY CONSIDERED THE FACTS OF THE CASE. IT IS NOT DISPUTED THAT THE APPLICANT HAD BEEN DOWNGRADED BY THE REVIEWING OFFICER WITH GENERAL REMARKS, SUCH AS, THE APPLICANT DESPITE REPEATED INSTRUCTIONS TO CONCENTRATE ON HIS ASSIGNMENT, COULD NOT PRODUCE ENCOURAGING RESULTS. IT IS ALSO STATED THAT THE OFFICER REPORTED UPON HAD NOT PERFORMED ON A NUMBER OF OCCASIONS. HE WAS ASKED TO IMPROVE HIS CONDUCT AND PERFORMANCE, BUT HE HAD NOT MEASURED UP TO THE MARK AND NEEDED IMPROVEMENT. IT IS SEEN THAT THE REMARKS ARE NON-SPECIFIC, INASMUCH AS, NO INSTANCE HAS BEEN QUOTED OF ANY SPECIFIC TASK ASSIGNED TO THE APPLICANT, WHICH HE FAILED TO PERFORM.

6. THE APPLICANT CONTENDS THAT HE WAS NEVER ISSUED ANY ORAL OR WRITTEN WARNING OR ADVICE TO IMPROVE HIS PERFORMANCE. THE OFFICER, WHO CLOSELY WATCHED HIS PERFORMANCE HAD FELT THAT HE DESERVED TO BE AWARDED A GRADING OF 7. ONE OF THE REPORTING OFFICERS ALSO RECORDED THAT THE OFFICER WAS SINCERE AND HONEST IN THE DISCHARGE OF HIS DUTY PROPERLY AND HIS PROFILING CAPABILITIES WERE ALSO GOOD AND HE COULD IMPROVE UPON THE SAME. THE OTHER REPORTING OFFICER SHRI RAJESH KUMAR HAD RECORDED THAT "HE IS HAVING GOOD APTITUDE FOR IMMIGRATION WORK. HE IS PERFORMING HIS DUTIES EFFICIENTLY". IT APPEARS THAT HE REVERSED HIS STAND WHEN THE APPLICANT'S REPRESENTATION WAS REFERRED TO HIM FOR INEXPLICABLE REASONS. THE GROUNDS ON WHICH THE APPLICANT HAD BEEN DOWNGRADED FIRST AND HIS REPRESENTATION THEREAGAINST REJECTED SUBSEQUENTLY, ARE THUS, NON-TRANSPARENT.

7. IN VIEW OF ABOVE, THE IMPUGNED ANN.A/1 ORDER IS QUASHED AND SET-ASIDE. THE AUTHORITIES ARE DIRECTED TO RECONSIDER THE REPRESENTATION IN DETAIL AND POINT-WISE IN THE LIGHT OF THE AFORESAID OBSERVATIONS AND PASS A SPEAKING ORDER WITHIN A PERIOD OF FOUR WEEKS FROM THE DATE OF RECEIPT OF A COPY OF THIS ORDER.

8. THE OA IS DISPOSED OF IN THE ABOVE TERMS. NO ORDER AS TO COSTS.

(SURESH KUMAR MONGA)
MEMBER (J)

(R.RAMANUJAM)
MEMBER (A)

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