

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.248 of 2012

Date of order :27.09.2016

Present : Hon'ble Justice Mr. V.C. Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

PRAKASH CHANDRA BARMAN
-V E R S U S-
UNION OF INDIA & OTHERS
(DEFENCE)

For the applicants : None
For the respondents : Mr. B.P. Manna, counsel

ORDER

Per Mr. Justice V.C. Gupta, J.M.

None appears for the applicant. Heard Id. counsel for the respondents. It is a long pending case of 2012. Hence, the O.A. is being disposed of by invoking Rule 15 of C.A.T.(Procedure) Rules on the basis of the pleadings and documents available on record.

2. The short question for consideration before this Tribunal is that adverse remarks communicated in bulk after six years could be read against the employee or not.

3. The fact is not in dispute. The entries of the year 2002-2003, 2003-2004 and 2004-2005 were communicated after more than six years and that too after conclusion of the disciplinary proceedings against the applicant. The representation of the applicant was dismissed by the Director General, Defence Estates vide order dated 23.09.2011 without assigning any reason.

4. It is well settled principle of law that when an administrative order is passed by any administrative authority affecting the civil rights of a person,

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it should be supported by reasons. On this count the impugned order dated 23.09.2011 cannot be allowed to sustain. Another reason for setting aside the order dated 23.09.2011 is that the respondents communicated the adverse remarks in ACRs of the applicant at a belated stage. Admittedly the time schedule should be adhered to by the authorities in regard to serving of adverse remarks in ACRs and the procedure for deciding the same by the employer concerned before the DPC is held. If that is not done, the adverse remarks cannot be read against the employee.

5. Ld. counsel for the respondents has pointed out that later on after closure of the disciplinary proceedings the applicant was exonerated, he was promoted to higher post w.e.f. 01.01.2013. However, the order of promotion is not a subject matter of this O.A.

6. In view of the above, the impugned order dated 23.09.2011 (Annexure A-5 to the O.A.) is set aside. The O.A. is allowed with an observation that the adverse remarks recorded in the ACRs of the applicant for the years 2002-2003, 2003-2004 and 2004-2005 shall not be treated as adverse against the applicant.

7. With these observations, the O.A. is finally disposed of. No order as to costs.

(J. Das Gupta)
Administrative Member
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(Justice V.C. Gupta)
Judicial Member