

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.753/2017

Date of Decision: 08th December, 2017

**CORAM: Hon'ble Shri Justice Permod Kohli,
Chairman**

Hon'ble Shri R. Vijaykumar, Member (A)

Jauesh Jagannath Panchal
Son of Jagannath Yashawant Panchal,
Nurse Grade B, in BARC Hospital,
Anushakti Nagar, Mumbai 400094,
Resident of Chenab, A/6 Westren Sector,
DAE Qrs, Anushakti Nagar,
Mumbai 400094.

...Applicant.

**(By Applicant Advocate: Shri.Anupam
Chattopadhyay)**

Versus.

1. Union of India, through
Secretary,
Department o Atomic Energy,
Anushakti Bhawan, CSM MARG,
Mumbai 400001.
2. Director, Bhabha Atomic Research
Centre,
Trombay, Mumbai 400085.

... Respondents

**(Respondents by Advocate Shri.V.S.
Masurkar).**

ORDER (Oral)

Per:- Shri Justice Permod Kohli, Chairman

Notice.

2. Shri V.S. Masurkar, Learned Standing Counsel, who is present in the Court, has been asked to appear.

3. The applicant is working as Nurse Grade 'B' with the respondents No.2.

4. The applicant is aggrieved of downgrading of his ACR for the year 2016-2017 i.e. for the period 01.07.2016 to 30.06.2017 whereby he has been awarded marks 2.8, 3 and 3.3 out of 10 under various headings.

5. The applicant represented against the aforesaid gradings vide his representation dated 28.08.2017, which has been disposed of by a totally unreasoned and non-speaking order in a most sketchy manner vide order dated 08.09.2017. The order reads as under:-

“Final APAR Grading awarded on
disposition of Representation
(To be filed in the APAR
Dossier)

Name

:

Shri Jayesh
J.

Panchal

Employee No. : 24291
Designation/Grade : NURSE/B
Division : Medical
Report for the
period : 01.07.2016
to 30.06.2017.
Final Overall Grade
Awarded : A2
Special Remarks, if any : ---"

6. After the aforesaid order of rejection of the representation the applicant made another representation dated 13.9.2017 to the Controller, BARC.
7. The applicant has primarily made three prayers, one that the complete ACR may be furnished to him in tune with the direction of the Hon'ble Supreme Court in the case of **Dev Dutt vs. Union of India 2008 AIR (SC)-2513** and the rejection of his representation against the ACRs having been considered by the Reviewing officer, which is improper in law be set aside. He accordingly seeks indulgence of the Tribunal for a direction to Controller, who is the higher authority to consider

his representation.

8. We have heard the learned counsel for the parties. There is substance in the submissions of counsel for applicant. The impugned order is totally non-speaking and without any reasons whatsoever and is not sustainable in law. Otherwise also his representation has been disposed of by the reviewing authority, who has already approved his APRs gradings and thus, it is desirable that the representation must be decided by a higher authority.

9. In view of the totality of the circumstances, this petition is disposed of at admission stage with the following directions;

(i). The applicant would be furnished with the complete APR with the gradings by the Initiating, Reviewing and Accepting Authorities within a period of 2 weeks.

(ii). The applicant is at liberty to make a fresh representation within a period of 2 weeks from the date of receipt

of the complete APR as referred to above.

(iii). The said representation shall be considered by the Controller, BARC In-charge, Medical Wing and to dispose of the same by a reasoned and speaking order within in a period of 6 weeks from the date of receipt of the representation.

10. The result of consideration shall be duly communicated to the applicant immediately thereafter.

11. Suffice it to say that the applicant shall have the liberty to seek remedial measures if aggrieved by the order of Controller.

12. The applicant has also prayed for interim relief for the stay of the interview for promotion to the next higher post of Nurse Grade 'C'. We are not inclined to stall the interview which may not be in the interest of the Organization and also the persons who are otherwise eligible and entitled to consideration. However, we direct that the outcome of the

interview shall not affect the rights of
the applicant.

Dasti.

(R. Vijaykumar)
Member (A)

(Justice Permod Kohli)
Chairman

Ak/-

