

**Central Administrative Tribunal
Principal Bench**

OA No.3985/2013

New Delhi, this the 26th day of February, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Inspr. Ramesh Chandra Meena
Age 50 years, S/o Sh. J.R. Meena
F-6, Mehram Nagar, Police Colony
Palam Airport, New Delhi-37 ... Applicant

(By Advocate: Shri Sachin Chauhan)

Vs.

1. The Govt. of NCTD
Through the Commissioner of Police(AP)
Police Headquarters, MSO Building
I.P. Estate, New Delhi.
2. The Joint Commissioner of Police
Armed Police: Delhi Police
HDARS, through the Commissioner
Of Police, Police Headquarters
MSO Building, I.P. Estate, New Delhi.
3. The Addl. Dy. Commissioner of Police
Armed Police: Delhi Police Establishment
through the Commissioner of Police
Police Headquarters, MSO Building
I.P. Estate, New Delhi.
4. The Dy. Commissioner of Police
West District (Reporting Officer)
through the Commissioner of Police
Police Headquarters, MSO Building
I.P. Estate, New Delhi.
5. The Joint Commissioner of Police(AP)
Southern Range(Reviewing Officer)
through the Commissioner of Police
Police Headquarters, MSO Building

I.P. Estate, New Delhi.

...Respondents

(By Advocate: Mrs. P.K. Gupta)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant is working as Inspector in the Delhi Police. In the context of writing ACRs, the Deputy Commissioner, West District is the Reporting Officer and the Joint Commissioner, North Range is the Reviewing Officer.

2. The ACR of the applicant for the period 23.08.2007 to 25.02.2008 was submitted by him with self assessment. The Reporting Officer, however, graded him as 'Average' on almost all the attributes. The over all grading he was shown as 'Average'. The Reviewing Officer stated that he agrees with the evaluation made by the Reporting Officer and approved the gradation of 'Average'. The same was communicated to the applicant as required under law. The applicant submitted a representation to the competent authority i.e. the Commissioner of Police with the request to upgrade the ACR for the period, in question. It was stated that neither the Reporting

Officer nor the Reviewing Officer have furnished any reason in support of their conclusions and if one takes into account, the gradation of his ACRs of the previous years, the one for the period, in question, is totally unjustified.

3. The Commissioner passed an order dated 13.05.2013 refusing to upgrade the ACRs. It was observed that the Reporting and Reviewing Officers have offered their remarks and he agrees with them. Mention was also made to an order of censure passed against the applicant on 04.01.2008. This OA is filed challenging order dated 13.05.2013 and consequential reliefs are prayed for.

4. The applicant contends that neither the Reporting Officer nor the Reviewing Officer has furnished any reasons for grading him as 'Average' in the ACR in question. It is stated that the Reporting Officer is required to prepare a pen picture indicating the method of functioning of the applicant, and it is only when the picture discloses certain negative aspects that the gradation of 'Average' could have been justified. It is also stated that the very purpose of providing for a

Reviewing Officer is to ensure that arbitrary evaluation made by the Reporting Officer does not go unchecked.

5. The respondents have filed counter affidavit opposing the OA. It is stated that the ACR of the applicant, in question, was evaluated by the Reporting and Reviewing Officers in accordance with law, and the representation was also considered by the competent authority objectively. The detailed manner, in which the ACR and the representation were dealt with, is also furnished.

6. We heard Shri Sachin Chauhan, learned counsel for the applicant and Ms. P.K. Gupta, learned counsel for the respondents.

7. The ACR in question is for the period 28.08.2007 to 25.02.2008. On his part, the applicant initiated the ACR by indicating his method of functioning. The Reporting Officer was under an obligation to prepare a pen picture indicating the nature of performance on the part of the applicant. This is particularly so when the evaluation was to be either on very higher side, or on a very lower side. It is only when reasons are furnished

that the arbitrary evaluation can be avoided. In the instant case, no reason whatever was furnished by the Reporting Officer in support of his conclusion that performance of the applicant is 'Average'.

8. The very purpose of having a multi-level evaluation of ACRs is to ensure that arbitrary or biased evaluation made by an immediate superior of an employee, i.e., the Reporting Officer, does not go unchecked. If the evaluation of the employee was not detrimental to his interest, but is not extremely higher or lower, the Reviewing Officer can simply agree with the one made by the Reporting Officer. Where the evaluation is on a very higher or lower side and is not supported by any reason whatever, the mere observation on the part of the Reviewing Authority that he agrees with the Reporting Officer, does not meet the requirement under law. The competent authority did not take these aspects into account.

9. We, therefore, allow the OA and set aside the order dated 13.05.2013 as well as the gradation made by the Reporting and Reviewing Officers. Since the Reporting Officer did not furnish any reasons in support

of his conclusion, nor did the Reviewing Officer make any remark indicating any imperfect performance on the part of the applicant, we direct the Commissioner of Police to pass fresh orders duly taking into account, the ACRs of the applicant for the past five years. The orders in this behalf shall be passed within a period of one month from the date receipt of a copy of this order. In case the ACR of the applicant is upgraded to the level of bench mark, the benefits, if any, denied to the applicant, on the basis of the impugned ACR, shall be considered for restoration. In such an event, the applicant shall not be entitled to arrears. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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