

**Central Administrative Tribunal
Principal Bench**

OA No.2112/2012

New Delhi, this the 11th day of December, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Dimple Kumar,
Age 39 years,
S/o Shri Khushi Ram,
L.D.C., Accounts Section,
LRS Instt. Of TB & RD,
Sri Aurbindo Marg,
New Delhi-110030.

...Applicant

(By Advocate : Shri Anil Singal for Shri Amit Anand)

Versus

Union of India through,

1. Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.
2. The Director,
L.R.S. Institute of Tuberculosis and
Respiratory Diseases,
Sri Aurobindo Marg,
Near Qutab Minar, New Delhi.
3. Sh. Rajnikant Prasad,
LDC, L.R.S., Institute of Tuberculosis and
Respiratory Diseases,
Sri Aurobindo Marg,
Near Qutab Minar, New Delhi

(Service of respondent no.3 to be effected through
respondent no.2 i.e. Director, L.R.S. Institute of
Tuberculosis and Respiratory Diseases, Sri Aurobindo
Marg, Near Qutab Minar, New Delhi)

...Respondents

(By Advocate : Shri Vikalp Mudgal for R-2)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant is working as LDC in the L.R.S. Institute of Tuberculosis, the 2nd respondent herein. As regards the ACRs for the year 2009-2010 and 2010-2011, he made representations to the competent authority for upgradation. Through a memorandum dated 13.04.2012, the competent authority refused to accede to the request. On receipt of the same, the applicant made a representation on 26.04.2012, by raising certain grounds. That was rejected through a memorandum dated 31.05.2012. This OA is filed challenging both the orders of rejection.

2. The applicant contends that though he furnished several reasons as to why the ACRs for the two years ought not to have been assessed below benchmark, the competent authority did not discuss them at all, and the representation was rejected in a mechanical way. He further contends that the prescribed procedure was not followed.

3. The respondents filed counter affidavit opposing the OA. It is stated that the representation of the applicant was dealt with, in accordance with prescribed procedure and on finding that there is no merit in the representation, it was rejected.

4. We heard Shri Anil Singal for Shri Amit Anand, learned counsel for applicant and Shri Vikalp Mudgal for the respondents.

5. The applicant felt aggrieved by the gradation of the ACRs for the years 2009-2010 and 2010-2011 and made representation with prayer to upgrade them. The procedure prescribed by the DOP&T through various guidelines mandates that the competent authority needs to call for the remarks of the recording officer and reviewing authority, if there exists one, and to pass a reasoned order, taking into account the facts that are pleaded by the concerned employee. In the instant case, no reason whatsoever is mentioned in the impugned order, nor it is stated that any remarks of the officers were called, and if so, purport thereof.

6. The very purpose of communicating the below benchmark ACRs is to enable the concerned employee to make a representation and once a representation is received, an exercise, which must be objective in nature, needs to be undertaken. Unless the reasons are mentioned as to why the upgradation cannot be done, the grievance of the employee would still persist.

7. We, therefore, allow the OA and set aside the orders dated 13.04.2012 and 31.05.2012, and direct the competent authority to pass fresh orders, duly assigning reasons, in support of his conclusions.

8. Though challenge is also made to an order dated 31.07.2012, through which one Shri Rajni Kant Prasad is promoted to the post of UDC, the OA is bereft of any grounds or reasons in that behalf. Therefore, we do not interfere with the same.

There shall be no orders as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

‘rk’