

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2900/2013

Thursday, this the 28th day of March 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Shri Madan Chauhan, age 41 years
s/o Sh. Bihari Lal
r/o Qtr. No. 578, Sector 9
R K Puram, New Delhi – 22

...Applicant

(Mr. Rajesh Kumar, Advocate for Mr. Sachin Chauhan, Advocate)

Versus

1. Union of India through its Secretary
Ministry of Home Affairs
Govt. of India, North Block, New Delhi
2. Intelligence Bureau
Through its Director
Intelligence Bureau, 35, SP Marg,
New Delhi – 110 001
3. AD/MAC, Intelligence Bureau
Through the Joint Director/E
Intelligence Bureau, 35, SP Marg,
New Delhi – 110 001
4. DCIO/Exe., Intelligence Bureau
Through the Joint Director/E
Intelligence Bureau, 35, SP Marg,
New Delhi – 110 001

...Respondents

(Mr. Gyanendra Singh, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant is an officer in the Intelligence Bureau, Ministry of Home Affairs. During the year 2011-12, he was functioning as Junior Intelligence Officer-II/Exe. He submitted

his Annual Performance Appraisal Report (APAR) for the period between 01.04.2011 and 31.03.2012. The reporting officer awarded 6.5 marks in the overall grading. However, the reviewing officer reduced the same to 5.5 and the countersigning officer adopted the same figure, i.e., 5.5.

2. The applicant submitted a representation on 13.12.2012 with a prayer to upgrade his APAR for the period in question. It is stated that down-gradation of the evaluation by the reviewing officer and acceptance of the same by the countersigning officer, is without any basis and contrary to the guidelines issued by the Government in this behalf.

3. Through an order dated 02.04.2013, the competent authority rejected the representation of the applicant. Hence, this O.A.

4. The applicant contends that when his record is consistent and evaluation of his APAR for various years was at the level of 'outstanding' but the one for the year 2011-12 was rated as 5.5, without any basis. He submits that the competent authority was under obligation to call for the remarks by the reporting, reviewing and countersigning officers, as required under the law, and to satisfy himself about the gradation made, but nothing of that sort was undertaken in the instant case.

5. The respondents filed counter affidavit opposing the O.A. It is stated that the prescribed procedure was followed, in the context of gradation of the APAR, by various authorities and for the disposal of the representation.

6. We heard Mr. Rajesh Kumar for Mr. Sachin Chauhan, learned counsel for applicant and Mr. Gyanendra Singh, learned counsel for respondents.

7. The issue pertains to the APAR of the applicant for the year 2011-12. The record discloses that the gradation given to him for the period preceding and subsequent to that year, was meritorious. Even for that year, the reporting officer awarded him 6.5 marks, whereas the reviewing officer reduced it to 5.5. That, in turn, was accepted by the countersigning officer.

8. As provided for under the law, the applicant made a representation on 13.12.2012, raising several grounds. The Office Memoranda issued in this behalf place obligation on the competent authority to call for remarks of the reporting, reviewing and countersigning officers, if they are in service, and to follow different procedure, if they are not in service, before it forms an opinion. It is also a requirement under the law to furnish reasons in support to his conclusion either to retain the same gradation or to revise it upwards. In the instant case, the order passed by the competent authority reads as under:-

“Memorandum

Please refer to your representation dated 13.12.2012 regarding your APAR for the period 2011-12.

2. The Competent Authority has considered your representation on the basis of the material available on records and in consultation with the Reporting and Countersigning Officer and stated that there are no grounds for interfering with the grading in his APAR.”

9. The order does not mention as to whether the remarks of the reporting, reviewing and countersigning officers were called for at all and whether the record has been perused. In addition to that, the order does not deal with any of the contentions raised by the applicant in his representation.

10. We, therefore, allow this O.A. and set aside the impugned order. We direct the competent authority to pass fresh order in accordance with law, duly following the prescribed procedure under the Office Memoranda issued in this behalf. This exercise shall be completed within two months from the date of receipt of a copy of this order.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

March 28, 2019
/sunil/