

**Central Administrative Tribunal  
Principal Bench**

OA No. 1453/2016  
MA No. 4666/2018

This the 03<sup>rd</sup> day of January, 2019

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

Vishnu Shankar Prasad  
(Chief Engineer)  
Ministry of Road Transport Highways,  
D-47, Saket,  
New Delhi – 110017.

...Applicant

(By Advocate: Shri Satyam Reddy, Sr. Counsel with  
Shri V. K. Jain, Shri Ajit Kulshrestha and  
Shri Vijay Kumar)

**Versus**

1. Union of India  
(Through Secretary)  
Ministry of Road Transport and Highways,  
Transport Bhawan,  
New Delhi.
2. Sh. Vijay Chhibber  
R/o 59, New Moti Bagh,  
New Delhi.
3. Hon'ble Cabinet Minister,  
Ministry of Road Transport & Highways,  
Transport Bhawan,  
New Delhi.

...Respondents

(By Advocate: Sh. Hanu Bhaskar)

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

The applicant is holding the post of Chief Engineer in the Ministry of Road Transport and Highways. In his APAR/ACR for the year 2014-2015, the same officer acted as Reporting as well as Reviewing Authority. He graded the applicant as below benchmark. Feeling aggrieved by that, he submitted representation to the Competent Authority. Through an order dated 05.02.2016, the Competent Authority refused to interfere with the gradation. Hence, this OA.

2. The applicant contends that the Government issued specific guidelines in the context of the preparation of the APARs and stipulated the time frame to be followed at various levels, such as Reporting Officer, Reviewing Officer and Accepting Officer and the same has not been followed in the instant case. A reference is made to the OM dated 16.02.2009 issued by DOP&T.

3. The applicant submits that though the time stipulated for the Reporting Officer to complete the exercise is 22<sup>nd</sup> May of the concerned year, in the instant case, he did it on 19.09.2015 and on the same day, that very officer discharged the functions of the Reviewing Officer. He contends that

neither the Accepting Authority nor has the Competent Authority dealt with these important aspects.

4. Respondents filed counter affidavit opposing the OA. It is stated that the same officer was discharging the functions which are referable to the Reporting and Reviewing Officers, vis-à-vis the applicant and there is no prohibition in law, against this. It is also stated that the delay in undertaking the exercise occurred on account of failure on the part of the applicant to submit his appraisal. It is also stated that the time frame mentioned in various OMs is not mandatory and is mostly for the guidance of the respective authorities.

5. We heard Shri Satyam Reddy, learned senior counsel along with Shri V. K. Jain learned counsel for the applicant and Shri Hanu Bhaskar, learned counsel for the respondents.

6. The evaluation of the performance of the government servant is undertaken through the process of maintenance of APARs/ACRs. The assessment takes place in a three tier system. The first is by the Reporting Officer, namely the immediate superior of the officer under consideration, next is the Reviewing Authority; and thereafter, by the Accepting Authority. In case the employee suffers any evaluation which is detrimental to his interests in the hands of any of the three

authorities, he can submit representation to the Competent Authority.

7. DOP&T issued an OM dated 16.02.2009, stipulating the time frame for preparation of the APARs. Apart from that, it also mandates that in case the Reporting, Reviewing and Accepting Authorities do not discharge their functions within the time frame, their right to do so shall stand forfeited. The time frame is as under:-

S. No.	Nature of Action	Date by which to be completed
1.	Distribution of blank CR forms to all concerned (i.e. to officer to be reported upon where self-appraisal has to be given and to reporting officers where self-appraisal is not to be given)	31 <sup>st</sup> March. (This may be completed even a week earlier).
2.	Submission of self-appraisal to reporting officer by officer to be reported upon (where applicable).	15 <sup>th</sup> April.
3.	Submission of report by reporting officer to reviewing officer <ul style="list-style-type: none"> <li>- Where self-appraisal by officer reported upon is prescribed.</li> <li>- Where self-appraisal by officer reported upon is not prescribed.</li> <li>- Where officer reported upon is himself a reporting officer for subordinates under him.</li> </ul>	7 <sup>th</sup> May.  21 <sup>st</sup> April.  22 <sup>nd</sup> May.

4.	Report to be completed by Reviewing Officer and sent to Administration or CR Section/Cell.	<ul style="list-style-type: none"> <li>●23rd May where the due date for the reporting officer is 7<sup>th</sup> May.</li> <li>●7th May where the due date for the reporting officer is 21<sup>st</sup> April.</li> <li>●5th June where the due date for the reporting officer is 22<sup>nd</sup> May.</li> </ul>
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8. In para-2 of the OM it is mentioned as under:-

“ 2. .... It has been decided that while the time-limits prescribed in the aforesaid OM dated 23.09.1985 should be adhered to as far as possible, in case the ACR is not initiated by the Reporting Officer for any reason beyond 30<sup>th</sup> June of the year in which the financial year ended, he shall forfeit his right to enter any remarks in the ACR of the officer to be reported upon and he shall submit all ACRs held by him for reporting to the Reviewing Officer on the next working day. Similarly, the Reviewing Officer shall also forfeit his right to enter any remarks in the ACR beyond 31<sup>st</sup> August of the year in which the financial year ended. The Section entrusted with maintaining the ACRs Shall, while forwarding the ACRs for self appraisal with copy of the Reporting/Reviewing Officers, also annex the schedule of dates as enclosed herewith. It shall also bring to the notice of the Secretary Concerned in the case of Ministry/Department and the Head of the organization in the case of attached and subordinate offices, the names of those Group A and B Reporting Officers and Group A Reviewing Officers in the month of October after receiving the completed CRs who have failed to initiate/review the ACRs even by 30<sup>th</sup> June or 31<sup>st</sup> August as the case may be.”

9. This very aspect was reiterated in the OM dated 23.07.2009 with slight change, as to the dates. The consequences that on account of failure to adhere to time schedule are also provided by the Government. In certain

cases, it would lead to a situation where the ACR becomes *non est* and the period is to be treated as not covered by ACR at all.

10. Learned counsel for the respondents placed reliance upon the OM dated 18.05.2015. A perusal of the same discloses that much emphasis was laid to ensure that the ACRs, in their full shape, are received by the concerned authorities by the end of December. Nowhere, the time schedule stipulated in the earlier OMs is diluted or given up. It needs to be mentioned that as recently as on 16.04.2018, the DOP&T emphasized the need to stick to the time schedule by issuing a separate OM.

11. A perusal of the order passed by the Competent Authority in this case discloses that none of these issues were addressed. Having regard to the nature of the post held by the applicant and the level of the authorities, who functioned at various stages, we are of the view that the ends of justice would be met if the Accepting Authority is required to address the issue specifically.

12. For the forgoing reasons, we allow the OA and set aside the order dated 05.02.2016 and the endorsement made by the Accepting Authority on the ACR of the applicant for the year 2014-2015. We remand the matter to the Accepting

Authority for taking necessary steps in this behalf. It is made clear that in case the exercise undertaken by the Reporting and Reviewing Authorities is found to be violative of the time frame stipulated under various OMs, necessary steps in this view shall be taken in accordance with law. The exercise in this regard 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.

13. Pending MA also stands disposed of.

(Pradeep Kumar)  
Member (A)

(Justice L.Narasimha Reddy)  
Chairman

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