

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3908/2014

New Delhi, this the 30th day of July, 2019

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

Shri Arvind,
S/o Late Shri Rameshwar Prakash,
Aged about 43 years,
Finance & Accounts Officer,
ICAR, Krishi Bhawan,
R/o 9241, Sector-C,
Pocket-9, Vasant Kunj,
New Delhi-110070.

.. Applicant

(By Advocates : Shri M.K. Bhardwaj)

Versus

1. Indian Council of Agricultural Research (ICAR)
Through its Secretary,
Krishi Bhawan,
New Delhi-110001.
2. Director General,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi-110001.
3. Union of India
Through Ministry of Agriculture (A&C),
Krishi Bhawan,
New Delhi-110001.

.. Respondents

(By Advocates: Shri Praveen Swarup for R-1&2 and
Dr. Ch. Shamsuddin Khan for R-3)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The applicant is working as Finance & Accounts Officer in the respondent organisation, i.e., Indian Council of Agricultural Research (ICAR). This O.A. is filed with a prayer to quash the adverse entries in his APAR for the year 2011-12 and for a direction to the respondents to communicate him, the APARs for the years 2012-13 and 2013-14. It is pleaded that there is no basis for the concerned authorities to rate him at '2.5' points in the APAR for the year 2011-12 and that the ratings of the APAR for the years 2012-13 and 2013-14 were not communicated to him.

2. The respondents filed a counter affidavit stating that feeling aggrieved by the rating in the APAR for the year 2011-12, the applicant made a representation to the Competent Authority and through a memo dated 16.11.2012, the said authority has upgraded the rating from 4 to '4.52'. It is also stated that further

representations made by the applicant in this behalf were rejected on 24.06.2013 and 21.08.2013. The respondents have also stated that the APAR for the years 2012-13 and 2013-14 were treated as “*non est*”.

3. We heard Shri M.K. Bhardwaj, learned counsel for the applicant and Shri Praveen Swarup, learned counsel for respondents No.1 and 2 and Dr. Ch. Shamsuddin Khan, learned counsel for respondent No.3.

4. The first prayer in the O.A. is about the APAR for the year 2011-12. The applicant stated that his APARs for all the previous years were rated as “very good” and the officers of the Department who happened to deal with him as Reporting and Reviewing Authorities in the year 2011-12, have deliberately rated him, low by awarding average of ‘4’ out of 10.

5. Normally, the matters pertaining to evaluation of APARs are left to the concerned authorities and the Tribunal keeps itself away from that aspect, unless the

record fully supports the plea as to victimization. More than all, an applicant who seeks relief in this regard, is required to be truthful in statement of facts.

6. In the list of events and body of the O.A., the applicant has presented a picture as though his APAR for the year 2011-12 remained unchanged, though he made representations to the Competent Authority. In the counter affidavit, it is clearly stated that on a representation submitted by the applicant on 16.08.2012, the Competent Authority passed an order dated 16.11.2012 by upgrading the rating to '4.52' points. It is also stated that not satisfied with the same, the applicant made a further representation on 05.06.2013 and that the same was rejected on 24.06.2013. Without stopping on that, the applicant filed another representation on 17.07.2013 and even that was replied on 21.08.2013.

7. Any person in the place of the applicant would have taken corrective steps, once the suppression of facts

resorted by him was exposed in the counter affidavit. However, attitude of the applicant has crossed all the limits of propriety. In his reply, he virtually called the respondents bluff, and stated the representation made by him vis-a-vis the APAR for the year 2011-12 is still unattended to. The relevant portion reads as under:-

“That the malfeide on the part of the Respondent can be made out of the fact that on 27.02.15, after filing of the present O.A, a totally unsatisfactory and vague APAR for the year 2013-14 was provided to applicant for which he made representation to the respondents on 11.03.15 same has been pending with the Respondents till date.”

8. The unfair if not deceitful attitude of the applicant is evident from the fact that having filed the rejoinder in January, 2016, he filed MA No. 698/2017 on 30.09.2016, with prayer to condone the delay of 69 days. In another M.A. he referred to the orders of the Competent Authority without placing them on record.

9. Rarely, one comes across such an attitude on the part of a responsible officer holding the post of Finance and Accounts. We take serious exception to the attitude and approach of the applicant. As regards the second relief, it is

stated that the Department itself has issued proceedings by treating them as *non est* .

10. We, therefore, dismiss the O.A. by imposing a cost of Rs.20,000/- payable to the C.A.T. Bar Association (Library Fund), within 8 weeks from today.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/jyoti/