

**Central Administrative Tribunal  
Ernakulam Bench**

OA No.180/00960/2015

Wednesday, this the 10<sup>th</sup> day of July, 2019.

**CORAM**

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member  
Hon'ble Mr.Ashish Kalia, Judicial Member**

Smt.M.R.Tamilkodi, 55 years,  
HRMS No.198400772  
D/o Muthumrugesan  
DGM (Marketing),  
O/o the General Manager, Telecom,  
BSNL, Alappuzha SSA.  
Residing at “Room No.7”,  
Malathi Bhai Madhura Das  
Memorial Working Women's Hostel,  
Sea View Ward, Alappuzha-688 014.

Applicant

(Advocate: Mr. Shafik M.A.)

**versus**

1. The Chief General Manager, Telecom,  
Tamil Nadu Circle, BSNL,  
New Administrative Building, 5<sup>th</sup> Floor,  
No.16, Greams Road, Chennai-600 006.
2. The General Manager (NW-O-CM)  
Tamil Nadu Circle, BSNL Amenity Block,  
2<sup>nd</sup> Floor, Cantonment, Trichy-620 001.
3. The Deputy General Manager  
Admn. & Planning  
O/o the General Manager (NW-O-CM),  
BSNL Amenity Block, 2<sup>nd</sup> Floor,  
Cantonment, Trichy-620 001.

Respondents

(Advocate: Mr. Pradeep Krishna)

The OA having been heard on 8<sup>th</sup> July, 2019, this Tribunal delivered the following order on 10.07.2019:

## ORDER

### By E.K.Bharat Bhushan, Administrative Member

This OA is filed by Smt.M.R.Tamilkodi who is currently working as Deputy General Manager, BSNL, Office of the General Manager, BSNL, Alappuzha SSA, Kerala. She is aggrieved by the allegedly vague and contradictory comments/remarks made by the Reviewing Officer in the column 4 "Pen Picture" in her Annual Performance Appraisal Report (APAR) for the period from 1.4.2014 to 28.8.2014. A copy of the said APAR is furnished as Annexure A1. The applicant is further aggrieved by the order in appeal issued by the 2<sup>nd</sup> respondent as per letter dated 1.7.2015 rejecting her appeal, copy of which is at Annexure A2. The reliefs sought in the OA are as follows:

*(i) Quash Annexure A1 and remove the comment of the Reviewing Officer in Column 4 "Pen Picture" in the applicant's APAR to the extent that "**the officer might have worked still better in coordination with superiors**", being illegal, arbitrary and violative of the rules and norms relating to the subject;*

*(ii) Quash Annexure A2 to the extent the Appellate Authority confirming the comment of the Reviewing Officer in Column 4 "Pen Picture" in the applicant's APAR that "**the officer might have worked still better in coordination with superiors**", being illegal, arbitrary and violative of the rules and norms relating to the subject.*

2. The applicant, currently working as DGM (Marketing) was served with a copy of the APAR for the period referred to above by the 3<sup>rd</sup> respondent through a covering letter dated 2.6.2015. The applicant could see from the APAR that while the Reviewing Authority did not differ with the assessment of the Reporting Officer, he had written a vague and contradictory remark in column 4 under "Pen Picture" that "*the officer might have worked still better in coordination with superiors*". The applicant feels that this is not a fair comment

as she had not been made aware of any shortcomings in her performance.

**3.** The applicant preferred an appeal against the said remark on 12.6.2015, a copy of the same is at Annexure A3. But the second respondent rejected the appeal as per Annexure A2 order.

**4.** As grounds, the applicant maintains that the remark made by the Reviewing Officer in column 4, “Pen Picture”, is casual and absolutely incorrect and would be highly to the detriment of her career. The rejection of her appeal also has been without considering the rules governing the APAR. The APAR is an important document and it is necessary that the Reporting and Reviewing Officers undertake the duty of filling up the form with a high sense of responsibility. Copy of the Guidelines for filling up the APAR is at Annexure A4.

**5.** The Hon’ble Supreme Court of India in *State of U.P. vs, Yamuna Shankar Misra*, (1997) 4 SCC 7, held that before forming an opinion to make adverse entries in confidential reports, Reporting/Reviewing Officers should share information which is not a part of record. No such thing has been done in this case. The applicant argues that the remark has been included with ulterior motives and for extraneous reasons.

**6.** The respondents have filed a reply statement wherein it has been stated that the controversial entry under “Pen Picture” has three parts and these are as follows:

- (a) *The officer is sincere.*
- (b) *The officer might have worked still better in coordination with superiors.*
- (c) *The attitude towards weaker section is good.*

7. The respondents maintain that none of the three parts is of adverse nature. It is admitted that it was not communicated to the officer concerned as "shortcomings of trivial nature are not communicated". The Reviewing Authority had made the comment with a hope that the applicant would take it in a positive manner and improve upon them in future.

8. It is maintained that the Appellate Authority also considered the issue in detail and it is not correct to say that the said authority did not apply its mind. The numerical attributes granted to the applicant show a grading of 'Very Good' which is above the bench mark for any promotion. Hence there is no reason for the applicant to complain and rush to the court.

9. Heard Sri Shafik M.A., learned counsel for the applicant and Sri Pradeep Krishna, Standing Counsel for BSNL and perused the documents and pleadings. It is true that the officer has been graded 'Very Good' with numerical grading being 7.8. It is also correct that this is a grading which is above the bench mark and would qualify to be eligible for promotion. However, even a cursory reading of the remark made would show that there is an implied shortfall in the performance of the officer. To state that "*the officer might have worked still better in coordination with superiors*" clearly implies that her performance could have been bettered and the fault lies with her for not having worked "in coordination with superiors". While agreeing that the remark by itself may not be adverse, our experience shows that when placed among equals for a selection, such a remark would disqualify her from advancement as compared to her peer who has no such remark in his/her APAR. From this perspective, we are inclined to agree with the applicant that the remark has been added casually

with little understanding of the guidelines set out in Annexure A4. While on the subject, we would also specifically point out that personnel in various organizations often fail to understand the basic rules to be adhered to while commenting on subordinates' performance. Often officers do so, spending very little time on the subject in their busy schedule. It has to be remembered that any remark made, particularly in the nature of the one we are concerned here, will have dramatic adverse results in so far as a junior officer's career is concerned. Under the circumstances, we have no hesitation in allowing the OA. We direct that the said line "*the officer might have worked still better with coordination with superiors*" be expunged as having been made with no evidence to support it. OA stands allowed.

**(Ashish Kalia)**  
**Judicial Member**

**(E.K.Bharat Bhushan)**  
**Administrative Member**

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**Annexures filed by the applicant:**

Annexure A1: Copy of the APAR of the applicant for the period from 1.4.2014 to 27.8.2014.

Annexure A2: Copy of the order No.GM-NW-O-CM/TR/CON/MRT/2015 dated 1.7.2015 issued by the 2<sup>nd</sup> respondent.

Annexure A3: Copy of the appeal representation dated 12.6.2015 submitted before the 2<sup>nd</sup> respondent.

Annexure A4: Copy of the letter No.45-03/2013-SCT/742 dated 19.12.2013 issued by the BSNL.

Annexure A5: Copy of the order dated 31.3.2014 in OA No.327/2013 of the Ahmedabad Bench of this Tribunal.