

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA



No.O.A.350/272/2013

Date of order : 10.06.2019

Coram : Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Mr. N Neihisial, Administrative Member

Dr. Venkateshwar Pandey,
S/o Bajrangbali Pandey
Aged about 49 years,
Working as Sr. Divisional Medical Officer,
Rampurhat Health Unit,
Eastern Railway,
Howrah
Under overall control of G.M;
Eastern Railway
At present residing at 13A, Railway Quarter,
Rampurhat,
Birbhum 731224.

Applicant.

Versus

1. Union of India,
Through General Manager,
Eastern Railway,
Fairlie Place,
Kolkata.
2. Chief Medical Director,
Eastern Railway,
Kolkata, 14, Strand Road,
Kolkata – 1.
3. Divisional Railway Manager,
Eastern Railway,
Howrah.
4. Chief Health Director,
Eastern Railway,
Howrah, 222, Church Road,

Kolkata – 711101.

5. Chief Medical Superintendent (CMS)
222, Church Road,
Howrah – 711101.

..... Respondents.

For the applicant : Mr. B. Bhushan, counsel
For the respondents : None


ORDER(ORAL)

Mr. Justice L. Narasimha Reddy, Chairman

The applicant is working as Medical Officer in the Eastern Railway. He states that throughout his career, his ACRs have been graded as "very good" or "excellent" and only in the year 2010-2011, the Reporting Officer gave him "very good" but the Reviewing Authority downgraded it to "Good". It is stated that the Accepting Authority i.e. the General Manager accepted the views of the Reviewing Authority and though the representation was made on behalf of the applicant, it was rejected through an order dated 19.06.2012. This O.A. is filed challenging the order dated 19.06.2012 and for a direction to the respondents, to upgrade the below bench mark APARs made in the year 2010-2011.

2. The applicant contends that the officer who was immediately superior to him and who had the opportunity of observing his performance rated him as "Very Good", whereas the one who hardly had any such occasion has downgraded it to the level of "Good". It is





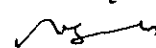
further stated that the Accepting Authority was supposed to be neutral and to form an opinion after verifying the relevant records, but has simply accepted the version of the reviewing officer causing gross injustice to the applicant.

3. The respondents filed a reply. It is stated that the prescribed procedure, in the context of evaluating APARs was followed and that the representation made by the applicant was also taken into account. According to the respondents, no interference is warranted with the impugned order.

4. We heard the learned counsel Mr. B. Bhushan for the applicant. None appears on behalf of the respondents.

5. A perusal of APARs of the applicant for his entire career discloses that he was evaluated at a fairly high level. It is only in respect of APARs for 2010-2011 that the Reporting Officer evaluated him as "Very Good", but the Reviewing Authority downgraded it. In such a case, Accepting Authority was required to be cautious and objective and examine whether the down gradation of the APARs was justified. That does not appear to have been done and the Accepting Authority simply accepted the version of the Reviewing Authority.

6. The applicant submitted representation to the Accepting Authority with the request to upgrade his APARs. That was replied to, by a letter dated 19.06.2012 in a cryptic way as under:-



"Your representation vide reference above was put up to the Accepting Authority of the subject APAR who has observed as under:


"I have gone through the representation of Dr. Pandey and the remarks thereon of the reporting, reviewing and countersigning authorities. Taking all facts/remarks into consideration, I am of the view that the grading, already given, should stand."

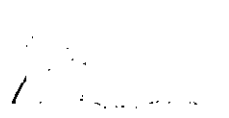
7. The importance of APAR of an officer hardly needs any emphasis. For all practical purposes, APARs of an officer decide the future progression of his career. An adverse or a below bench mark entry made at one stage would have its cascading effect throughout the career of the officer. Obviously, for this reason, the Central Government has evolved the mechanism of enabling an officer concerned to make a representation to the "Competent Authority". It is the one that did not have any role to play in the evaluation of APARs. The competent authority has to call for the records, satisfy himself about the evaluation and then pass a reasoned order. As a matter of fact, in the set up in the railways facility of such nature has been provided in case of the Medical Officers of JA/selection grade working at Headquarters. In such cases, the matters are placed before the Railway Board Member(Staff) whenever any difference of opinion is expressed by the authorities associated with the maintenance of APARs. We are of the view that the said facility can be extended to the applicant.

8. We therefore dispose of this O.A. giving liberty to the applicant to submit a representation to the Member staff, Railway Board,



ventilating his grievances regarding APARs of 2010-2011. The Member in turn, shall call for the relevant record and pass appropriate reasoned order within a period of 2 months from the date of receipt of this order. There shall be no order as to costs.


(N. Neihial)
Administrative Member
sb


(Justice L. Narasimha Reddy)
Chairman