

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00897/15**

Reserved on: 22.05.2019
Date of Order: 27.05.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Prabhat Ranjan Singh, Son of Late Rajeshwar Singh, Resident of 292 A, Haritima Path, Railway Officers Colony, Sonepur, Distt.- Saran presently posted as Executive Engineer/Con-1, East Central Railway at Hajipur.

.... **Applicant.**

By Advocate: - Mr. Kumar Manavendra

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur.
2. The Chief Administrative Officer (Con)/North, East Central Railway, Mahendrughat, Patna.
3. The Chief Engineer (Con)/NE, East Central Railway, Mahendrughat, Patna.
4. The Deputy Chief Engineer (Con)/II, East Central Railway, Hajipur.
5. Shri A.K. Singh Shaiwal, then Chief Engineer (Con)/NE, East Central Railway, Mahendrughat, Patna, presently posted as Chief Engineer (Con), E.C. Railway, Mahendrughat, Patna-800001.

.... **Respondents.**

By Advocate(s): - Mr. H.P. Singh for official respondents.

Mr. J.K. Karn for private respondent.

O R D E R

Per Dinesh Sharma, A.M:- This OA is against the order contained in letter No. ECR/CAO/Con/E/Gaz/APAR dated 03.02.2015 (wrongly typed as 03.02.2014) issued by the office of the respondent no. 2 whereby and whereunder downgrading the remark 'Outstanding' given by the Reporting Authority in APAR of the applicant for the year ending 2013-14 (Pt-II) as 'Very Good' has been upheld. The applicant further challenges the remarks of the Reviewing Authority, i.e. respondent no. 3 downgrading the remark

of the Reporting Authority from 'Outstanding' to 'Very Good' communicated vide letter no. ECR/CAO/CON/SEC/ACR/42/2013-14 dated 17.11.2014. The remarks are as follows:-

"Despite full support from H.Q. or even GM, the reasonable progress of officers flats could not be achieved and same were criticized by GM in every monthly/other meeting."

The applicant also challenges the order of the respondent no. 2 communicated vide letter no. ECR/CAO/Con/E/Gaz/APAR dated 25.03.2015 whereby the reconsideration/review representation of the applicant dated 23.02.2015 has been turned down. The applicant has alleged that such adverse remarks and the downgrading of his rating from 'Outstanding' to 'Very Good' is against the decisions of the Hon'ble Apex Court [**State of U.P. Vs. Jamuna Shankar Mishra** (1997) 2 SLR 311 (SC)]. In this regard, he has also alleged malice on the part of respondent no. 5 in downgrading the remarks of the Reporting Authority.

2. The respondents have filed their written statement in which they have denied the claim of the applicant. According to the respondents, the applicant was given overall grading of 'Outstanding' by the then Reporting Authority, i.e. Deputy Chief Engineer/C/II/Hajipur. Thereafter, the Reviewing Authority, i.e. the then Chief Engineer (Con)/NE, East Central Railway, Mahendrughat, Patna downgraded the grading of the applicant from 'Outstanding' to 'Very Good' mentioning therein that despite full support from headquarter or even General Manager, the reasonable progress of the officers' flats could not be achieved and same were criticized by General Manager in every monthly/other meeting which was accepted

by the Accepting Authority. The applicant gave a detailed representation before the State Chief Administrative officer (Con) against these entries. After considering the said representation, the applicant was informed by letter dated 03.02.2014 why his request could not be accepted. The applicant again filed a representation by way of an appeal dated 23.02.2015 which was also put up before the competent authority, i.e. the Chief Administrative Officer (Con.)/N/ East Central Railway. The applicant was informed by letter dated 25.03.2015 that he had already been intimated about the finalization of his APAR for year ending 2013-14 and there was no provision for a re-consideration of representation for improvement in grading/entries. The respondents also informed that the applicant has not been affected in any way because of the said entries in the APAR for the year ending 2013-14 and has already been given promotion in Junior Administrative Grade.

3. We have gone through the pleadings and heard the parties. At the time of hearing the arguments, the learned counsel for the applicant argued that the representations of the applicant against adverse entry and the downgrading of rating have been decided by the CAO who was himself the Accepting Authority for the APARs. This amounts to a person himself being a judge in his own case. The learned counsel also argued that the reduction in grading from 'Outstanding' to 'Very Good' was most likely driven by the Reviewing Officer's own assessment being 'Very Good'. We find that the applicant had himself represented before the CAO who is an officer ranking above the Reviewing Authority who reduced the gradings of

the applicant. Thus, he cannot be, strictly speaking, said to be a judge in his own cause. He being the CAO would be the Accepting Authority of all senior officers. The fact is that the applicant had himself made his appeal/representation before this authority. He cannot argue now, quoting "Nemo Judex in causa sua", after his request has been turned down. The applicant has also alleged malice on the part of the Reviewing Authority, but no serious evidence is produced to support the charge. The Apex Court's decision quoted by the applicant does not ordain that a person's assessment cannot be downgraded when an officer, who is directly aware of the performance of an officer subordinate to him, does not agree with the assessment of the Reporting Authority and states his reasons for such disagreement. For the aforesaid reasons, we do not think it is proper on the part of this Tribunal to tinkle with the assessment made by the Reviewing Authority. In any case, the grading 'Outstanding' requires competence of an exceptional order to deserve that grading and 'Very Good' is not considered adverse for any promotion in normal course. The OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member