

(1)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1805/2003

This the 19th day of March, 2004

HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN (A)

Jai Bhagwan,
Lower Division Clerk,
347, Kalyan Vas,
Delhi Government Flats,
Delhi-110091.

... Applicant

(By Shri S.N.Anand, Advocate)

-versus-

1. Govt. of NCT of Delhi through
Director General, NCC Department,
Chabi Ganj, Kashmere Gate,
Delhi-110006.
2. Deputy Director General,
NCC Department,
Govt. of NCT of Delhi,
Chabi Ganj, Kashmere Gate,
Delhi-110006.
3. Captain (IN),
NCC Department,
Government of NCT of Delhi,
Chabi Ganj, Kashmere Gate,
Delhi-110006.
4. Offs. Director, NCC,
NCC Department,
Government of NCT of Delhi,
Chabi Ganj, Kashmere Gate,
Delhi-110006.

... Respondents

(By Shri Om Prakash, Advocate)

O R D E R (ORAL)

Applicant has assailed adverse remarks recorded in his ACR for the year 2001-02. The learned counsel of applicant has stated that the impugned adverse remarks are vague and lack particulars. These adverse entries have caused a grave prejudice to the applicant. He had never been issued any warning or reprimand prior to recording of these adverse remarks. The reporting



officer had no material before him, namely, any memo, warning or reprimand which could have formed basis for recording or communication of the adverse entries under challenge. Applicant's representation against these adverse remarks has been rejected vide Annexure-A dated 5.3.2003 by a non-speaking order.

2. The learned counsel of applicant also contended that instructions on confidential reports have not been complied with by the respondents inasmuch as the adverse remarks were not communicated within one month of their being recorded nor have the respondents disposed of applicant's representation within three months of its submission. The learned counsel also stated that while the applicant had been exempted from typing test w.e.f. 20.5.1997, respondents have recorded an adverse entry of 'below average' against column No.11 relating to proficiency in typing.

3. On the other hand, the learned counsel of respondents stated that the applicant had been issued oral warnings and guidance by the reporting officer but he did not improve his performance and as such adverse entries were recorded in his ACRs. He further stated that non-communication of the adverse remarks within the stipulated period as also non-disposal of applicant's representation within three months has not caused any prejudice to the applicant. Regarding entry of proficiency in typing, the learned counsel stated that the applicant has misused the exemption availed from typing test. He was not even able to draft properly



covering/forwarding letters despite putting in many years of service. It was also pointed out that applicant had been served repeated oral warnings but applicant did not improve.

4. Undoubtedly, Annexure-A dated 5.3.2003 is not a detailed and speaking order made on considering various points made by the applicant in his representation. In part II of the ACR where a brief statement is required to be made regarding work handled by the official, no such statement has been made and an adverse entry that applicant "needs frequent prompting and reminders to finish his routine work" has been made. There is no provision for giving any remarks by the reporting officer in this column. In this column only a brief statement about the nature of work handled by the applicant could have been recorded. In column 10 "proficiency in typing" again an adverse entry "below average" has been recorded unmindful of the exemption from typing granted to the applicant. Although basically such an exemption from typing test does not exempt a person from typing but accuracy and speed in typing could not be assessed as "below average" as the applicant had been exempted from typing test. How this entry was recorded has not been explained and as a matter of fact, respondents have enlarged the scope of the adverse entry by stating that the applicant was not even able to draft properly covering/forwarding letters despite putting in many years of service. This is absolutely irrelevant to the adverse entry relating to typing. Respondents have not rendered any proof of issuing any memoranda or warnings to the

A handwritten signature consisting of a stylized 'V' and 'b' connected by a horizontal line.

applicant. Oral warnings in matters of adverse entries are of no consequence.

5. True that instructions on ACRs regarding the format, time limits for communication and disposal of representations are directory but it does not mean that respondents should not comply with their own instructions in the matter of ACRs on the basis of which career progression of the officials is decided. In the present case, however, non-communication of adverse entries and non-disposal of representation has not been prejudicial to the applicant.

6. I have also perused the records of the respondents in which the applicant's representation against the adverse entries made in his ACR for the period 28.8.2001 to 31.3.2002 has been dealt with. This record also does not give satisfactory details and reasons for recording of entries in Part II and in column 10. However, it is held that no fault can be found with entry in column 11 regarding 'Proficiency in Work'.

7. Having regard to the reasons stated and discussion made above, this OA is partly allowed directing the respondents to expunge the following adverse remarks only communicated to the applicant vide Annexure-B dated 28.8.2002/4.9.2002 :

<u>"Col No.</u>	<u>Particulars</u>	<u>Remarks</u>
Part II	Brief statement (Not exceeding 50 words) of work	A LDC who needs frequent prompting and reminders to finish

W

handled by the his routine work.
official.

10. Proficiency in
Typing (Accuracy
& Speed) Below Average."

Majotra
(V. K. Majotra)
Vice Chairman

/as/

19.3.04