

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION Nos.210/00028/2016
& 210/00032/2016

Dated this Thursday, the 18th day of September, 2019

CORAM: R.VIJAYKUMAR, MEMBER (A)
R.N.SINGH, MEMBER (J)

Mukund Purushottam Jaeel, Aged 63 years,
Superintending Engineer (C) (Retd.)
(R/at: F.1111 Woodland Avenue, Near Gandhi Bhawan,
Kothrud, Pune 411 038. -Applicant in both the OAs
(By Advocate Shri Anupam Chattopadhyay)

Versus

1. The Union of India, Through the Secretary,
The Ministry of Urban Development, Nirman Bhawan,
New Delhi 110 011.
2. The Director General, C.P.W.D., Nirman Bhawan,
New Delhi 110 011. - Respondents in all OAs
3. The Additional Director General, Western Zone,
C.P.W.D. 101, M.K. Road, 15th Floor, New Marine Lines,
Mumbai - 20. - Respondent in OA No.28/2016
3. The Dy. Director (Admin.),
Directorate General of CPWD, Nirman Bhawan,
New Delhi 110 011. - Respondent in OA No.32/2016
(By Advocate Shri V.S.Masurkar)

COMMON ORAL ORDER
Per : R.Vijaykumar, Member (A)

This application has been filed by the
applicant on 14.12.2015 under Section 19 of
the Administrative Tribunals Act, 1985
seeking the following reliefs in OA
No.28/2016:

“8(a). to allow the Original Application,

8(b). to call for the record and file delaing with
passing impugned order, dt. 16.12.2014 in OA

No.484/2012 and after perusal of the same the Hon. Tribunal may be pleased to quash and set aside the impugned order dated 16.12.2014.

8(c). to hold and declare that, in view of the fact that the Reporting/Reviewing/Accepting Officer have all retired from service, the impugned order is not sustainable in law.

8(d). to grant all consequential benefits, to the Applicant,

8(e). to pass any other just and appropriate orders in the facts and circumstances of the case.

8(f). to award the cost of application.”

2. This application has been filed by the applicant on 21.12.2015 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs in OA No.32/2016:

“8(a). to allow the Original Application,

8(b). to call for the records pertaining to the A.C.R. of the Applicant, for the period 16.07.2006 to 31.03.2007 and in respect of disposal of Applicant's representation, and after perusing the same, to quash the impugned order dated 16.12.2014,

8(c). to grant all consequential benefits, to the Applicant,

8(d). to pass any other just and appropriate orders in the facts and circumstances of the case.

8(e). to award the cost of application.”

3. The applicant has challenged the APAR gradings for the periods from 16.07.2006 to 31.03.2007 and from 01.04.2008 to 20.02.2009 wherein the applicant has been

graded "Good" which the applicant contends is below the requisite benchmark for promotion. The applicant initially approached this Tribunal challenging these two APARS and the respondents had been directed in OA Nos.484 & 484 of 2012 to pass a reasoned and speaking order in respect of each of the APARS and this has been done by them on 16.12.2014 and impugned by the applicant in the present OAs. From these orders, it is seen that all the issues raised by the applicant in respect of comments made by the Reporting Officer have been specifically discussed and replied by the respondents and they have declined to upgrade the grading in the APARS which has been agreed by the Reviewing and Accepting Officers as "Good". With regard to the General Assessment made by the Reporting Officer that "Suitable for Planning Work" and "Best suited for planning" in the two APARS in question, they refer to the remarks made under each individual aspect of assessment which has been considered in making the General Assessment and the overall grade. The

respondents have, therefore, held that the Reporting Officer had assessed his performance for the respective years objectively and communicated their decision that they do not see any reason to interfere with the gradings granted to him for the said periods.

4. The learned counsel for the applicant was heard at length. He argued that the gradings given in the APARs and the reply given by the respondents are vague and general in nature and the representation of the applicant has not been dealt with fairly.

5. The learned counsel for the respondents has also been heard and the same has been vehemently disputed and denied by the respondents. The learned counsel for the respondents argued that keeping in view the directions of this Tribunal in the first round of litigation, the respondents have considered each and every issue raised in the applicant's respective representations.

6. We have heard the learned counsels and carefully examined the pleadings and annexures. We have also perused the orders

passed by the respondents in regard to the two APARs in question and are in agreement with the stand taken by the respondents on the manner in which the applicant's representations have been considered. It is also settled law that this Tribunal does not have the jurisdiction to rewrite the gradings given by the Reporting and Reviewing Authorities in the matter of APARs.

7. In view of the above, we are of the view that the matter should be given a quietus considering the lack of any reason or justification.

8. In the facts and circumstances, both the OAs fail and are dismissed accordingly. No costs.

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(R.N.Singh)
Member (Judicial)

(R.Vijaykumar)
Member (Administrative)

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