

**Central Administrative Tribunal
Principal Bench**

**OA No.4142/2014
MA No.3627/2014**



New Delhi, this the 11th day of December, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Shri Madanjit Singh,
Age 55,
S/o Shri Chhaja Singh,
Assistant Engineer,
Working Under DRM,
Northern Railway, Ambala Cantt.,
R/o 736, ASA Nagar Mohali,
Sector 78 Pb.

...Applicant

(By Advocate : Ms. Meenu Mainee)

Versus

Union of India : Through

1. Secretary,
Railway Board,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. General Manager,
Northern Railway,
Baroda House, New Delhi.
3. Divisional Railway Manager,
Northern Railway, Ambala Cantt.

...Respondents

(By Advocate : Shri Shailendra Tiwary)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was working as Senior Section Engineer in the Railway Electrification Division of Northern Railway at Ambala. He appeared in the examination held for promotion to the post of Assistant Engineer (AE). Though he was successful in the written test and was shortlisted after interview, he was not promoted. Thereupon, he filed OA No.1885/2009, before the Tribunal. The OA was disposed of on 20.10.2010, directing that the representation submitted by the applicant shall be disposed of through a speaking order. In compliance with the same, the respondents informed the applicant that his non selection was on account of the adverse remarks in the ACRs for the years 2003-04, 2004-05 and 2005-06. Challenging the communication, the applicant filed OA No.3076/2011. The order as well as the communication were set aside and the respondents were directed to communicate the below average ACRs for the three years, referred to above, to enable the applicant to make a representation.



2. The respondents communicated to the applicant the ACRs, and he, in turn, filed his representations with respect to all the three years. On a consideration of the representations, the competent authority rejected the same and the decision in this behalf was communicated to the applicant through an order dated 06.08.2014. This OA is filed challenging the said order.

3. The applicant contends that the assessment made by the Reporting and Reviewing Authorities for the three years, referred to above, was totally arbitrary and subjective in nature. It is also stated that though detailed representation, for each of the three years is submitted, the order was passed without any reasons. The applicant contends that the impugned order is bereft of any reasons and of non application of mind.

4. Respondents filed counter affidavit opposing the OA. It is stated that on receipt of the representations from the applicant, the competent authority has called for the remarks of the Reporting and Reviewing Authorities, for all the three years, and he examined the same in detail. It is stated that the competent authority has analysed the representations of the applicant and after detailed

consideration, rejected the same. The respondents submit that no injustice has been caused to the applicant.



5. We heard Ms. Meenu Mainee, learned counsel for applicant and Shri Shailendra Tiwary, learned counsel for respondents.

6. This is the third round of litigation instituted by the applicant, in the context of promotion to the post of AE. The gist of the earlier two litigations has already been mentioned in the preceding paragraphs. The denial of promotion to the applicant was on account of the below bench mark ACRs for the three years. In all the three years, he was rated as 'Average', both by the Reporting and Reviewing Authorities. Earlier, it is only adverse entries in the ACRs which were required to be communicated. In view of the judgment of the Hon'ble Supreme Court in **Dev Dutt Vs. UOI & Ors.** JT 2008 (7) SC 463, the respondents were required to communicate the below bench mark ACRs also.

7. On receipt of the ACRs, the applicant submitted representation. It is not a case in which the competent



authority has mechanically rejected the representations. After receipt of the representations, he called for the remarks of the Reporting and Reviewing Authorities for the concerned years and has analysed the same. The manner in which he dealt with the representations is extracted in the impugned order. It reads as under :-

“I have gone through the representation of the employee against the pleadings in his confidential reports of year 2003-04, 2004-05 and 2005-06. Also, I have gone through the comments of Reporting/Reviewing authority on the representations of the employee on his confidential reports. The points made by the employee are technical in nature to some extent and also, few points are related to the procedural aspects for filling up the ACR form. Broadly, major points of the employee for all the three ACRs of 2003-04, 2004-05 & 2005-06 have been commented upon by Reporting/Reviewing Officers. The overall grading of the employee for the ACR of years 2003-04, 2004-05 & 2005-06 have been given by reporting/reviewing authority after due application of mind and can't be said to be casual.

Therefore, I uphold the gradings given on the ACRs of 2003-04, 2004-05 and 2005-06 as it is and the representation of the employee are, thus, disposed off.”

8. From this, it becomes clear that not only the competent authority called for the remarks of the Reporting and Reviewing Authorities, but also taken into



account, the points cited by the applicant in his representations. One cannot expect a better consideration or treatment than this. It should not be forgotten that the competent authority is not writing a judgment or a detailed report. He only has to verify, if any abnormality has taken place in the recording of the ACRs of the employee. The law does not require him to analyse point by point and then to pass the order, running into pages.

9. Reliance is placed upon the judgment of Hon'ble High Court of Madhya Pradesh in ***Ramesh Kumar Rusia Vs. State of Madhya Pradesh*** ATJ 2005(3) 307. That was a case in which the representation made by the employee was in relation to 'adverse entries' and not the below bench mark ACRs. The representation submitted by the employee was rejected with a short sentence, which reads as under :

“उपरोक्त विषय के संदर्भ में आपको संसूचित वर्ष 92 -93 की गोपनीय चरित्रावली में अंकित प्रतिकूल अभियुक्ति पूर्ण विचारोपरांत यथावत रखी जाती है।”



That sentence hardly constitutes compliance with the Administrative Law. There must be semblance of application of mind and it should indicate the factum of calling of remarks of the Reporting and Reviewing Authorities. In the instant case, such elements are available in abundance.

10. We do not find any merit in the OA and the same is, accordingly, dismissed.

11. Before parting with the case, we express our admiration for the manner in which one Mr. G.S. Malik, the Reporting Officer of the applicant, wrote the ACR with his hand. It is so artistic and beautiful that one would relish even if the contents are not favourable to him. The officer needs to be complimented for being so keen, particular and artistic.

Pending MAs, if any, shall stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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