

(2019) 01 CAT CK 0130
In the Central Administrative Tribunal
Case No : Original Application No. 176 Of 2016

Amarjeet Singh

APPELLANT

Vs

Union Of India And Anr.

RESPONDENT

Date of Decision : 04-01-2019

Acts Referred:

Citation : (2019) 01 CAT CK 0130

Hon'ble Judges : Pradeep Kumar, Member (A)

Bench : Single Bench

Advocate : Arun Dhawan, Hanu Bhaskar, A.S. Prasad Chaurasiya

Final Decision : Dismissed

Judgement

1. The applicant is presently working as Director under Directorate General of Health Services (DGHS). The OA has been filed regarding APAR for the period 2013-14 and the grading thereof. At that time he was working as Under Secretary in the Ministry of Human Resource Development. During the period under report, the applicant had worked under five different Reporting Officers. Out of these there was one Reporting Officer Sh. Juglal Singh, DS (AE-1) under whom he worked from 17.09.2013 to 08.01.2014, i.e. a period more than three months. Under all other Reporting Officers the period of working was less than three months. The APAR for 2013-14 was therefore written by Sh. Juglal Singh as Reporting Officer. During this period the applicant had worked under one Sh. J.S.Raju, Joint Secretary (AE) for the period 01.04.2013 till 08.01.2014. Hence, Sh. J.S.Raju had reviewed the APAR for the year 2013-14.

2. The applicant pleads that while the Reporting Officer had given him a grading of 9 which indicates 'outstanding', the Reviewing Officer had reduced this grading to 5. The applicant felt aggrieved and made a representation dated 25.08.2014 addressed to the Secretary, Department of Higher Education, Ministry of Human Resource Development. The comments of the Reporting Officer and the Reviewing Officer were called and the Secretary decided that no

change is called for. This was communicated to the applicant vide order dated 03.11.2014. Thereafter the applicant made a representation vide his letter dated 21.04.2015 to Hon?ble President of India through Hon?ble Minister for Human Resource Development. This was considered by the competent authority, however, the APAR grading was kept unchanged. This was communicated to the applicant vide letter dated 24.06.2015. Feeling aggrieved the applicant had preferred the instant OA.

3. The applicant has alleged that Reviewing Officer was biased against him and this is reflected in the remarks recorded in the APAR and moreover the competent authority while deciding on the representation had also not applied its mind and rejected the representation in a mechanical manner and as such this rejection cannot be agreed to.

4. Applicant has also relied on the following judgments of Hon?ble

(a) Sunil @ Balo Das and ors. vs. Rajesh Das and ors., JT 2008 (3) SC 113

(b) Director, Horticulture, Punjab and others vs. Jagjivan Parshad, (2008) 5 SCC 539

(c) Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank vs. Jagdish Sharan Varshney and others, (2009) 4 SCC 240

(d) Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others, (2010) 9 SCC 496.

5. It was pleaded that in the above mentioned judgments it has been laid down by the Hon?ble Apex Court that the competent authority has to apply his mind before coming to a decision. Since in the instant case this has not been done, hence the order dated 03.11.2014 and 24.06.2015 need to be quashed (para 2 supra).

6. Heard Sh. Arun Dhawan, learned counsel for applicant and Sh. Hanu Bhaskar and Sh. A.S.Prasad Chaurasiya, learned counsel for respondents at length. It is seen that in the APAR in question, wherein the Reporting Officer had given a grading of 9, there was a specific column also asking the officer reported upon to make his self assessment and make a mention of his special achievements. The entry made by the applicant against this column is as under:

"None of the assigned task remained un-accomplished. All the jobs were performed in a time bound manner with the utmost satisfaction of all concerned."

It is noted that even the officer had nothing specific to bring out as his special achievements.

6.1. The Reporting Officer had given him a grading of 8.9 to 9.1 under various heads. While writing the pen picture the Reporting Officer has endorsed as under:

"He is a hardworking officer. He did his job with utmost dedication."

6.2. It is thus seen that even though the Reporting Officer had given an ? outstanding? grading yet any specific achievement has not been brought out and only a general remark has been given. The Reviewing Officer had not agreed with the grading given by the Reporting Officer and recorded the following reason in para 3 thereof:

"The Reporting Officer has given a grossly over exaggerated account of the officer reported upon. Sh. Amarjeet Singh has worked in the charge of US (AE) for nine months (during the year of assessment) and during this entire period I was the Joint Secretary. As Bureau head, I was not satisfied with his attitude to work, quality of output and overall performance. My observations to this effect are noted in the files. The inputs from his supervisory bosses was also not very enviable."

6.3. The Reviewing Officer had also given a pen picture of the officer reported upon in this APAR wherein following has been recorded:

"Sh. Amarjeet Singh can prove to be a good officer if he works on his weakness and open himself to advice. Regrettably he takes affront to advice from superiors. He needs to develop clarity of mind, improved focus and positive attitude to work."

7. It was further pleaded that once the representation was received, the remarks were obtained from the Reporting Officer as well as the Reviewing Officer. The Reporting Officer had only given the following remarks vide his letter dated 25.09.2014:

"In this regard, I may state that in my view Sh. Amarjeet Singh, performed his duties well and accordingly I assessed him by awarding overall numerical grade of 9.0. The Reviewing Officer has got his own perception about the officer and it is entirely upto him to grade him and I have nothing to comment thereon."

7.1. The Reviewing Officer had given detailed comments vide his letter dated 08.10.2014. The applicant had pleaded that mention of a CBI enquiry in these comments, in which the name of the applicant had also figured, is indicative of bias in the mind of the Reviewing Officer against applicant.

The said CBI enquiry was, in fact, instituted by Ministry of Human Resource Development when a complaint was received from Chief Secretary, Arunachal Pradesh that certain funds were not being released for extraneous reasons by the Section where the applicant was working as Under Secretary at that time. The relevant enquiry was conducted by the CBI and it was proved that one Sh. Ashok Bawal, Assistant, who worked under the applicant in the same Section, had spoken 17 times to one Sh. Tajum Muri in Arunachal Pradesh about the issue referred by Chief Secretary. However, this evidence of repeated telecommunication, was not considered sufficient, by itself, to initiate any criminal case against Sh. Ashok Bawal. CBI also recorded that no other material could be found against the applicant also who was Under Secretary at that time.

This was advised to Ministry of Human Resource Development vide CBI letter dated 24.12.2013.

In respect of other items also, Sh. J.S.Raju, the Reviewing Officer had given detailed comments. These were put up to the competent authority, namely, the Secretary (SE&L) who had considered the matter and recorded on 28.10.2014 as under:

"In view of the detailed remarks of the Reviewing Officer, the representation of the undersigned (Sh. Amarjeet Singh) has been rejected after careful consideration of the matter."

This was, in turn, communicated to the applicant vide letter dated 24.06.2015. It is this rejection which is the cause of grievance in the instant OA.

8. From the foregoing it comes out that the Reporting Officer while giving ? Outstanding? gradation had not brought out anything substantial whereas the Reviewing Officer had given adequate reasons for downgradation of the APAR at the time of writing the APAR.

Even subsequent to the representation the Reporting Officer had nothing specific to add in support of his outstanding gradation whereas the Reviewing Officer had given detailed reasons why he did not agree with outstanding assessment. The remarks in respect of alleged bias also indicate that the matter was dealt with objectively only. The competent authority, Secretary (SE&L) had also given a very careful thought while rejecting the representation.

9. The leeway available with the Tribunal in such matters is fairly limited. In the instant case the relevant authorities had given a careful thought and reasons at initial stage as well as at subsequent stage and as such the pleadings made by the applicant are not finding acceptability. The judgments quoted by the applicant are therefore not of much help to the applicant. OA is dismissed being devoid of merit. No order as to costs.