
(2020) 09 CAT CK 0058

In the Central Administrative Tribunal

Case No : Original Application No. 3485 Of 2018

Bratati Ghosh

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 18-09-2020

Acts Referred:

Citation : (2020) 09 CAT CK 0058

Hon'ble Judges : Pradeep Kumar, Member (A); R.N. Singh, Member (J)

Bench : Division Bench

Advocate : Yogesh Sharma, Rishabh Sahu

Final Decision : Disposed Of

Judgement

Pradeep Kumar, Member (A)

1. The applicant herein is working as Sr. Architect in CPWD under Ministry of Housing and Urban Affairs. She is aggrieved with the APAR grading of the Financial Year 2016-17. On receipt of the grading, she made a representation which was rejected vide order dated 16.07.2018. Feeling aggrieved at this rejection, she preferred the instant OA.

2. During the pendency of the OA, the applicant also preferred MA No. 1097/2020 wherein following interim directions were passed on 10.07.2020:-

"3. We are of the view that the selection process cannot be meddled with at this stage, but any selection or appointment to the said post shall be subject to the outcome of this OA.

4. The MA is accordingly disposed of."

3. Notices were issued. Respondents submitted their reply. Applicant also submitted the rejoinder.

4. Matter has been heard. Shri Yogesh Sharma, learned counsel, represented the applicant and Shri Rishabh Sahu, learned counsel represented the respondents.

5. APAR in question pertains to the period 01.04.2016 to 31.03.2017. It is seen that the Reporting Officer had given an overall grading of 5.12. The Reviewing Officer gave the pen picture which reads as follows:-

"The officer is often on leave and thereby the routine work suffers. The officer is good in her character and temperament but there is lot of scope for improvement. In general, the officer is sincere, disciplined and hardworking whenever she is available in the office."

6. The Reviewing Officer indicated that she has worked for around 9 and ½ months under him and he also indicated that he is not in agreement with the assessment as made by the Reporting Officer. The Reporting Officer finally gave an overall grade of 7.

7. The Accepting officer considered the same and in respect of specific query "Do you agree with the assessment made by the Reporting Officer/Reviewing Officer and details of difference of opinion, if any with reasons for the same. In such case, Accepting Authority will also give overall grade on the scale 1 to 10." The officer indicated "yes" in the answer to this query and thereafter went on to give overall grading of 5.

8. The applicant is aggrieved at this reduction from the grading of 7 as was indicated by the Reviewing officer, and especially so the Accepting Officer indicated his acceptance of the assessment made by the lower authorities. Accordingly the grading by Reporting authority shall prevail.

9. The respondents drew attention to certain periods when the applicant in question was on leave for long periods. However, it is seen from the reply that those periods pertained to the time prior to 01.04.2016.

The respondents have also indicated that even during the year of report 2016-17, the officer had remained on earned leave or child care leave for a total period of around 42 days. However, the respondents have not indicated anywhere that this was an authorized absence and the applicant has pleaded that she needed this leave and applied for the same and thereafter this was the sanctioned also and as such, once the officer is in need of leave and the same is sanctioned, this cannot act as any reason to downgrade the APAR of the officer concerned.

10. In view of the foregoing, the Tribunal is unable to agree with the view point as put forth by the respondents of frequent leave as a reason, for downgrading the APAR grading from 7 to 5, for the Financial Year 2016-17. The rejection letter Dt 16.7.2018 also does not indicate any reason else except for Leave.

11. In the conspectus of the things, the overall grading in the APAR for the year 2016-17 shall be taken to be equal to 7, as was given by the Reviewing Officer and this assessment was accepted by the then Accepting Officer.

12. This APAR for 2016-17 shall accordingly be taken into account now for any

review DPC etc., for all such cases where DPC may have already been held or for all such DPCs which may be held in future and where the APAR for the year 2016-17 is required to be taken into account.

13. Accordingly, OA stands disposed of. No order as to costs.