

(2018) 09 CAT CK 0189

In the Central Administrative Tribunal

Case No : Original Application No. 3938 Of 2014

Madhuri Dabral

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 05-09-2018

Acts Referred:

Citation : (2018) 09 CAT CK 0189

Hon'ble Judges : L. Narasimha Reddy, J;Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Gyanender Singh

Final Decision : Dismissed

Judgement

Aradhana Johri, Member (A)

1. The applicant is an officer of Indian Postal Service of 1989 Batch. She has challenged the Office Memorandum dated 06.08.2014 (Annexure A-1) vide which her representations/memorials regarding upgradation of APARs/ACRs for the period from 2004-05, 2006-07 (05.09.2006-31.03.2007) and 2007-08 were rejected. It is seen that she has also challenged this Memorandum dated 06.08.2014 by filing two OAs [OA No. 3827/2014 and OA No.3869/2014) which deal with the ACRs for the period 2004-05 and 2006-07 (05.09.2006-31.03.2007). These two OAs have been dismissed by the Tribunal, vide its order dated 23.07.2018. In the present OA, the applicant has sought to quash and set aside the impugned order dated 06.08.2014 as also the adverse remarks and below benchmark grading pertaining to the ACR for the period 2007-08.

2. It is the contention of the applicant that she has been given adverse remarks/ gradings which were below bench mark, and on account of this she was denied promotions. The broad grounds taken are that the mandatory memorandum of services has not been maintained, adverse remarks were not communicated within time, and there was bias on the part of the superior officers. She

submitted representations which were rejected. She has also submitted memorials, objecting to the remarks. When memorials were not entertained, she approached the Central Administrative Tribunal by filing O.A No. 2201/2013. The O.A was disposed of vide order dated 20.12.2013 (Annexure A/9) directing the respondents to pass reasoned orders on the memorials of the applicant within three months. Through the impugned order, the memorials were disposed of by refusing to alter the gradations in the ACRs. Hence, this O.A has been filed.

3. The respondents have filed their counter affidavit stating the applicant's work has not been up to the mark, and accordingly, she has been graded below bench mark. The respondents further stated that the applicant has been given several opportunities to represent her case, and though her representations were submitted beyond the time limit, yet they were entertained. They have also clarified that the ACRs are not adverse but below bench mark and at the relevant point of time, there was no provision for communicating such ACRs prior to DoPT O.M No. 21011/1/210-Estt.A dated 13.04.2010.

4. Heard learned counsel for the respondents.

5. It is clear from the record that adequate opportunities have been given to the applicant to represent her case. The impugned order dated 06.08.2014 is a speaking order which gives cogent reasons, as well as details of the representations/memorials etc. It has been found that the applicant has made allegations against the various senior officers who have either been party to writing of the ACRs or in handling the matter and the files. On perusal of the file it appears that there are several reporting/ reviewing/accepting/competent authorities against whom bias has been alleged. It is highly improbable that so many officers in the department are biased against the applicant. It appears that unsubstantiated allegations are being made to create prejudice in the mind of the Court against the senior officers who have dealt with the matter. In fact, the very system of three levels in writing the ACRs is provided to preclude the possibility of bias.

6. As far as maintaining the memorandum of service is concerned, it is supposed to be of assistance in writing the ACRs. However, in the ACR the system of self assessment and setting of targets etc. provides all necessary information required for assessing the performance. Further, the reporting officer has to see the work of the officer being reported upon for a certain period of time so that he is well acquainted with the work of the officer reported upon and only thereafter can he record the ACR.

7. The scope for interference with the ACRs by a Court or Tribunal is very limited. It was only when the employee substantiates and establishes bias or where the reasons furnished in support of the gradation are self contradictory or contrary to record, the possibility may exist to intervene.

No such grounds are made out.

8. Therefore, we find no merit in the O.A and the same is dismissed accordingly.
There shall be no order as to costs.