(2013) 04 MAD CK 0240

In the Madras High Court

Case No : Writ Petition No. 21271 of 2012

R. Ramesh APPELLANT

Vs

Bharath Sanchar Nigam Limited, The General Manager (Personnel), BSNL Corporate Office and The Central Administrative Tribunal RESPONDENT

Date of Decision : 30-04-2013

Acts Referred:

Citation : (2013) 04 MAD CK 0240

Hon'ble Judges : M. Venugopal, J;Elipe Dharma Rao, J

Bench : Division Bench

Advocate : Karthik, for the Appellant; M. Govindaraj for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

M. Venugopal, J.—The Petitioner/Applicant has filed the present Writ Petition as against the order dated 28.06.2012 in O.A. No. 623 of 2011 passed by the 3rd Respondent/Central Administrative Tribunal, Chennai. The 3rd Respondent/ Central Administrative Tribunal, Chennai, while passing the order in O.A. No. 623 of 2011 filed by the Writ Petitioner/Applicant on 28.06.2012, has, in paragraph 11, categorically observed that ''... the appellate authority has considered all the relevant facts available on record and the contentions of the applicant, and made an assessment of the performance objectively dispassionately and fairly. In fact the appellate authority is required to give specific reasons for upgrading the below benchmark ACR/APAR gradings at par with the benchmark for next promotion as per the provisions in para 2 of O.M. No. 21011/1/2010-Estt A dated 13.4.2010 of the DOP & T. This obviously is not the situation in the present case. Therefore, it is to be concluded that there is no evidence to show that the appellate authority has violated any of the rules/instructions in this case'' and resultantly, dismissed the application without costs.

2. The Learned Counsel for the Petitioner/Applicant submits that the impugned

order dated 28.06.2012 in O.A. No. 623 of 2011 passed by the 3rd Respondent is not only perverse but also contrary to law and record.

3. The Learned Counsel for the Petitioner/Applicant urges before this Court that the 3rd Respondent/Tribunal failed to take into account the law laid down by the Hon''ble Supreme Court in the decision M.A. Rajasekhar Vs. State of Karnataka and Another, whereby and wherein it is held that ''remarks in the Confidential Report which have a bearing on the service career of the officer should be with specific reference to clear instances of shortcoming, deficiencies''.

4. The Learned Counsel for the Petitioner/Applicant takes a plea that the scrutiny of the Appellate Authority''s order dated 16.07.2010 would clearly show that none of the factual aspects which have been put forth by the Petitioner in his representations dated 02.06.2010 and 28.06.2010 passed against the adverse gradings have been taken note of. In other words, it is the contention of the Learned Counsel for the Petitioner/Applicant that the Appellate Authority''s order dated 16.07.2010 suffers from non-application of mind and on this simple ground alone, the said order dated 16.07.2010 is liable to be quashed.

5. Added further, it is the submission of the Learned Counsel for the Petitioner/ Applicant that the 3rd Respondent/Tribunal has not considered the detailed representation of the Petitioner/Applicant at all and no reasons have been assigned to sustain the gradings recorded and to reject the detailed representation.

6. The prime contention of the Learned Counsel for the Petitioner/ Applicant is that as per existing instructions of the Government of India which is adopted by the Respondents 1 and 2, adverse entries are to be communicated within a period of one month from the date of its recording.

7. Further, the Learned Counsel for the Petitioner/Applicant contends that the purpose of adverse entries to be communicated to the affected is to provide an efficacious opportunity for such person to redress his shortcomings or to make a representation for review if such gradings are, in the opinion of the officer concerned, incorrect.

8. The Learned Counsel for the Petitioner/Applicant contends that in the present case on hand, as the adverse entries/gradings below the benchmark required for promotion were communicated only during May, 2010 i.e. almost 3 to 4 years after they were recorded, it is very difficult for any officer to recollect the happenings.

9. The Learned Counsel for the Petitioner/Applicant projects a forceful plea that the Reporting Officer has omitted to record any grading in the Confidential Report for the year 2006-2007.

10. The Learned Counsel for the Petitioner/Applicant submits that Reviewing Authority reviewed the Confidential Report of the Petitioner/ Applicant for the year 2006-2007 after a lapse of one year and one month and for the year

2007-2008, after one month, on the same day (i.e.) 28.07.2009 and as per the extant instructions dated 22.05.1975, the Reviewing Officer has to arrive at a proper and independent Judgment of his own and also it is his responsibility to verify the correctness of remarks of the Reporting Officer, after making such enquiries as he may consider necessary.

11. Lastly, it is the contention of the Learned Counsel for the Petitioner/Applicant that the 3rd Respondent/Tribunal failed to appreciate that prior to 2006-2007, the Petitioner/Applicant received gradings above the benchmark required for promotion and that the sudden down gradation was made without any basis which pointed out that the Confidential Reports were not written fairly and objectively, as required under law.

12. The Learned Counsel for the Petitioner/Applicant cites the decision in M.A. Rajasekhar Vs. State of Karnataka and Another, wherein it is, inter alia, observed and held as follows:

According to the form in which the confidential remarks of the officers is to be written, the reporting officer is required to indicate his assessment of the officer on the following aspects of his work:

1. Knowledge of work;

2. Power of expression;

3. Power of acquiring general information;

4. Attention to detail;

5. Industry;

6. Judgment;

7. Speed of disposal;

8. Willingness to accept responsibility and to take decision;

9. Relationship with subordinates and colleagues;

10. Public relations;

11. Integrity.

The report about all the above aspects is satisfactory. There is no adverse report about integrity. However, the underlined remarks in Annexure-A1 are made. The last sentence in those remarks indicates that the intention of the officer who wrote those remarks was to treat the remarks as advisory. He has stated that the officer should evince more interest. When all the ten aspects of the work which are required to be assessed by the rules are satisfactory the alleged adverse remarks get considerably diluted and we are of the considered opinion that ends of justice would have served of the remarks are treated as advisory with a direction that they should not be made use of against the Applicant for any purpose.

It was found that his integrity was not doubted and his work also in all those respects was found to be satisfactory. Under those circumstances, the remark that he "does not act dispassionately then faced with dilemma" must be pointed out with reference to specific instances in which he did not perform that duty satisfactorily so that he would have an opportunity to correct himself of the mistake. He should be given an opportunity in the cases where he did not work objectively or satisfactorily. Admittedly, no such opportunity was given. Even when he acted in dilemma and lacked objectively, in such circumstances, he must be guided by the authority as to the matter in which he acted upon. Since this exercise has been done by the respondents, it would be obvious that the above adverse remark was not consistent with law.

13. Conversely, the Learned Counsel for the Respondents 1 and 2/Department submits that the impugned order was passed after considering all the material facts available on record, the Petitioner/Applicant''s contentions and also after receiving revised comments from the Reporting/Reviewing Officers and therefore, the contra stand taken on behalf of the Petitioner/Applicant does not hold water.

14. Moreover, on behalf of the Respondents 1 and 2, it is also submitted that the Reporting/Reviewing Officers considered the self assessment report of the Petitioner/Applicant and agreed with it in general and concluded the grading of the Petitioner/Applicant and in fact, the agreement with the self assessment report, by itself would not confer the grading as desired by him. In any event, it is contended on behalf of the Respondents 1 and 2 that the gradings have been done only based on materials available on record. Also that the records are personal one and the procedure adopted in reporting are not mandatory in character and instead they are only facilitative in nature.

15. To lend support to the contention that the overall grade and assessment of integrity coupled with full Annual Performance Assessment Report (APAR previously known as ''Annual Confidential Report'') is to be communicated to the concerned officer after the Report is completed with the remarks of the Reviewing Officer and the Accepting Officer wherever such system is in practice, the Learned Counsel for the Petitioner/Applicant relies on the Office Memorandum bearing No. 21011/2005-Estt (A) (Pt-II) of the Government of India, Ministry of Personnel, Public Grievances and Pensions, (Department of Personnel and Training) dated 14.05.2009 are refers to the Maintenance and Preparation of Annual Performance Appraisal and the Communication of all entries for fairness and transparency in public Administration''.

16. Furthermore, the said communication refers to an opportunity being given to the concerned officer to make any representation against the entries and the final grading given in the Report within a period of 15 days from the date of receipt of the entries in the APAR. Also, it is mentioned that the representation is

to be restricted to the specific factual observations contained in the Report leading to the assessment of the Officer in terms of attributes, work output etc.

17. Apart from the above, in the aforesaid Office Memorandum dated 14.05.2009, it is clearly mentioned that the new system of communicating the entries in the Annual Performance Assessment Report is made applicable prospectively with effect from the reporting period 2008-2009 which is to be initiated after 01.04.2009. The Competent Authority for considering adverse remarks under the existing instructions may consider the representation, if necessary, in consultation with the Reporting and/or Reviewing Officer and shall decide the matter objectively based on the material placed before him within a period of 30 days from the date of receipt of the representation. After due consideration, it is open to the Competent Authority to reject the representation or may accept and modify the APAR accordingly. The decision of the Competent Authority and the final grading shall be communicated to the officer reported upon within 15 days of receipt of the decision of the Competent Authority by the concerned APAR Section.

18. The Learned Counsel for the Petitioner/Applicant draws the attention of this Court to the Office Memorandum bearing No. 21011/2010-Estt. A issued by the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training dated 13.04.2010 wherein it is, inter alia, mentioned as under:

... The question of treating the grading in the ACR which is below the benchmark for next promotion has been considered in this Department and it has been decided that if an employee is to be considered for promotion in a future DPC and his ACRs prior to the period 2008-09 which would be reckonable for assessment of his fitness in such future DPCs contain final grading which are below the benchmark for his next promotion, before such ACRs are placed before the DPC the concerned employee will be given a copy of the relevant ACT for his representation, if any within 15 days of such communication. It may be noted that only below benchmark ACR for the period relevant to promotion need be sent. There is no need to send below benchmark ACRs of other years.

19. Moreover, in the said Memorandum, all Ministries/Departments are therefore requested to inform the competent authorities while forwarding such cases to them to decide on the representations against the remarks or for upgradation of the grading in the APAR that the decision on the representation may be taken objectively after taking into account the views of the concerned Reporting/ Reviewing Officers if they are still in service and in case of upgradation of the final grading given in the APAR, specific reasons therefore may also be given in the order of the Competent Authority. The following gradings have been communicated to the Petitioner/Applicant which runs hereunder:

20. It is not in dispute that the Petitioner/Applicant caused a representation dated 28.06.2010 requesting for upgradation of his general comments and final

grading as ''Excellent'' by the Competent Authority. The Appellate Authority rejected the representation of the Petitioner through his letter No. 400-145/2010/ pers-I dated 16.07.2010.

21. The main grievance of the Petitioner/Applicant is that the Appellate Authority has not taken into account numerous points urged by him in his representation and also that the entries so made by the Reporting Officer is to be on the basis of ''Memo of Services'' as required under Rule 174(7) of the P & T Manual Volume III. However, in the present case, the entries so made have not been done, on the basis of any objective assessment or facts and evidence.

22. In effect, the submission of the Learned Counsel for the Petitioner/Applicant is that the Petitioner/Applicant''s recorded gradings were good gradings before 2006-2007 and there was sudden down gradation in the subsequent years and as such, the Confidential Reports were not written in a fair and objective manner. The other stand of the Petitioner/Applicant is that the Appellate Authority has not spelt out reasons for upholding the gradings recorded, while rejecting the representation.

23. The stand taken by the Respondents 1 and 2 is that as per DOP & T instructions in Official Memorandum No. 21011/1/2005-Estt. (A)(Pt-II) dated 14.05.2009, the representation of the Petitioner/ Applicant was disposed of after taking into account all the available materials on record and also after consulting the concerned Reporting and Reviewing Officers.

24. A perusal of the Communication of Chief General Manager of the 1st Respondent in CGMT-PS/APARs Disclosure/R. Ramesh/2010 dated 30.06.2010 addressed to Shri. R.K. Mishra, GM (Pers), BSNL Corporate Office, New Delhi unerringly point out that Reporting Officer was consulted on the representation made by the Petitioner/Applicant. In fact, the Reporting Officer has looked into the representation of the Petitioner/Applicant and re-examined the information in his self appraisal in part I of the ACRs and he endeavoured to recall his overall performance during the years 2006-2007, 2007-2008 and on 01.04.2008 to 15.08.2008 and stood by the grading awarded earlier, which is extracted as under:

1. ''Average'' during the year 2006-07;

2. ''Good'' during the year 2007-08;

3. ''Good'' during the year 2008-09 (1.4.2008 to 15.8.2008)

25. The Appellate Authority considered the ACRs of the Petitioner /Applicant for the period from 1.4.2006 to 31.3.2007, 1.4.2007 to 31.3.2008, 1.4.2008 to 15.8.2008 separately and rendered his decision as hereunder:

1st April, 2006 to 31st March, 2007.

After carefully examining the ACR for the year 2006-2007 and upon an objective assessment of the facts available, considering all other relevant material on record and the contentions made by the applicant, it is observed that the concerned reporting and reviewing officers have done reporting/reviewing after carefully assessing the officer''s performance objectively, dispassionately and fairly. Hence the grading given by them in ACR for the year 2006-2007 is fully justified and the competent authority is of the considered view that up gradation of the grading given in the ACR of Shri R. Ramesh for the year 2006-2007 does not merit any consideration. Competent Authority has therefore decided that the grading in the ACR for the aforesaid year shall remain unaltered. 1st April, 2007 to 31st March, 2008

After carefully examining the ACR for the year 2007-2008 and upon an objective assessment of the facts available, considering all other relevant material on record and the contentions made by the applicant, it is observed that the concerned reporting and reviewing officers have done reporting/reviewing after carefully assessing the officer''s performance objectively, dispassionately and fairly.

Hence the grading given by them in ACR for the year 2006-2007 is fully justified and the competent authority is of the considered view that up gradation of the grading given in the ACR of Shri. R. Ramesh for the year 2007-2008 does not merit any consideration. Competent Authority has therefore decided that the grading in the ACR for the aforesaid year shall remain unaltered. 1st April, 2008 to 15.8.2008

After carefully examining the ACR for the year 1st April, 2008 to 15th August, 2008 and upon an objective assessment of the facts available, considering all other relevant material on record and the contentions made by the applicant, it is observed that the concerned reporting and reviewing officers have done reporting/reviewing after carefully assessing the officer''s performance objectively, dispassionately and fairly. Hence the grading given by them in ACR for the period 1st April, 2008 to 15th August, 2008 is fully justified and the competent authority is of the considered view that up gradation of the grading given in the ACR of Shri R. Ramesh for the year period 1st April, 2008 to 15th August, 2008 does not merit any consideration. Competent Authority has therefore decided that the grading in the ACR for the aforesaid year shall remain unaltered.

26. It is to be noted that ''Annual Confidential Report'' is an important document for judging an employee/public servant''s ability, initiative, capacity, industry and integrity in discharging duties allotted to him. Further, it will provide a cementing platform to evaluate its potentiality to the higher posts in the cadre or otherwise. Ordinarily, the Annual Confidential Reports are recorded annually based on the subjective assessments in regard to the quality of service turned out by the Reported Officer during the calendar year/financial year April to March. It cannot be gainsaid that the said report is initiated by the Superior Officer of the concerned employee/public servant/Government servant as the case may be, who is in a position to monitor/observe the day to day activities of the employee

for a certain period. Subsequently, the said report is reviewed by a higher authority and then accepted by still higher authority, so as to reach perfection in assessing/grading the concerned individual. In this regard, there are administrative instructions issued from time to time by the Department of Personnel and other officers concerned.

27. The Annual Confidential Reports/Rolls are to be recorded objectively and administrative instructions are issued from time to time laying emphasis that the Reporting Officers are required to state the justification of their reports, of course in the reports itself. To avoid or minimise the error of subjectivity, the Report is prepared at various levels. No wonder, each higher level has the utmost responsibility of moderating the report of the down below officers, before it reaches the stage of final level of acceptance. The Reporting Authority is the Authority who supervise the performance of employees reported upon. The ''Reviewing Authority'' is the authority who supervises the performance of Reporting Authority, the Accepting Authority is one who supervises the performance of Reviewing Authority. After review, it is the Accepting Authority who is to accept report with such modifications as he deems fit and proper, also, the rules may prescribe a time limit within which, the said officer is to perform.

28. At this juncture, we deem it appropriate to recall the decision of the Hon''ble Supreme Court in S. Ramachandra Raju Vs. State of Orissa, wherein the need to write these reports objectively, fairly and dispassionately in a constructive manner either commending or downgrading the assessment on conduct, character, efficiency or integrity of the officer in that behalf has been emphasised. The arduous task of writing the confidential reports is undoubtedly a solemn responsibility on the Reporting Officer requiring him to eschew his subjectivity and personal prejudices or proclivity or predilections and to reach himself a standard of efficiency to make objective assessment.

29. We also aptly point out the decision of the Hon''ble Supreme Court in State of U.P. Vs. Yamuna Shanker Misra and another, wherein it is laid down as follows:

... the object of writing the confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence. Article 51-A(j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual employee strives to improve excellence and thereby efficiency in administration would be augmented. The officer entrusted with the duty to write confidential reports, has a public responsibility and trust to write the confidential reports objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon facts or circumstances.

30. The purpose of recording/writing the Annual Confidential Report is to maintain, if not to improve the present standard of public service. Therefore, it is

important to usher in confidence the assistance of public servant to improve upon his performance where any shortfall in the standard of his service is noted in the ACRs. However, if the Report is adverse, communication of the Report becomes all the more important. Indeed, the affected officer ought to be provided with an opportunity to show that the Reporting Officer misjudged him or not assessed him in proper prospective. His representation is to reach the level, which is the highest of the levels of the Officers who has taken part in making the reports. The representation is to be attended to without any undue delay and the result is to be communicated to him.

31. It is to be remembered that an adverse entry in a confidential report will not affect the conditions of service of an employee. It cannot be lost sight of that recording an entry in the confidential roll of an employee by a Superior Officer is an Administrative Act based on subjective satisfaction which is to be made on an objective criteria.

32. In the decision T.K. Aryavir (Smt.) V. Union of India [(2003) 1 ATJ 130], it is observed that ''In case where the minimum benchmark for consideration for promotion is "very good", and ranking "good" is insufficient for promotion, then this, insufficient grading of "good" in the ACR has the effect of an adverse entry and, therefore, is to be communicated to the public servant''.

33. In the decision U.P. Jal Nigam and others Vs. Prabhat Chandra Jain and others, , it is observed that ''The question was arose if downgrading in ACR i.e., "good" from "very good" required to be communicated and it was held that although it is not an adverse report per se the same had an adverse effect''.

34. In considering action upon adverse remarks, the concerned authority should act fairly and apply his mind, however, the general plea is that although the entire service record of an employee is to be considered, the service records of immediately preceding 10 years should provide just and reasonable guidelines as per the decision of the Hon''ble Supreme Court in Brij Mohan Singh Chopra Vs. State of Punjab, .

35. An adverse entry cannot be considered in isolation or ignoring the extent of prejudicial qualitative content of remark in the considered opinion of this Court.

36. Moreover, if factual elements forming the basis of adverse remark or in dispute, it would be just and proper for a Court of Law not to enter the arena of appreciation of effects and it would be right in declining to enter into the controversy as per the decision of the Hon''ble Supreme Court in Bharat Ram Meena Vs. Rajasthan High Court at Jodhpur and others,].

37. At this stage, this Court quotes the following decisions, in furtherance of substantial cause of justice:

(a) In the decision D.D. Sharma V. State of Haryana [1996(5) SLR 498 (P & H)], it is observed and held that ''If different officers have repeatedly assessed the performance of a person as average it cannot be said that the action is arbitrary or mala fide''.

(b) In the decision of the Hon''ble Supreme Court in Major General I.P.S. Dewan Vs. Union of India (UOI) and Others, it is observed and held that ''Adverse remarks can be made by the appropriate superior officer on the basis of mere assessment of the performance of the officer and no enquiry or prior opportunity to represent need be provided before making such remarks, unless, of course, the Rules so provide''.

(c) In the decision Ramesh Prasad Mahapatra Vs. State of Orissa and Others, it is observed that ''the compliance with natural justice is ensured by the right of representation, due consideration thereof and upon the representation being successful, review of the same is possible''.

(d) In the decision Dr. Ganeshlal Mishra V. State of Orissa, [1977(2) SLR 473 (Orissa)], it is held that ''Adverse entries can be acted upon even if not communicated unless mala fide on the part of the authority is established''.

(e) In the decision Union of India (UOI) and Another Vs. Inderjit Rajput, it is held that ''Solitary good entry may not be enough to outweigh adverse one''.

(f) In the decision D.K. Agarwal Vs. High Court of Judicature at Allahabad,], it is held that ''No action can be taken on adverse entries which do not have any foundation or those which are stale''.

(g) In the decision V.E. Thomas V. State of Kerala and others, [1978(1) SLR 593], it is held that ''A mere delay in recording the adverse entry example adverse report in respect of misconduct in 1965 recorded in confidential report of the year 1968 is not a sufficient ground for ignoring the mark in judging the employees suitability for promotion''.

38. One can safely conclude that once a decision is taken on the representation so made, then, the chapter has to be closed and no review is ordinarily feasible.

39. That apart, it cannot be brushed aside that mere expunction of adverse entries, by itself, would not made the applicant more meritorious one. An employee cannot claim the benefit of such expunction unless and until he establishes that after expunction of adverse remarks he has a more meritorious record, as per the decision of the Hon''ble Supreme Court in Chandra Gupta, I.F.S. Vs. The Secretary, Govt. of India, Ministry of Environment and Forests and others,

40. In this connection, we pertinently point out that there is another scope for judicial review as against the adverse entries made in Annual Confidential Reports of concerned employees. In fact, Courts of Law are to act with care and utmost circumspection when they interfere with the administrative matters relating to executive function.

41. At this stage, it is not out of place for this Court to point out the decision of the Hon''ble Supreme Court in State of Madhya Pradesh Vs. Srikant Chaphekar,

wherein it is held that ''In a case where Tribunal had interfered and held that adverse remarks in ACR were not sufficient to deny promotion, the Apex Court held that the refusal to promote an employee being ''lazy'' or ''late comer'' are valid grounds for denial and the Tribunal "out-stepped its jurisdiction" in reaching the conclusion that they were vague. The Court further held that it is not the function of Administrative Tribunals to assess the service of Government servants and that the function to evaluate the ACRs has been vested in the Departmental Promotion Committees''.

42. Be that as it may, at the risk of repetition, we appropriately point out that entries in ACR undoubtedly reflected subjective assessment though required to be made on objective parameters and in fact, they are administrative in character. Moreover, they cannot be subjected to judicial analysis/scrutiny except on certain specified grounds like (i) Malice; (ii) Mala fide; and (iii) Perversity. An employee, in case of adverse entries in ACR at best, is to make representation and only when he is dissatisfied with the treatment meted out to his representation, he can invoke the remedy of Judicial Review. Even then, at the early/interim stage, a Court of Law will be hazy/reluctant to grant any stay of the impact of any adverse entry made in respect of an affected employee.

43. In the light of detailed quantitative and qualitative discussions mentioned supra and on analysis of entire gamut of the matter based on available material on record, we come to an inevitable conclusion that the assessment performance of the Petitioner/Applicant has been made based on subjective assessment by the concerned officer and in the instant case before us, no plea of malice/ malafide or perversity has been attributed against the respective officers viz., the Reporting Officer/Reviewing Officer and the Appellate Authority. Although on the side of the Petitioner/Applicant heavy reliance is placed on para 2 of the Official Memorandum No. 21011/2010-Estt. A dated 13.04.2010 of the DOP & T to the effect that ''specific reasons are to be assigned for upgrading the below benchmark ACR/APAR gradings on par with the benchmark for next promotion'', on going through the order dated 16.07.2010 in letter No. 400-145/2010/Pers-1 passed by the 2nd Respondent and also the contents of the order dated 28.06.2012 passed by the 3rd Respondent/Central Administrative Tribunal, Chennai in O.A. No. 623 of 2011, we come to an inescapable conclusion that rules of the game have been followed scrupulously without any deviation whatsoever and as such, the said orders do not suffer from impropriety or illegality in the eye of law. In the result, the Writ Petition is dismissed, leaving the parties to bear their own costs. The order dated 28.06.2012 passed by the 3rd Respondent/Central Administrative Tribunal, Chennai in O.A. No. 623 of 2011 is confirmed for the reasons assigned by this Court in his Petition.

