

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 836/2015 (S.B.)

Dilip S/o Krushnarao Zalke,
Aged about 54 years, Occ. Service,
R/o Majestic Heights, Flat No. F 401, Hill Road,
Shivaji Nagar, Nagpur-10.

Applicant.

Versus

- 1) State of Maharashtra
through its Additional Chief Secretary,
Department of Home,
Mantralaya, Mumbai -32.
- 2) Director General of Police,
Shahid Bhagat Singh Marg,
Colaba, Mumbai.

Respondents.

S/Shri P.S. Chawhan, R.S. Kalangiwale, Advs. for the applicant.
Shri H.K. Pande, P.O. for respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 28th June, 2019.

Date of Pronouncement of Judgment : 18th July, 2019.

JUDGMENT

(Delivered on this 18th day of July,2019)

Heard Shri P.S. Chawhan, learned counsel for the
applicant and Shri H.K. Pande, learned P.O. for the respondents.

2. In this application the applicant is challenging the communication dated 28/11/2014 received from the respondent no.1 by which the respondent no.1 rejected the representation of the applicant dated 15/07/2014 for upgrading his A.C.R.. The facts in brief are as under –

3. It is grievance of the applicant that his ACR was written for the year 2008-09 and he was given Grade 'B'. The applicant challenged this grading of his ACR in O.A.No. 186/2012 which was partly allowed and direction was given to the respondent no.1 to review the ACR of the applicant and ultimately it was corrected and upgraded. Again on 26/12/2013, the O.A.No. 788/2013 was filed by the applicant for upgrading his ACR and in that matter also the applicant was successful.

4. It is grievance of the applicant that the applicant received letter dated 21/06/2014 from the Special Inspector General of Police (Establishment). Vide this letter the applicant was informed that his ACR for the year 2008-09 as 'B+' and his ACR for the year 2011-12 from 01/07/2011 to 31/03/2012 'B+'. It is grievance of the applicant that he made representation to review, but mechanically it was rejected and he was informed vide letter dated 28/11/2014 that his request to upgrade his ACR for the year 2011-12 was rejected by the State Government.

5. It is submission of the applicant that his ACR was written by one Officer from 01/04/2011 to 30/06/2011 and Grade 'A' was given to the applicant. Thereafter, his ACR was written by another Officer for the period from 01/07/2011 to 31/03/2012 and he was given Grade 'B+ Positively Good'. It is submission of the applicant that without examining the work and extraordinary nature of the work done by the applicant, besides his official duty 'B+' grade was given to him and it was unjust. It is submitted that Grade 'B+' would create hurdle in the way of the applicant for his entry in Indian Police Service.

6. The applicant therefore made representation to review his ACR for the period from 1/7/2011 to 31/3/2012. It is submission of the applicant that without giving any sound reason, his representation was mechanically rejected by the Government. It is submitted that he was not informed the reason why his representation was rejected. Under these circumstances, it is submission of the applicant that the communication dated 28/11/2014 be quashed and either direction be given to the respondent no.1 to re-decide the representation considering the merits of the work discharged by the applicant or in alternative to upgrade the ACR of the applicant to category 'A' or 'A+'.

7. The application is opposed by the respondents vide reply which is at Page No.253. It is submission of the respondents that Officers who wrote the ACR and review the ACR of the applicant have

noticed the work of the applicant and after assessing the work of the applicant, they have written the ACR of the applicant for the period from 1/7/2011 to 31/3/2012. It is submitted that there was no grudge against the applicant and therefore there is no reason to interfere in this matter.

8. It is contended by the respondents that the matter was placed before the respondent no.1 and the Authority considered all the objections raised by the applicant and after considering all material, the Authority came to the conclusion that there was no substance in the contention raised by the applicant and merely because B+ Grade was given to the applicant this would not be a hurdle for the entry of the applicant in the Indian Police Service. It is submission of the respondents that no error was committed by the Authority in rejecting the representation of the applicant. Consequently, there is no substance in this application.

9. I have perused the ACRs of the applicant for the period from 1/4/2011 to 30/6/2011 and second ACR from 1/7/2011 to 31/3/2012, it appears that both the ACRs are for a duration from 1/4/2011 to 31/3/2012. The first Officer who has written the ACR for the period from 1/4/2011 to 30/6/2011 after noticing the work of the applicant arrived to the conclusion that the performance of the

applicant was 'A Very Good' and the Reviewing Officer also gave nod to this remark.

10. The next Officer who examined the material for writing the ACR of the applicant for the period from 1/7/2011 to 31/3/2012 gave grading 'B+ Positively Good' and the Reviewing Officer agreed with the remarks. After perusal of the ACR grading for the period from 1/7/2011 to 31/3/2012, it seems that the Officer who wrote the ACR agreed with the self assessment given by the applicant in Column-4. In Column-4 the applicant had mentioned the instances of the extraordinary work done by him, which were exceptional and not a part of his routine duty. It is important to note that the Officers who wrote the ACR, had specifically agreed with the self assessment, that officer did not say the work was not extraordinary. It seems that the applicant had done the work which was even not connected with his official duty and there was no dispute raised by the Authority who wrote the ACR about this work. The data available before the officer who wrote ACR from 1-7-2011 to 31-3-2012 did not say that there was during this period the quality of the work was lowered in any manner.

11. After reading the Schedule-B, Part-4, Page No.3 of the ACR, it seems that in Column-12 the Authority who wrote the ACR observed that "nothing adverse came to notice". The Column 12 was pertaining to "Integrity and character". As a matter of fact the

Authority who wrote the ACR was under obligation to mention whether the applicant was man of Integrity and was of good character, but instead of doing this, the Authority mentioned that nothing adverse came to notice. Had it been a fact that the Authority had received some complaints touching the Integrity and character of the applicant, then that Authority should have taken note of it and should have separately reported that matter to the High Authorities. Had it been a fact that the Authorities had some doubts about Integrity and character of the applicant, the Authority should have mentioned it against the Column No.12. Once it is accepted that entire performance of the applicant during the period from 1/7/2011 to 31/3/2011 was Good and besides this the applicant had discharged the extraordinary work which was not connected with his official duty, then the authority who wrote the ACR from 1-7-2011 to 31-3-2012 was bound to consider it, but it was not done. It is pertinent to note that the Reviewing Authority also did not consider the remark written against Column No.12 of Schedule-B, Part-4.

12. After reading Column No.19 the Authority observed that the General Assessment of the applicant was Good Worker, Takes interest in the work and overall grade was given 'Positively Good'. It is pertinent to note that similar observations were made by the Officer who wrote the ACR for the period from 1/4/2011 to 30/6/2011 and

grade was given 'A'. Under these circumstances, it seems that the work done by the applicant was not properly assessed, while writing the ACR w.e.f. 1/7/2011 to 31/3/2012. It is not a fact that the Authority who wrote the ACR, had any special reasons for giving Grade 'B+' to the applicant. It must be remembered that the Officer writing the ACR, similarly the Reviewing Authority ought to have been cautious and careful; because, if work of honest and hard working Officer is not properly assessed, then it de-modernizes such an Officer. There is no dispute about the fact on earlier two occasions 'B' grade was given to the applicant and he was compelled to approach this Tribunal and due to intervention of this Tribunal, the ACR of the applicant was upgraded.

13. Now I would like to consider the reasons given by the respondent no.1 for rejecting the representation of the applicant. The learned P.O. has produced the Note sheet which was placed for consideration of the respondent no.1. It is from page nos. 263 to 267. On Page No.265 it is observed that then Reporting Officer Shri Ravindra Kadam, DIG Police, Gadchiroli in his remark mentioned that there was no substance in the objection raised by the applicant. Shri Ravindra Kadam also stated that only one remark 'B+' was given which was not a sufficient ground to say that it will create hurdle for entry of the applicant in the Indian Police Service. No explanation was

given by Shri Ravindra Kadam why Column No.12 of the ACR was not properly filled in and why it was mentioned that nothing adverse came to notice. As a matter of fact Shri Ravindra Kadam was under obligation to give the reason why he did not fill in Column No.12 why he avoided to mention that the applicant was a man of Integrity and Good character. Similarly the Reviewing Authority Shri Sanjay Saxena, Joint Police Commissioner, Nagpur simply stated that there was no reason to review and the appreciation was proper. It is apparent to note that the respondent no.1 did not examine the ACRs for the period from 1/7/2011 to 30/3/2012 and the first part of the ACR from 1/7/2011 to 31/3/2012 keeping in view the extra ordinary work done by the applicant besides his duty. In view of this discussion, I am compelled to say that the exercise of the discretion was mechanical and sound reasons are not recorded while rejecting the representation of the applicant. Under these circumstances, I am of the view of that case it made out to set aside the communication dated 28/11/2014 issued by the respondent no.1 and the order rejecting the representation dated 15/7/2014. I am of the view that in this situation, it will be suitable to direct the respondent no.1 to consider the representation of the applicant in view of the observations made above. In the result, I pass the following order –

ORDER

The communication dated 28/11/2014 and rejection of the representation dated 15/7/2014 are set aside. The respondents are directed to re-consider the representation of the applicant in view of the observations made in this order, within a period of three months from the date of this order. The O.A. stands disposed of. No order as to costs.

Dated :- 18/07/2019.

(A.D. Karanjkar)
Member (J).

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 18/07/2019.

and pronounced on

Uploaded on : 18/07/2019.