

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.133 OF 2019**

**DISTRICT : PUNE**

Shri Rohidas Dnyaneshwar Pawar, )  
Age : Adult, working as Additional Supt. )  
Of Police, Shrirampur, Dist. Ahmadnagar, )  
Coming under Nashik Range. )  
R/at Flat No.A/501, Rohan Garima Soc. )  
Bhamburda, Shivaji Nagar, Pune 16. )...**Applicant**

**Versus**

1. The Director General & Inspector )  
General of Police (M.S.), Mumbai )  
Old Council Hall, Shahid )  
Bhagartsingh Marg, Mumbai 400039)
  
2. The State of Maharashtra, through )  
Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai – 32. ).....**Respondents**

**Shri A. V. Bandiwadkar , Advocate for Applicant.**

**Smt. Kranti Gaikwad, Presenting Officer for Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER-J**

**DATE : 25.03.2021**

**JUDGMENT**

The Applicant has challenged the communication dated 03.03.2018 issued by Respondent No.2 thereby rejecting the representation made by him in respect of downgrading of Annual Confidential Report (ACR) for the year 2015-2016, invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

2. Shortly stated facts giving rise to the Original Application are as under:-

The Applicant was serving as Sub Divisional Police Officer, Bhusawal Sub Division, Bhusawal, Dist. Jalgaon. The Superintendent of Police, Jalgaon was his Reporting Authority whereas Special Inspector General of Police, Nashik Range Nashik was the Reviewing Authority for ACR of the Applicant. Dr. Jalindar Supekar, Supdt. Of Police, Jalgaon has written ACR of the Applicant for the year 2015-2016. He rated the performance of the Applicant as 'Very Good' and has graded 'A' (Very Good). However, Shri Jai Jeet Singh, the then Spl. Inspector General of Police, Nashik Range Nashik who was Reviewing Authority had downgraded the grading of ACR from 'A' to 'B+' (Positively Good) without assigning any reason for downgrading the gradation given by the Reporting Authority. Being aggrieved by it, the Applicant has filed detailed representation pointing out that throughout his career his ACRs were 'A+' or 'A' and once the Reporting Authority has given grade 'A', there was no reason for Reviewing Authority to downgrade the same and in absence of any such reasons, requested for upgradation of ACR as 'A'. However, Respondent No.2-Government after calling remark of the Reporting Authority as well as Reviewing Authority rejected the representation by communication dated 03.03.2018 which is under challenge in the present O.A.

3. The Respondents resisted the O.A. *inter-alia* denying entitlement of the Applicant to the relief claimed. The Respondents contend that gradation 'B+' given by the Reviewing Authority is outcome of objective assessment of the performance of the Applicant and it needs no interference.

4. Shri A. V. Bandiwadekar, learned Counsel for the Applicant sought to assail the impugned communication and pointed out that in terms of G.R. dated 01.11.2011, Clause No.9, if Reviewing Authority

was not agreeable with the gradation given by the Reporting Authority then Reviewing Authority is required to record his reasons for the same. But in the present case, he did not record any such reasons and on this count alone the impugned communication is required to be quashed. He has further pointed out that though the Applicant has made detailed representation running into more than 60 pages, it was not at all considered and rejected the same simply stating that representation is not acceptable. He has further pointed out that throughout career, gradation of ACR of the Applicant was 'A+' or 'A'. On this line of submission, he urged that the decision of rejection of representation is totally arbitrary and unsustainable in law and facts.

5. Per contra, Smt. Kranti Gaikwad, learned Presenting Officer sought to support the impugned communication contending that Reviewing Authority was empowered to make his own assessment and in absence of any malafides or bias on the part of Reviewing Authority, interference in the matter of ACR exercising judicial power of review is unwarranted.

6. Indisputably, the Reporting Officer Dr. Jalinder Supekar has given following remarks on ACR of the Applicant for the year 2015-2016.

Industry & Application	Very Good
Capacity of get work done by Subordinate	Very Good
Relation with colleagues & Public	Courteous
General Intelligence	Very Good
Administrative ability including Judgment, Initiatives, convincing ability and drive	Very Good
Attitude towards backward class	Helpful
Fitness for Promotion	Fit in normal course as per seniority
State of Health	Good
Fitness for field work	Yes
Willingness to work on computer	Yes
General Assessment	Excellent work in law and order and Crime Prevention
Grading	A Very Good

7. Surprising to note that Shri Jai Jeet Singh, Spl. Inspector General of Police, Nashik Range Nashik who was Reviewing Authority agreed with the grading given by the Reporting Officer but changed final Grading. Colum No.2 of ACR pertaining to Reviewing Authority is as follows:-

2	Do you agree with the reporting officer? (If not state specifically the remarks with which you do not agree) or do you wish to modify or Add to his assessment?	I Agree but for final grading.
3	Grading	B+ Positively Good

8. Thus, interesting to note that Reviewing Officer agreed with all the remarks made by the Reporting Authority but changed final grading from 'A' to 'B+' without assigning any reasons. I failed to understand that once the Reviewing Officer totally agreed with the remarks given by the Reporting Officer, how only final grading can be downgraded without assigning any reason in such absurd and haphazard manner. True, the Reviewing Officer can disagree with the remarks given by the Reporting Officer and he can make his own independent assessment but it should not be in such arbitrary and irrational manner. Indeed, it is the Reporting Officer who is in better position to assess the performance of a Government servant directly working under him and his remarks given in ACR are of fundamental importance. Therefore, it cannot be changed or downgraded to the detriment of the Applicant without assigning any reason as contemplated in Clause No.9 of G.R. dated 01.11.2011, which is as follows:-

“९. पुनर्विलोकन अधिका-यांनी परिशिष्ट ब(भाग-५) मध्ये आपले अभिप्राय लिहिण्यापूर्वी स्वतःचे स्वतंत्र निश्चित मत बनविणे आवश्यक आहे. आवश्यकता वाटल्यास त्यांनी प्रतिकूल शे-यांच्या संदर्भात प्रतिवेदन अधिका-यांबरोबर चर्चा करावी व नंतरच आपले अभिप्राय लिहावेत. प्रतिवेदन अधिका-यांच्या अभिप्रायाशी सहमत नसल्यास त्याची कारणे नोंदवणे आवश्यक आहे.”

9. Suffice to say, the Reviewing Authority was bound to give reasons for downgrading the grading given by the Reporting Officer. Indeed, he is required to discuss the matter with the Reporting Officer and then can change the grading, if warranted. In present case, apparently there is nothing to indicate that Shri Jai Jeet Singh, Spl. Inspector General of Police discussed the issue with Reporting Officer or have any reasons for downgrading the grading given to the Applicant.

10. Material to note that on representation made by the Applicant, views of the Reporting Officer as well as Reviewing Officer were called. Pertaining to note that the Reporting Officer reiterated the grading given by him as 'A' stating that it was outcome of objective assessment of the performance of the Applicant. In so far as Reviewing Officer is concerned, all that he stated 'there is nothing new in the representation and grading given by him needs no interference'. This is the only view /remark given by him on the representation made by the Applicant. What is significant to note that even after representation, Reviewing Authority was not in a position to justify downgrading or to cite some reasons for not accepting the remarks given by the Reporting Officer.

11. However, the Government mechanically rejected the representation by single line order that 'it is not acceptable' without assigning or discussing any reasons or without making any comment on the detailed representation given by the Applicant. Basic rule of law and principle of natural justice requires recording of reasons in support of order by quasi judicial authority. It must be self explanatory and should not keep the court or tribunal guessing for reasons. It is for this reason care is taken by G.R. dated 01.11.2011 that in case of disagreement with the remarks given by the Reporting Authority, it is must for the Reviewing Authority to give some reasons for downgrading ACR.

12. Needless to mention that ACR plays very important role in the career of a Government servant. The purpose of writing adverse entries in ACR is primarily to forewarn the Government servant to mend his way and to improve his performance that is why law mandates the communication of adverse entries to the Government servants. Now, in view of the decision of the Hon'ble Supreme Court in **2008 (4) SC 462 Dev Dutt V/s Union of India & Ors** that not only adverse entries but every entry of ACR needs to be communicated to the Government servant so that he can get an opportunity of making representation against it, if he is aggrieved. The purpose of conveying good entry in ACR is to encourage deserving Government servant to perform well so that he can get motivated and can perform in more efficient manner. The ACR also plays important role in the matter of promotion of a Government servant. Downgrading of ACR even from 'A' to 'B+' may affect chances of promotion of a Government servant while competing with his counter parts in the department.

13. Significant to note that ACRs of the Applicant for the period from 2009-2015 are graded as 'A+' or 'A'. Whereas his ACRs of subsequent period i.e. 2016-2017, 2017-2018, 2018-2019, 2019-2020 are also graded as 'A+'. As such, except grading of 'B+' in the year 2015-2016, his other ACRs from 2009 to 2020 are 'A+' or 'A'. If this is so, it is but natural that grading of ACR of 2015-2016 as 'B+' would effect further promotional chance of the Applicant.

14. Suffice to say, the ACRs are required to be writing with high sense of responsibility and it should be outcome of objective assessment of the performance of a Government servant. As stated above, it is the Reporting Officer under whom concerned Government servant worked had an opportunity to assess the performance. Therefore, the remarks as well as grading given by the Reporting Officer has fundamental importance and it should not be downgraded

in absence of justifiable reasons. In present case, not a single word is forthcoming for downgrading the grading given by the Reporting Officer. Suffice to say, the question of downgrading/ grading is totally arbitrary and autocratic.

15. Learned Counsel for the Applicant rightly referred to the decision rendered by this Tribunal in O.A.No.274/2017 wherein Reviewing Authority has downgraded grading from 'A+' to 'A' without assigning any reasons. The Tribunal in exactly identical situation, allowed the Original Application. In present case also, I see no reason to take different view.

16. The totality of the aforesaid discussion leads me to conclude that the impugned action of downgrading ACR of the Applicant for the year 2015-2016 is totally unsustainable in law. The matter is required to be remitted back to the Reviewing Authority to take proper review of the remarks given by the Reporting Authority and to take further appropriate steps in respect of said ACR. Original Applicant is, therefore, deserves to be allowed. Hence the following order:-

### **ORDER**

- (A) Original Application is allowed.
- (B) Impugned communication dated 03.03.2018 is quashed and set aside.
- (C) Reviewing Authority is directed to take proper review of the ACR of the Applicant for the year 2015-2016 and shall take further appropriate steps in the matter within two months from today.

- (D) Respondent No.1 is directed to ensure the compliance of this order by placing the matter before Reviewing Authority within stipulated period as stated above.
- (E) The decision thereon be communicated to the Applicant within two weeks thereafter.
- (F) No order as to costs.

**Sd/-**  
**(A.P. KURHEKAR)**  
**Member-J**

Place : Mumbai  
Date : 25.03.2020  
Dictation taken by : VSM  
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