

Shovan Patra, EO/AO Vs Ministry Of Labour And Employment & Others

Court: Central Administrative Tribunal Principal Bench, New Delhi

Date of Decision: March 30, 2021

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

Bench: Division Bench

Advocate: S.S. Parihar

Final Decision: Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant is working as Accounts Officer in the establishment of Employees Provident Fund Organization (EPFO). He is said to have submitted

number of complaints including the one to the Hon'ble Prime Minister of India, alleging irregularities in the establishment and has also filed public

interest litigations. He contends that in retaliation thereof, the respondents have downgraded his APARs for the years 2018-19 and 2019-20. This OA

is filed with a prayer to call for the APARs for the past five years, together with movement sheets, review the APARs for the years 2018-19 and

2019-20, and to send the "manipulated and tempered documents" to Forensic Science Laboratory; and to stay the expected attempt of invocation

of FR 56 (j) against him.

2. The applicant contends that as a counterblast to the various steps taken by him, the respondents have tempered with, or downgraded his APARs

and they deserve to be upgraded. It is also stated that the respondents are likely to invoke rule 56 (j) and retire him on compulsory basis and the same

needs to be stayed.

3. Today, we heard Shri S. S. Parishar, learned counsel for the applicant, at the stage of admission.

4. On the face of it, the OA is totally misconceived. Though we indicated the broad details of the prayer, it is beneficial to reproduce the same. It

reads as under:-

(i) To allow this OA and issue directions to the respondents to call for the APARs for last five years with movement sheets and the forwarding letters

etc. in support.

(ii) To review APARs for the years 2018-19 and 2019-20, as no notice has been issued below benchmark remarks to the applicant.

(iii) To send the manipulated and tempered of the confidential documents/APARs to the forensic laboratory to ascertain and reveal the veracity of

tampering forgery in APARs.

(iv) To grant stay on the expected operation of Fundamental Rules no. 56(j).

(v) Also Any other order or direction (s) to the respondents which is deemed fit and proper, in the interest of justice.

5. It is evident that the applicant is not clear about the relief being claimed by him. On the one hand, he complains about the downgrading of the

APARs of 2018-19 and 2019-20 below benchmark and on the other hand, he wants the Tribunal to call for the records of the last five years APARs.

In the body of the OA, several pleas are taken which are not relevant for the relief he claimed. Whenever the APAR of an official is rated as below

benchmark or adverse, the rules mandate that the same must be communicated. It is a different matter that if the officer did not initiate APARs at all,

a totally different picture emerges. In the instant case, the OA is not clear as to (a) whether the applicant has initiated APARs at all, and, if so, (b) the

nature of gradation given, at various levels.

6. Even when the APARs is processed strictly in accordance with the relevant rules and an employee feels that proper gradation was not given, the

remedy is to file a representation to the competent authority. The remarks of the reporting and reviewing officer are called for and necessary orders in

that behalf, are passed. The OA is silent about all these aspects. Further, the applicant did not choose to file the copies of the APARs as regards

which he is claiming relief. In these days when access can be had, even to the most confidential official notes, it would not have been difficult for the

applicant to procure the copies of the APARs, that too in case they are adverse to him.

7. One facet of the relief claimed in the OA is to restrain the respondents from invoking Rule 56 (j) against him. This plea needs to be taken note of,

only for rejecting it. The applicant is just imagining that an order of compulsory retirement would be passed against him. Even if, he is aware of any of

process of that nature, the Tribunal cannot restrain the respondents. If any order of that nature is passed, the applicant has to work out the remedies in

accordance with law.

8. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

Pending MA No.933/2021 shall stand disposed of.