A U.P. JAL NIGAM AND ORS.

v.

PRABHAT CHANDRA JAIN AND ORS.

JANUARY 31, 1996

B [M.M. PUNCHHI AND K.S. PARIPOORNAN, JJ.]

Service Law :

Annual Confidential Reports—System of recording—Downgrading entries in confidential reports—Employer U.P. Jal Nigam taking a plea that both entries not adverse entries and hence not communicated to the employee—Plea turned down by the High Court—On appeal held, reasons to be recorded for downgrading and employee informed of the charge in the form of an advice—When downgrading is reflected by comparison without giving reason, it cannot be sustained.

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 16988 of 1995.

From the Judgment and Order dated 1.5.95 of the Allahabad High Court in W.P. No. 2244 (S/S) of 1994.

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Rajeev Dhawan, R.B. Misra, Sudhansu, M.K. Roy and K. Misra for the Petitioners.

S.C. Maheshwari and R.K. Jain, Ajay Bhalla, P.K. Chakraborty and Ms. Prabha Jain for the Respondents.

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The following Order of the Court was delivered :

What we say in this order shall not only cover the case of the first respondent but shall also regulate the system of recording annual confidential reports prevalent in the U.P. Jal Nigam - the first petitioner herein.

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The first respondent was down graded at a certain point of time to which the Service Tribunal gave a correction. Before the High Court, the petitioners' plea was that down grading entries in confidential reports cannot be termed as adverse entries so as to obligate the Nigam to communicate the same to the employee and attract a representation. This

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argument was turned down by the High Court, as in its view confidential reports, were assets of the employee, since they weigh to his advantage at the promotional and extensional stages of service. The High Court to justify its view has given an illustration that if an employee legitimately had earned an 'outstanding' report in a particular year which, in a succeeding one, and without his knowledge, is reduced to the level of 'satisfactory' without any communication to him, it would certainly be adverse and effect him at one or the other stage of his career.

We need to explain these observations of the High Court. The Nigam has rules, whereunder an adverse entry is required to be communicated to the employee concerned, but not down grading of an entry. It has been urged on behalf of the Nigam that when the nature of the entry does not reflect any adverseness that is not required to be communicated. As we view it the extreme illustration given by the High Court may reflect an adverse element compulsorily communicable, but if the graded entry is of going a step down, like falling from 'very good' to 'good' that may not ordinarily be an adverse entry since both are a positive grading. All what is required by the Authority recording confidentials in the situation is to record reasons for such down grading on the personal file of the officer concerned, and inform him of the change in the form of an advice. If the variation warranted be not permissible, then the very purpose of writing annual confidential reports would be frustrated. Having achieved an optimum level the employee on his part may slacken in his work, relaxing secure by his one time achievement. This would be an undesirable situation. All the same the sting of adverseness must, in all events, be not reflected in such variations, as otherwise they shall be communicated as such. It may be emphasised that even a positive confidential entry in a given case can previously be adverse and to say that an adverse entry should always be qualitatively damaging may not be true. In the instant case we have seen the service record of the first respondent. No reason for the change is mentioned. The down grading is reflected by comparison. This cannot sustain. Having explained in this manner the case of the first respondent and the system that should prevail in the Jal Nigam, we do not find any difficulty in accepting the ultimate result arrived at by the High Court.

The special leave petition is, therefore, dismissed.

G.N. Petition dismissed.