

SRI M.A. RAJASEKHAR

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v.

THE STATE OF KARNATAKA AND ANR.

AUGUST 16, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

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Service Law :

Annual Confidential Report—Object of—Competent authority and reviewing authority should act fairly and objectively in assessing the performance of incumbent.

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Tehsildar—Annual Confidential Report—Integrity reported not doubtful and work found satisfactory—But adverse remarks that 'does not act dispassionately when faced with dilemma'—Remark given without opportunity to employee—Held such a remark must be pointed out with reference to specific instance—Employee should be given opportunity in cases where he did not work objectively—Held adverse remark was not consistent with law—Direction for expunction of adverse remark.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11385 of 1996.

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From the Judgment and Order dated 11.2.92 of the Karnataka Administrative Tribunal, Bangalore in Application No. 1961 of 1990.

S.R. Bhat for the Appellants.

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K.L. Taneja for the Respondents.

The following Order of the Court was delivered :

Leave granted.

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We have heard learned counsel for the parties.

This appeal by special leave arises from the order of the Karnataka Administrative Tribunal, Bangalore dated 11.2.1992 made in Application No. 1961/90. Admittedly when the appellant was working as a Tehsildar an Adverse remark has been made for the year 1988-89 as under :

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A "Competent, good at getting work done, but does not act dispassionately when faced with dilemma."

B Calling that in question, the appellant filed O.A. It is now settled law that the object of making adverse remarks is to assess the competence of an officer on merits and performance of an officer concerned so as to grade him to various categories as outstanding, very good, good, satisfactory and average etc. The competent authority and the reviewing authority have to act fairly or objectively in assessing the character, integrity and performance of the incumbent. It is seen that in the review order various grounds on which the various criteria are to be complied with were specifically noted thus :

D "3. A perusal of Annexure-A1 goes to show that in most of the aspects the work of the Applicant is satisfactory. 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 :

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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.
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G 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 considerable diluted and we are of the considered opinion that ends of justice would be served if the

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remarks are treated as advisory with a direction that they should not be made use of against the Applicant for any purpose." A

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 when 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 objectivity, in such circumstances, he must be guided by the authority as to the manner in which he acted upon. Since this exercise has not been done by the respondent, it would be obvious that the above adverse remark was not consistent with law. B C

Accordingly the appeal is allowed. The adverse remark stands expunged. No costs. D

T.N.A.

Appeal allowed.