

M.A. Rajasekhar

Vs

State of Karnataka and Another

Civil Appeal No. 11385 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

16.08.1996

ORDER

1. Leave granted.

2. We have heard learned counsel for the parties.

3. This appeal by special leave arises from the order of the Karnataka Administrative Tribunal, Bangalore dated 11-2-1992 made in Application No. 1961 of 1990. Admittedly when the appellants were working as a Tehsildar an adverse remark had been made for the year 1988-89 as under:

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

4. Calling that in question, the appellants filed an OA. 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 in 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 :

"3. A perusal of Annexure A-1 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 are to be written, the reporting officer is required to indicate his assessment of the officer on the following aspects of his work :

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.

The report about all the above aspects is satisfactory. There is no adverse report about integrity. However, the underlined remarks in Annexure A-1 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 considerably diluted and we are of the considered opinion that the ends of justice would be served if the remarks are treated as advisory with a direction that they should not be made use of against the applicant for any purpose."

5. 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 a 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 respondents, it would be obvious that the above adverse remark was not consistent with law.

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