

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1634 OF 2014

Nitin Kumar Saini

.. Petitioner

-Versus-

Bharat Electronics Ltd. & Ors.

..Respondents

Mr. N.V.Bandiwadekar for petitioner

Ms. Priyanka Sawant i/b. Meena H. Doshi for respondent Nos. 1 to 5

CORAM : ANOOP V. MOHTA &  
G.S.KULKARNI, JJ.

DATE : 13th July 2016.

P.C.

1] The petitioner has prayed for promotion by praying to quash and set aside the impugned communication dated 21st February 2010 (Exh.C) issued by respondent No.3, whereby it is noted as under:-

"In this regard, it is to state that, based on your average performance index (API) and suitability criteria for the year 2009-10, 2010-11 & 2011-12 you are found not suitable for promotion on 1/01/2013 by the Departmental Promotion Committee..

(Ref. Clause No.6.3, HO/727/005 dated 22/2/1989 as amended from time to time."

2] After going through the averments as well as the documents so placed on record, including performance appraisal forms which were not part of record but stated to have been reflected in the averments, it is

observed that petitioner's submissions revolve around the corrections made at various places in the appraisal form. The submission is that these corrections are interpolations and, therefore, ought not to have been taken note of while deciding his case.

3] We have noted that at most of the places of corrections the same are initialled barring one or two places, which by itself cannot be a sufficient reason to over look the performance appraisal form in totality. It is specifically mentioned in the "remarks/ over all feed back" of annual performance as under:-

"Temperamental, not able to work in team, undisciplined".

"Moody, not dependable".

4] In totality and as law is settled, ultimately the management based upon their promotion policy and in view of the remarks mention above, has decided not to promote petitioner, who is not eligible. We see no reason to interfere with the said decision merely because the alleged corrections of remark was determining performance index. The issue of such stated interpolation done, if any, cannot be gone into in writ jurisdiction at this stage.

5] However, considering the totality of averments and documents and affidavit in reply filed by the respondents, we see no substance in the petition and is accordingly dismissed.

(G.S.KULKARNI, J)

(ANOOP V. MOHTA, J)