

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1509 of 2013**

Piyush Prasad S/o Hari Kisto Prasad Aged About 41 Years Deputy Director, Local Fund Audit, Rajnandgaon, District Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Additional Chief Secretary, Department Of Finance And Planning, Mahanadi Mantralaya, Naya Raipur, Post Office And Police Station Naya Raipur, District Raipur, Chhattisgarh
2. Commissioner, Local Fund Audit, Chhattisgarh, Raipur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. B.D. Guru, Advocate
For Respondents	:	Mr. Dheeraj Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****30/08/2018**

1. The grievance of the petitioner is pertaining to the adverse ACR for the year 2010 is concerned and he has sought for a direction to reconsider the ACR of the petitioner and expunge the adverse entries made therein.
2. The counsel for the petitioner submits that the petitioner vide his application dated 29.01.2018 has produced a comparative chart in respect of entries in the ACR of the petitioner for the period between 2008 to 2012.
3. The petitioner drew the attention of the Court to the entries of Reporting officer for the period 2008 to 2010 during which it was the same officer and he further drew the attention to the entries which clearly reflected that it was identical entries made by the Reporting officer for all the 3 years under all the heads.
4. It was further contended by the counsel for the petitioner that so far as the accepting officer is concerned, the accepting authority for the entries made in the year 2008 and 2009 has completely disagreed with the entries made

by the Reporting Authority i.e. Commissioner. It was further the observation of the accepting authority that the reporting officer seemed to be totally biased and the grading was upgraded to that of “Very Good” for both the years.

5. So far as in the year 2010 is concerned, the accepting authority has only made an observation that since the officer could not get an opportunity to witness the work of the petitioner he could not make any assessment.
6. It is here that the grievance of the petitioner lies. According to the petitioner once when the accepting for the period 2008 and 2009 has specifically held that the Commissioner was biased against the petitioner while giving the grading and the accepting authority not agreeing with the grading given had upgraded the grading to “Very Good” for the petitioner, the entries for the period 2010 also would be affected because of the bias approach of the same officer, who had made an entries for all the three years.
7. Thus once when there is a finding of bias by the Commissioner against the petitioner for the previous year, the entries for the subsequent years made by the same officer also have to be assumed to be entered with bias. Moreover counsel for the petitioner further submits that since for the year 2008 and 2009 the grading has been improved by the accepting authority to “Very Good” the same grading should have been granted to the petitioner or at least he is entitled for the same grading for the year 2010 as well.
8. At this juncture, the State counsel submits that the representation of the petitioner in this respect is already pending consideration before the authority vide representation dated 16.04.2013 which till date has not been communicated. He submits that let the writ petition be disposed off with a direction to the State Government to consider the representation of the

petitioner in the light of the aforesaid observations and also in the light of the grading provided by the accepting authority for the period 2008 and 2009.

9. This proposition of the State counsel has not been opposed by the counsel for the petitioner. Accordingly it is directed that the respondent No.1 shall consider the representation of the petitioner so far as the adverse entries made in the ACR of the petitioner for the year 2010 and while considering the same the respondent No.1 shall take note of the entries made by the accepting authority for the period 2008 and 2009 who had while disagreeing with the entries made by the Commissioner had upgraded the entries to "Very Good". The authorities shall also keep in mind the observations of the accepting authority that the Commissioner/reporting officer was totally biased against the petitioner during those periods.
10. Let the respondent No.1 take a decision on the representation of the petitioner keeping all the aforesaid factors in mind within a period of 60 days. In addition to the representation dated 16.04.2013 the petitioner would also be at liberty to make a fresh detailed representation along with the copy of the order passed by this Court and with all relevant documents supporting the contentions enumerated in this order within a period of 10 days from today and the period of 60 days would start from the date of presentation of the fresh representation.
11. The writ petition thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge