

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1993/2009.

Union of India,
Ministry of Mines, New Delhi
and others.

..... Petitioners.

-VERSUS-

Shri Kaliram kataria (Deceased)
through L.Rs. (a)Smt. Mayadevi
Kaliram Kataria and others.

..... Respondents.

.....
Ms. M.R. Chandurkar, Advocate for the Petitioners.
.....

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 25 JANUARY 2021.

P.C.

Heard learned Counsel for the Petitioners.

2. This petition filed by Union of India challenges the order passed by the Central Administrative Tribunal dated 13 February 2008, allowing the Original Application filed by the Respondent.

3. The Respondent who was working as an Senior

Administrative Officer, Geological Survey of India had challenged the order dated 24 September 2001 and 30 May 2003, rejecting Respondents' representation in respect of adverse remarks.

4. This petition is pending since the year 2009 for want of service. The Respondent had expired and Civil Application was filed for bringing legal heirs on record. Thereafter it transpired that one of the heirs was not included, and the petition remained pending for last 11 years for said purpose, therefore, we have called upon the Petitioners to address the Court on merits to find out whether any case is made out for issuance of further orders.

5. The Respondent was working as an Senior Administrative Officer with the Respondent No.3 at Nagpur. In the year 2001 adverse entries in his annual confidential report for the period 7 May 1999 to 31 December 2000 were communicated to him. Representation was made by the Respondent which was rejected. On 24 September 2001 another adverse entry for the year ending on 31 March 2001 was also communicated to the Respondent, which was reiterated by order dated 30 May 2002. Before the Tribunal, the Respondent contended that for two decades of services till the year 1999 there was no adverse entry about his performance. The Respondent contended before the Tribunal that the Respondent

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was not given opportunity within time to reply and also that the entries were not communicated within time. The Tribunal by the impugned order quashed the adverse entry.

6. The learned Counsel for the Petitioners submitted that the view taken by the Tribunal that the entries were not communicated in time, is not correct, as the entries can be communicated at any time. The Tribunal has found that the adverse entry was not communicated within 3 months and was communicated after 10 months. If one of the purpose of adverse entry is to encourage an employee to put in better performance, and therefore, it has to be communicated as early as possible. Even assuming that the time limit for communicating the remarks is to be considered as directory, it has to be within reasonable period. The view taken by the Tribunal, in the facts of this case, that the period of 10 months was not reasonable, cannot be considered as perverse. We may also note that apart from quashing of the adverse entries, no other consequential relief was sought for by the Respondent before the Tribunal, and the Respondent has now expired.

7. The Writ Petition is rejected.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

**Rakesh
Dhuriya**

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by Rakesh
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