



2024:DHC:8271-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 22.10.2024

+ W.P.(C) 4768/2023
DULAR CHAND PRASADPetitioner
Through: Mr.Anil Kumar Sinha, Adv.

versus

UNION OF INDIA AND ORSRespondents
Through: Mr.Niraj Kumar, SCGC with
Mr.Rishav Dubey, GP and
Mr.Chaitanya Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed by the petitioner, challenging the Order dated 03.08.2022 passed by the respondents whereby the respondents rejected the representation of the petitioner for the upgradation of his Annual Performance Assessment Report (in short, 'APAR') for the period from 01.04.2016 to 10.03.2017. The petitioner also challenges the Order dated 14.02.2021 passed by the respondent no.6 whereby the petitioner was declared unfit for grant of the 3rd financial upgradation under the Modified Assured Career Progression Scheme (in short, 'MACP') with effect from 04.06.2021 in Level VIII of the Pay Matrix due to his APAR grading being below the benchmark for the year 2016-17.

2. It is the case of the petitioner that the petitioner was enrolled in



the rank of Assistant Sub-Inspector (Ministerial) in the Central Reserved Police Force (in short, 'CRPF') on 04.06.1991. The petitioner claims that since his enrollment in the year 1991 and till the year 2022, he has been graded as "very good" in his ACRs/APARs except for the assessment period in question, that is, from 01.04.2016 to 10.03.2017.

3. The petitioner states that even for the said period, the Reporting Officer had graded him as "very good", however, the Reviewing Officer without any cogent reasons, downgraded him to "good". The petitioner claims that the APAR was not communicated to the petitioner and, therefore, the petitioner could not represent against the same within time. The petitioner states that he came to know about the APAR grading for the assessment period 01.04.2016 to 10.03.2017 for the first time only when he was served with the impugned Order dated 14.02.2021 passed by the respondent no.6 whereby he was declared unfit for grant of the 3rd MACP.

4. The petitioner then submitted an application to the respondent no.5 for providing a copy of the concerned APAR, and the same was supplied to him only *vide* letter dated 23.03.2022. Thereafter, the petitioner represented against the APAR, however, by the impugned Order dated 03.08.2022, his representation was rejected as being barred by time/delayed and as being devoid of merits.

5. The learned counsel for the petitioner submits that the APAR for the concerned period was not communicated to the petitioner in time. It was supplied to the petitioner only *vide* letter dated 23.03.2022 and, therefore, the representation of the petitioner could not have been



rejected as being barred by time or being delayed.

6. He further submits that the petitioner has always been graded as “very good” in his APAR and for the year 2015 was even declared as “Best Worker” and awarded a Commendation Certificate dated 30.01.2016. He submits that, therefore, the down gradation of the grading of the petitioner by the Reviewing Officer cannot be accepted and the impugned Order dated 03.08.2022 rejecting his representation is liable to be set aside and consequently, the petitioner is entitled to be upgraded to “very good” and to the grant of the 3rd MACP.

7. On the other hand, the learned counsel for the respondents submits that the petitioner never challenged his APAR in time. He submits that as per the policy, the APAR was to be communicated to the concerned employee within time and there is no reason why the same would not have been communicated to the petitioner. He submits that even the delayed challenge of the petitioner to the APAR has been considered and has been rejected by the impugned Order dated 03.08.2022, not only on the ground of delay but also on merits.

8. He submits that the conferment of the “Best Worker” by the concerned authority, which happens to be the Reviewing Officer himself, or the Commendation Letter for the prior period can have no effect on the APAR which is for a different period.

9. We have considered the submissions made by the learned counsels for the parties.

10. In the present case, apart from contending that he has been graded as “very good” in his other APARs and that he has been declared as “Best Worker” and issued a Commendation Certificate for



the prior period of 2015, the petitioner has not ascribed any *mala fide* or shown any material which has not been considered by the Reviewing Officer.

11. While maintaining his assessment of the petitioner as “good”, the Reviewing Officer in the APAR has expressed his disagreement with the assessment of the Reporting Officer and has thereafter, graded the work and the conduct of the petitioner as “good” for the period in question.

12. The competent authority, *vide* its Order dated 03.08.2022, while considering the representation of the petitioner against the impugned APAR has observed that after the year 2008-09, it has been made mandatory to give the photocopy of the APAR to the concerned employee. Though the respondent does not have any proof of supplying the APAR of the relevant period to the petitioner, the same having already been weeded out, there is no reason as to why the APAR would not have been supplied to the petitioner at the concerned time. An official act must be presumed to have been done in a proper manner. The plea of the petitioner that the petitioner was not supplied with the APAR during the concerned period, therefore, cannot be accepted at this stage.

13. On merits, unfortunately, the Reporting Officer and the Reviewing Officer both had retired by the time the petitioner made his representation against the impugned APAR.

14. As noted hereinabove, apart from contending that for the previous period his grading has been “very good” and he has been declared as the “Best Worker” and also issued a Commendation



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Certificate for the prior period, the petitioner has ascribed no *mala fide* to the Reviewing Officer for reporting him as only “good”. He has also not brought to our attention any material which may have skipped the attention of the Reviewing Officer while assessing the petitioner. The award of the “Best Worker” and the Commendation Certificate being for a different period, cannot be taken into account for the period for which the APAR was written and is under challenge.

15. Further, in the exercise of our power under Article 226 of the Constitution of India, we do not act as an Appellate Authority to the assessments made by the employer. The law in this regard is too well settled.

16. In view of the above, we do not find any reason to interfere with the assessment of the respondents on the work of the petitioner for the concerned period. Accordingly, we do not find any merit in the present petition, the same is dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 22, 2024/sg/SJ

Click here to check corrigendum, if any