

W.P.C.T. 117 of 2013

**Union of India & Ors.
Vs.
Amal Kumar Mahato**

Mr. Rudra Jyoti Bhattacharjee,
Ms. Debjani Ghosal

...for the Petitioners/UOI

Ms. Sima Ghosh

...for the Respondent

1. Heard the learned counsel for the petitioners and the learned counsel for the respondent.
2. The Central Administrative Tribunal, Calcutta Bench (hereinafter referred to as 'The C.A.T.') has found that the communication of the adverse entries for the A.C.R. for the year ending 31st March, 2002 was unsustainable because during that year no opportunity was granted to the applicant to improve his performance.
3. The learned counsel for the Union of India submits that the very foundation for the conclusion of the C.A.T. is factually unsustainable. In paragraph 15 of the reply, the Union of India has specifically averted that the applicant was warned several times through verbal and written warning. In this connection the Union of India has enumerated several letters, the letters for the relevant period being letter dated 05.04.2001, 24.06.2001 and 05.07.2001 wherein it is stated that in respect of the letter dated

06.07.2001, the applicant had also given an undertaking that he would not repeat his acts of indiscretion in future. The applicant has filed a rejoinder. He, however, has chosen not to deny or dispute that such warning was given to him by the said communications.

4. The learned counsel for the respondent, however, submits that the findings of the C.A.T. are based on consideration of the entire issue which requires no interference.
5. On consideration of the rival submissions and the material including the reply and rejoinder filed before the C.A.T., we find that the submission of the learned counsel for the Union of India to be sustainable. The Union of India before the C.A.T. has clearly demonstrated issuing of letters prior to the adverse entry being made in the year 2001-2002.
6. We, therefore, find that the very foundation for the order dated 25.05.2012 passed by the C.A.T. in O.A. No. 371 of 2008 is unsustainable.
7. The Writ Petition is accordingly allowed. The order of the C.A.T. dated 25.05.2012 is set aside.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)