

Ashok Kumar Vs. Union of India and Others

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Court : Delhi

Decided On : Sep-14-2012

Judge : Pradeep Nandrajog & Manmohan Singh

Appeal No. : W.P.(C) No. 5223 of 2012

Appellant : Ashok Kumar

Respondent : Union of India and Others

Judgement :

Pradeep Nandrajog, J.

Oral:

1. The petitioner desires quashing of the communication dated October 04, 2011 wherein his representation for grant of Permanent Secondment in Directorate General of Quality Assurance (DGQA) has been turned down.

2. The reason for the same being turned down is the opinion of the Director General Quality Assurance, Lt.Gen.V.K.Mehta (Now Retd.) that the petitioner, who is a serving officer in the Indian Army in the rank of Lt.Colonel, is as yet not fit for Permanent Secondment in DGQA.

3. Matter pertaining to record, since the assertion in the writ petition was that the initiating officer Brig.D.K.Joshi had rated the petitioner highly and so did the

Reviewing Officer, Sh.U.V.Dasgupta, but since Lt.Gen.V.K.Mehta, the Accepting Officer, had a personal grudge against the petitioner and because he did not want the petitioner to be recommended for Permanent Secondment, was faced with a difficulty pertaining to the pen profiling of the petitioner by Brig.D.K.Joshi and Mr.U.V.Dasgupta, Additional Director General, he prevailed upon Mr.U.V.Dasgupta to make interpolations in the recommendations made by Mr.U.V.Dasgupta.

4. The assessment report of tenure officers in DGQA, pertaining to the petitioner, for the assessment period April 01, 2010 - March 31, 2011 has been perused by us.

5. The reporting officer, Brig.D.K.Joshi, with respect to the column:- TECHNICAL COMPETENCE OF THE OFFICER has written:-

“The officer was posted to administrative section of HQDQA(S). However, shown keen interest in processing Eqpt Managmt cases based on technical evaluation of the input received from various establishment. Officer has thus proved his technical competence in eqpt mgt (E) cases.”

6. Pertaining to his assessment qua petitioners adaptability to the mixed environment, Brig.D.K.Joshi opined:-

“Officer is quick in adjusting himself in a team with mixed environment.”

7. Rating the professional integrity of the petitioner as „Outstanding?, on the subject of Maturity, Brig.D.K.Joshi has pen profiled the petitioner:-

“Officer is very mature in his approach to any problem. During the period under review the officer has shown positive mature aptitude and acted upon with mature sense of commitment to all the technical and administrative problems.”

8. Pertaining to the team spirit and team work, Brig.D.K.Joshi has pen profiled the trait of the petitioner as under:-

“Officer prefers to work as a member of well noted team. His approach and attitude towards the team members is very positive.”

9. Suffice would it be to highlight that with respect to the technical competence of the petitioner, Brig.D.K.Joshi has written positively that the petitioner shows keen interest in his work; has proved his technical competence. With respect to petitioners ability to adapt in a mixed environment he has opined that the petitioner adjusts himself in a team. Professional integrity being outstanding, on the subject of the „Approach of The Petitioner Towards His Work?, Brig.D.K.Joshi has opined that the petitioner has a very mature approach to the problems and evidences a positive attitude and acts with a mature sense of commitment.

10. Mr.U.V.Dasgupta has thereafter, in his capacity as the Reporting Officer penned the following remarks:-

“The officer had been involved in the Admin Section of HQ DQA and had processed the Eqpt management cases thus proving his Tech. competence. However, as pointed out the officer had not been involved in QA activities. The officer is mature, having team spirit his integrity is beyond doubt. I have interacted with the Officer personally and found him casual and disinterested in work assigned and lacks motivation.

Not Recommended for Permanent Secondment in DGQA.”

11. Thereafter, the DGQA has penned his remarks that the petitioner is not yet fit for Permanent Secondment in DGQA.

12. In paragraph 10, while extracting the remarks of Mr.U.V.Dasgupta, the Reporting Officer we have noted a portion thereof in italics and have underlined the same. The reason is that vis--vis the rest of the noting, which is also hand-written, the portion noted by us in italics and underlined is in a distinct small font and styling in the hand-writing of Sh.U.V.Dasgupta. It is apparent that the said writing has been squeezed in, keeping in view the non-availability of adequate space.

13. The reason is that the proforma in question, in Part-III, pertaining to the remarks of the Technical Director, has two columns as under:-

i. The Remarks with reference to specific comments given by the Reporting Officer.

ii. Fitness or otherwise for Permanent Secondment in DGQA Organization.

14. The space between the two columns is about three centimeters. The remarks commencing from „The officer had been? till the remarks „his integrity is beyond doubt? has covered the entire space. This explains the portions noted by us in italics and underlined, being squeezed in.

15. It assumes importance that if the writing which is in a smaller font was not written when the note was penned originally, it would make sense for Mr.U.V.Dasgupta to recommend the petitioner for Permanent Secondment and this explains the second column being filled up with the letter „R? of the word „Recommended? being a capital letter. The note would read: „Recommended for Permanent Secondment?. But as it ultimately stands recorded, with the words in small font squeezed within the inadequate space, the final recommendation is: „Not Recommended for Permanent Secondment?.

16. Why would the word „Recommended? be then written with a capital „R?? A sentence is begun with the first letter of the first word in a capital.

17. But we have something more fundamental.

18. As we have noted hereinabove, the Reporting Officer has opined the petitioner to be a person showing keen interest in his work, proving his technical competence, a person who adjusts in mixed environment, a person whose professional integrity is outstanding, a person who is very mature while dealing with the problems, a person who has shown positive mature aptitude, a person who acts with mature sense of commitment to the problems.

19. Thereafter, the note penned by the Reporting Officer records firstly that the officer has proved his technical competence, the officer is mature, the officer has a team spirit. But then we find a complete disconnect. This is in the writing which has been squeezed in with smaller letters. Mr.U.V.Dasgupta proceeds then to note that the officer is casual, is disinterested in work and lacks motivation.

20. These three traits written by Mr.U.V.Dasgupta run in the teeth of the earlier writing by Mr.U.V.Dasgupta where he has opined the officer to the contrary. It is apparent that it is a case where Mr.U.V.Dasgupta, under pressure, inserted the writing:- "I have interacted with the Officer personally found him casual and disinterested in work assigned and lacks motivation".

21. We have given three reasons to reach the aforesaid conclusion of there being an insertion. We give a fourth. If so negative were the three traits of the petitioner Mr.U.V.Dasgupta would have been obliged to record that the writing of the Initiating Officer is in superlative language and was an over-rated estimation of the petitioner, which he has not so done. It is too obvious a case of interpolation.

22. We allow the writ petition and quash the impugned communication dated October 04, 2011. We expunge the remarks:- "I have interacted with the Officer personally found him casual and disinterested in work assigned and lacks motivation. Not Recommended for Permanent Secondment in DGQA." in the remarks of the Technical Director/Reporting Officer, Sh.U.V.Dasgupta. Since Lt.Gen.V.K.Mehta is no longer in service and the petitioner has not worked under Lt.Gen.V.A.Bhat, the current DGQA, it would be useless for us to require an officer who has not seen the working of the petitioner to re-pen a profile of the petitioner. We thus direct that matter pertaining to petitioner's permanent secondment be reconsidered with reference to the opinion of the Initiating Officer Brig.D.K.Joshi and the opinion of Sh.U.V.Dasgupta as would remain by expunging the remarks directed by us to be expunged, and needful be done within four weeks.

23. The petition stands disposed of.

24. No costs.

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