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ALD

JOURNAL

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CONFIDENTIAL REPORTS - NEED FOR OBJECTIVITY

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1. The confidential report is intended to be a general assessment of work performed by a Government Servant. It provides the basic and vital inputs for assessing the performance of a Government Servant and for his further advancement in his career. It will be written by the Controlling Officers who are familiar with the work of reported officer. Sometimes, the report will not give correct assessment of the performance and conduct of the reported officer due to prejudicial or flattering report of the recording officer and it will have impact on the efficiency and morale of the services. The Courts are repeatedly emphasising the need for objectivity in writing the confidential reports in the interests of quality, excellence and efficiency of public service.

2. According to the instructions issued in G.O.Ms.No.1385, G.A. (Ser-C) Dept. dated 31-10-1961 the object of the Annual Confidential Report is to assess as nearly as possible how far each officer is physically, mentally and morally suitable for his office, whether he is able to apply intelligently the law, rules, practices and procedure applying to the work within his charge, his charge, his treatment of his subordinates, his behaviour to his superiors and colleagues in other departments and finally his relations with the public. The Supreme Court in *State Bank of India v. Kashinath Kher* (1996 (2) Scale 423) has observed that the object of writing confidential report is two fold, i.e., to give an opportunity to the officer to remove deficiencies and to inculcate discipline. Secondly, it seeks to serve improvement of quality and excellence and efficiency of public service.

3. Under rule 5(a) of the Andhra Pradesh

State and Subordinate Service Rules, 1996 all first appointments to a State Service and all promotions/appointments by transfer in that service shall be made on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal. As appointment and promotion in State Service is based on the assessment of merit on the basis of confidential dossiers, confidential reports assumes great importance in public services. They are also used for the purpose of confirmation, grant of pensionary benefit, etc. of Government servants.

The Orissa High Court in *C.S. Patnayak v. State of Orissa* (1985 (2) SLR 306) has held that the maintenance of character rolls of employees has two purposes. As regards the employer, the roll is a record of conduct, performance and personality of the employees, regards the employee besides being a record of his performance, by its communication to him, he is afforded an opportunity to remove his defects, rectify his mistakes and improve.

4. The Officers writing the confidential reports are required to observe the work and conduct of those under their control and report objectively on the work, conduct, character and capabilities of the officers reported upon. The importance of objective assessment was emphasised by the Supreme Court in *S.Ramachandra Raju v. State of Orissa* (1994 (3) SCC 424) wherein the Court observed that:-

“writing confidential reports bears onerous responsibility on the reporting officer to eschew his subjectivity and personal prejudices or proclivity or

predilections and to make objective assessment. It is needless to emphasise that the career prospects of a subordinate officer/employer largely depends upon the work and character assessment by the reporting officer. The latter should adopt fair, objective, dispassionate and constructive and commends/comments in estimating or assessing the Character, ability, integrity and responsibility displayed by the Officer/employee concerned during the relevant period for the above objectives if not strictly adhered to in making an honest assessment, the prospect and career of the subordinate officer being put to great jeopardy. The reporting officer is bound to lose his credibility in the eyes of his subordinates and fail to command respect and work from them. The constitutional and statutory safeguards given to the Government employees largely became responsible to display callousness and disregard of the discharge of their duties and make it impossible to the superior or controlling officers to extract of the confidentials is contributing to make the subordinates work atleast to some extent. Therefore, writing the confidential report objectively and constructively and communication thereof at the earliest would pave way for amends by erring subordinate officer or to improve the efficiency in service. At the same time, the subordinate employee/officer should dedicate to do hard work and duty, assiduity in the discharge of the duty, honesty with integrity in performance thereof which alone would earn his usefulness in retention of his service. Both would contribute to improve excellence in Service.”

Again the apex Court in *State Bank of India v. Kasinath Kher* (1996 (2) Scale 423) has observed that:-

“This Court in Delhi Transport Corporation case (1991 (2) SCC 618) pointed out pit falls and insidious effects on service due to lack of objectives by

the controlling officer. Confidential and character reports should, therefore, be written by superior officers higher above the cadres. The officer should show objectively, impartially and fair assessment without any prejudices whatsoever with highest sense of responsibility alone to inculcate devotion to duty, honesty and integrity to improve excellence of the individual officer. Lest the officers got demoralised which would be deleterious to the efficacy and efficiency of public service.”

The Supreme Court in *State of U.P. v. Yamuna Shankar Misra* (1997 (2) SLJ 121 SC) has observed that the officer entrusted with the duty to write confidential reports has a public responsibility and trust to write the confidential reports objectively, fairly and dispassionately while giving, as accurately as possible, the statements of facts on an overall assessment of the performance of the subordinate officer and that it should be founded upon the facts or circumstances.

5. An entry which adversely affects the interest of a person is adverse. The Supreme Court in *Sukhdeo v. The Commissioner, Amaravathi Division* (1996 (4) SLR 8) held that “when an officer makes the remarks he must eschew of making vague remarks causing jeopardy to the service of the subordinate officer and that he must bestow careful attention to collect all correct and truthful information and give necessary particulars when he seeks to make adverse remarks against the subordinate officer whose career prospect and service were in jeopardy.” Whenever unfavourable remarks are awarded to an officer they shall be communicated to him without any delay. The object behind such communication is that the officer may know what his superiors feel about him and what their assessment about him is and get timely warning to take note of his short comings, drawbacks, faults so that, he may remedy them and by improving, continue to serve as a good officer. The Supreme Court in *State of Haryana v. P.C. Wadhwa* (AIR

1987 (1) SC 1201) has held that the whole object of the making and communication of adverse remarks is to give to the officer concerned an opportunity to improve his performances, conduct of character, as the case may be. The adverse remarks should not be understood in terms of punishment, but really it should be taken as an advice to the officer concerned, so that he can act in accordance with the advice and improve his service career. The Apex court in *State of U.P. Vs. Yamuna Shankar Misra* (1997 (2) SLJ S.C.) has held that before forming an opinion to be adverse, the reporting/officers writing confidentials should share the information which is not a part of the record with the officer concerned, have the information confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of judgment, conduct, behaviour, integrity or conduct/corrupt proclivity. If, despite giving such an opportunity, to the officer fails to perform the duty, correct his conduct, or improve himself necessarily, the same may be recorded in the confidential reports and a copy thereof supplied to the effected officer so that he will have an opportunity to know the remarks made against him. If he feels aggrieved, it would be open to him to have it corrected by appropriate representation to the higher authorities or any appropriate judicial forum for redressal. Earlier, the Apex Court has expressed similar view in *Amarkant Chowdary v. State of Bihar* (AIR 1984 SC 531) wherein the Court suggested that the officer who has to make entries in the confidential roll may be required to record his remarks in the presence of the officer against whom remarks are proposed to be made after giving him an opportunity to explain any circumstances that may appear to be against him with the right to make representation to higher authorities against any adverse remarks and that this course may obviate many times totally baseless remarks being made in the confidential roll and would

minimise the unnecessary suffering to which the officer concerned will be exposed.

6. Besides adverse entry, entry down grading the performance of an officer shall also be communicated to him. The Supreme Court in *U.P. Jal Nigam v. Prabhat Chandra Jain* (1996 (1) Scale 624) has held that if the graded entry is of a going a step down, like falling from “very good” to “good” that may not ordinarily be an adverse entry since both are a positive grading and that all what is required by the authority recording confidentials in the situation is to record reasons for such down grading on the personal file of the officer concerned, and inform him of the change in the form of an advice and that if the variation warranted be not permissible, then the very purpose of writing annual confidential reports would be frustrated and that having achieved an optimum level the employee on his part may slacken in his work, relaxing secure by his one time achievement and this would be undesirable situation.

7. The aggrieved Government servant will be aforesaid an opportunity to make representation against adverse entries to superior authorities and if the higher authorities on consideration of the matter are satisfied that the remarks are not warranted as made, they may either tone down the remarks or expunge the same.

8. In conclusion it may be stated that the Government of Andhra Pradesh has recently introduced self-appraisal system in respect of Gazetted Officers wherein the officer has to submit a resume of work done by him bring out any special achievement and shortfalls, if any, during the reporting year *vide* G.O.Ms.No.346, GAD dated 2-8-1996. If the officer were to write about his performance in a objective way, without indulging in too much of self-praise, it will help the reporting officer to make qualitative and quantitative assessment of the performance of the officer objectively.