REPORT ON

ANNUAL CONFIDENTIAL REPORTS

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ANNUAL CONFIDENTIAL REPORTS

Annual confidential reports of the government servants are written with a view to adjudge their performance every year in the areas of their work, conduct, character and capabilities. The system of writing confidential reports has two main objectives. First and foremost is to improve performance of the subordinates in their present job. The second is to assess their potentialities and to prepare them for the jobs suitable to their personality. Confidential reports are of immense importance in the career of a Government servant, efficiency of service, for the work, conduct, character and capabilities of the officer reported upon can be accurately judged from the recorded opinion. The ACRs provide the basic and vital inputs for assessing the performance of an officer and his advancement in his career as also to serve the data for judging his comparative merits for confirmation, promotion, selection grade, crossing efficiency bar, continuance in service beyond certain age or completion of certain years’ service. The columns of ACR are, therefore, to be filled up by the Reporting, Reviewing and Accepting authorities in an objective and impartial manner.

Section 5 of The All India Services (Confidential Rolls) Rules 1970 defines Confidential Reports as “a confidential report, accessing the performance, character, conduct and qualities of the member of service shall be written for every member of the service shall be written for each financial year or calendar year, as may be specified by the government, provided in the cases where a member of the service is deputed to an international organisation for his service then such confidential reports will be written on his term with such organisation.

According to the Manual on Annual Confidential Reports talking about Writing, Maintenance, and Custody of CRs2, the importance of Annual Confidential Reports is highlighted as Merit as reflected in the confidential reports is generally recognized as the main criterion for deciding the cases of promotion to higher grades, grant of pay

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1 Report prepared by the Regional Training Institute, Jammu
2 HUMAN RESOURCE SECTION MADHYA PRADESH MADHYA KSHETRA VIDYUT VITARAN COMPANY LIMITED (Government of MP Undertaking)
scale of higher grades, confirmation etc. Great care should, therefore, be taken in writing confidential reports. It is very important both in the interest of efficiency of service and also of staff that the reports are written with greatest possible care so that the work, conduct, character and capabilities of the Officers/Officials reported upon can be accurately judged from the recorded opinion. The competency of the Officers recording the remarks will be judged partly from the confidential remarks they record about Officers/Officials working under them.

Section 4, whereas talks about form of confidential report which states that the confidential report shall be written by the reporting authority in any form prescribed by the central government and to ensure that the reporting, reviewing and accepting authorities shall ensure that the form is completely and duly filled with the time limit as prescribed by the central government, provided that necessary additions in the form can be made to suit the local conditions or the requirements.

As per the format provided by the High Court of Tripura, Agartala Annual Confidential Reports for Judicial Officers is generally divided under 5 parts, i.e Personal details filled by the Concerned Officer, Report by the Registrar(Vigilance), Report filled by the Reporting Authority, Report filled by the Reviewing Authority and Report filled by the Accepting Authority.

Part I. DETAILS FILLED BY THE CONCERNED OFFICER

This part consists of Name of the Officer & Report for the year. The data to be entered into the Report by the Reporting Authority is divided into two parts: Personal Data & Other Data.

PERSONAL DATA

Personal Data, consists of details which includes:

- Name of the Officer
- Post held by him with special power
• Period of work done during the year under the report
  ❖ Judicial Side
  ❖ Administrative Side
  ❖ Work done on deputation
  ❖ Period of attachment
• Description of duties performed during the period

**OTHER DATA**

Other Data includes the instances to be filled where judgement was not delivered within 30 days of hearing arguments with reasons for delay, the number of cases fixed for further hearing after conclusion of the agreement and the five cases where appellate court reversed or upheld the judgement. It should also include the remark passed by Appellate court on the judgement and total number of cases pending for more than 5 years at the beginning of the year, and other details.

There should be two forms attached with this sheet where Form 1 includes “General statement of disposal for the respective court” which includes subheadings like Types of cases, Cases instituted or brought on transfer, cases transferred out, total number of cases for disposal, cases pending with the institution at the end of the year, etc., where type of cases differ from title suits, money suits, money execution cases, guardianship cases etc. and Form 2 including details regarding “Year wise statement of the cases pending for more than 4 years” with the explanation of the officer in relation to the disposal of the cases.

**Part II. REPORT BY THE REGISTRAR (VIGILANCE)**

The duty of the Registrar ( Vigilance ) is that they conduct all vigilance complaints against Judicial Officers and after conclusion of enquiry, submits the enquiry reports in sealed cover directly to Hon’ble the Chief Justice. They have the responsibility of holding of discrete or preliminary inquiries and evolving a confidential mechanism for
such enquiries, and they also have to make critical analysis of the complaints or discrete or preliminary enquiry reports to assist the competent authority in deciding as to whether or not a regular inquiry into the allegations is required or not. The role of the registrar is to check up or verify the disposal statement of the concerned officer and submit his or her report regarding the same. He or she has to make an assessment on the general disposal of cases along with the information as to whether any disciplinary proceeding is pending against the officer for the year under report and if any, the observation of the high court relating to the concerned officer on judicial side.

**Part III. TO BE FILLED BY THE REPORTING AUTHORITY**

According to Section 2 (j) of The All India Service (Performance Appraisal Report) Rules, 2007 “Reporting Authority” means such authority or authorities supervising the performance of the member of the service reported upon as may be specifically empowered in this behalf by the Government. The report to be filled by them is generally divided into 4 groups, where “Group A” is regarding the general behaviour of the member which includes punctuality in attending and leaving court; Control over court proceedings, relationship with other officers; relationship with the bar; capacity to motivate, to obtain willing support by own conduct and inspire confidence in the subordinate staff and administrative control. “Group B” includes the details regarding quality of delivery of judgement of the concerned officer, which consists of is regularity and promptness in delivering judgements; brevity; Quality of reasoning with respect to Factual and Legal Aspect, Provided that the reporting officer shall examine at least ten judgements delivered by the officer “Group C” includes details regarding disposal of cases and “Group D” is regarding special achievement of the concerned officer, if any, in the fields of Legal Aid, Mediation, Conciliation etc. On the basis of the grades achieved by the concerned officer with respect to the criteria provided above, the reporting authority has to has to mark him or her on his performance on the basis of it being Below Average, Average, Good, Very good, or outstanding. The Reporting Authority also has to mark him on the basis of integrity and has to give a general assessment of the officer with reference to any striking qualities not covered by the above mentioned entries, sense of responsibility in discharging duties, etc.
Part IV.  

TO BE FILLED UP BY THE REVIEWING AUTHORITY

According to the Section 2(f) of The All India Service (Confidential Rolls) Rules, 1970 “reviewing authority” means authority or authorities supervising the performance of the reporting authority as may be specifically empowered in this behalf by the government. They have to fill in the details regarding their satisfaction with respect to the report presented by the reporting authority and their surety, that if that process was done with due care and attention and after taking into account all the relevant materials, whether they agree with the assessment of the officer as given by the Reporting Authority, in cases of disagreement they have to provide them with reasons regarding the same and they also have to submit their remarks with specific comments about the general assessment and grading given by the reporting authority.

Part V.  

TO BE FILLED UP BY THE ACCEPTING AUTHORITY

Section 2(a) of the All India Services (Confidential Rolls) Rules, 1970 defines “accepting authority” as such authority or authorities supervising the performance of the reviewing authority as may be specifically empowered in this behalf by the government. They have to fill in the details regarding their agreement with respect to the grading or assessment made by the reviewing authority, if they don’t then the reasons regarding the same, with any observations or directions and whether the concerned officer is fit for promotion to the higher grade.
OTHER INSTRUCTIONS

Apart from the above mentioned details, there are other instructions which the officers have to keep in mind while filling up the Annual Confidential Report. The instructions which the officer have to keep in mind regarding the same are as follows:

- **Timely completion of the Confidential Reports**

The delay in writing of confidential report might result in delay of holding of DPCs for promotion and confirmation, awards of PPM/PM, forwarding of applications for higher posts etc. which cause undue hardship to the employees whose cases are due for consideration. The time limit for completion of ACRs is specified in the rule book thus provided.

Reporting officer should not wait till the expiry of the time limit as per time schedule for submission of self-appraisal of the officer to be reported upon and should remind the officer to be reported upon in writing, asking him to submit the self-appraisal by the stipulated date. If the officer to be reported upon fails to submit the self-appraisal by the stipulated date, the reporting officer should obtain another blank CR form and proceed to write the report on the basis of his experience of the work and conduct of the officer reported upon.

- **Eligibility to write the Confidential Reports**

The reporting or reviewing authority can write or report the confidential report of the officer if they have experienced at least three months of work experience of that concerned officer. If the period of work experience of the reporting or the reviewing authority is less than 3 months then the concerned officer is not expected to fill up his self-appraisal form.

If the officer reported or concerned has taken a paid leave or work leave from his work period, then that period should be deducted from the same and then the period of 3 months should be taken into consideration. It is said that when the concerned officer
takes as off from work, then during that period his work is not getting accessed, so there is no use of writing reports on the same.

In cases where period of observation is itself less than 3 months then the same has to be mentioned or indicated in the report or a separate non-initiation certificate should be prepared regarding the same.

➢ **Mention of warning or reprimand**

There may be certain situations where the superior officer may find it necessary to put forward a complaint regarding the working of the officer subordinate to him, regarding some act of omission, in such cases it may be felt that while the matter is not serious enough to justify the imposition of the formal punishment of censure, it calls for some formal action such as communication of some written warning/ displeasure/ reprimand. The same should be placed in the personal file of the concerned officer. At the end of the period of the report, the reporting officer while writing the confidential report of the concerned officer, may decide not to make a reference of the warning report, if in the opinion of that authority, the performance of the officer concerned has improved and has been found satisfactory. On the other hand, if the reporting authority, is of the opinion that despite of such warning there has been no change in the behaviour of the officer concerned and has to be put be placed in the CR dossier as an annexure to the confidential report, then same shall be done. The remark should also be conveyed to the officer in accordance to the instructions provided by the government.

➢ **Filling up column relating to integrity**

Supervisory officers should maintain a confidential diary where they should record those situations which created suspicion about the integrity of the subordinate should be noted from time to time and action to verify the truth of such suspicions should be taken expeditiously by making confidential enquiries departmentally.

3 A collection of papers giving detailed information about a particular person or subject.
➢ **Recording of adverse remarks in the confidential report**

No employee should be adversely affected by prejudicial reports recorded without fullest consideration and also no one should be rewarded with extremely flattering reports not based on the fact. All instances of good and bad work coming to the notice of the reporting officers should be promptly noted in the memo of services. The entry in the memo of services should be based on the facts.

➢ **Communication of adverse remarks in Confidential Report**

This topic is in respect to communication of adverse remarks recorded in the Annual Confidential Reports of an Officer. Government have noticed that adverse remarks were recorded in the Confidential Reports of an Officer but were not communicated to him and as a result the Officer was not even aware of the adverse remarks recorded in the Confidential Reports. Government reiterates that such adverse remarks should invariably be communicated immediately to the Officer concerned. Lapses on the part of the authority concerned in this respect shall be viewed seriously.⁴

All adverse remarks in the confidential report, both on performance as well as on basic qualities and potential should be communicated along with a mention of good points within a month of their being recorded.

Average remark for the officers performance should be regarded as routine and undistinguished. These remarks should be communicated by the reviewing officer or by the reporting officer in case there is no reviewing officer.

Remarks about physical defects noted in the CR need not be communicated. The grading of the officers on the basis of general remarks in the report should be communicated, even if it is adverse.

Remarks about physical defects noted in the CR need not be communicated.

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⁴ As per the guidelines provided by Meghalaya Administrative Training Institute
Representation against adverse remarks

Only one representation against adverse remarks should be allowed within one month of the date of communication of such remarks. Representation will lie to the authority immediately superior to the countersigning authority, if any, or to the Reporting Officer. If the immediate superior had already reviewed the confidential report in question and also expressed his view, either agreeing or disagreeing with the adverse remarks recorded and accepted by the countersigning authority, in that event the representation lies to the next higher authority. The Competent Authority should decide a representation against adverse remarks within three months from the date of submission of the representation. If necessary, he may consult the Reporting Officer and the countersigning authority. If the Competent Authority feels that there is no sufficient ground for interference, the representation should be rejected and the petitioner informed accordingly. If, however, it feels that the remarks should be toned down, it should make necessary entry separately with proper attention at the appropriate place of the report. The correction should not be made in the earlier entries. If the Competent Authority comes to the conclusion that the adverse remarks are inspired by malice or were entirely incorrect or unfounded and therefore deserves expunction, it should order accordingly. When a representation against adverse remarks is wholly or partially upheld, a copy of the order should be recorded in the report itself. Where a penalty is set-aside on an appeal/review, the copy of the punishment order should be removed from the CR file as well as the adverse remarks recorded on the basis of the penalty expunged. Where the penalty is modified, the entry in the confidential report originally made on the basis of the penalty awarded, should also be suitably modified accordingly. In a case where the Competent Authority comes to the conclusion that the remarks deserve expunction and that after such expunction the relevant column would be left blank, it should order modification of the relevant remarks in a suitable manner so that the column is not allowed to remain blank. Adverse remarks should not be deemed to be operative if any representation is filed within the time prescribed time and is pending. If no representation is made within the time prescribed, or the one preferred has been finally disposed of, there is no bar to
take notice of the adverse remarks. A memorial or appeal against the rejection of the representation against adverse remarks is to be allowed within six months of such rejection. Pendency of any memorial or appeal would mean that the adverse remarks are not final and cannot be acted upon.

**Other instructions to be noted in the Annual Confidential Reports are:**

- Expunging of adverse remarks
- Reporting/Reviewing of ACRs after retirement
- Writing of reports by officers under suspension
- Writing of ACRs of officers on deputation
- Writing of officers on deputation in CBI
- Retention/Custody of CR Dossiers of retired government servants whose cases are pending in courts and UPSC
- Initiation of confidential reports by D.Is.G (In charge) in CBI

According to the rules provided by the Rajya Sabha in their manual Confidential Reports are written for each calendar year. There are twelve types of ACR forms pertaining to various types of technical and non-technical posts in the Secretariat. The ACR forms of officials are forwarded to the concerned Reporting Officer. In respect of Assistant and equivalent and above, the self-appraisal column of the ACR form is first to be filled by the official/officer, and the form is accordingly sent to the official/officer concerned in such cases. In all cases, the Personnel Section indicates the name of the Reporting and Reviewing Officer and period for which report is to be written, in the forwarding note. After filling up the self-appraisal column, the ACR is sent to the Reporting Officer under intimation to Personnel Section. The Reporting Officer and the Reviewing Officer after completing their portion of the ACR forward it to Personnel Section. All changes in pendency status will be entered in the PAMS software’s ACR Module. In Personnel Section, completed ACRs are scrutinised and
filed in the concerned dossier, and corresponding status change made in the computer data.\(^5\)

The case of **R. Ramesh v. Bharath Sanchar Nigam Limited**, highlighted that

"'Annual Confidential Report' is an important document for judging an employee/public servant's ability, initiative, capacity, industry and integrity in discharging duties allotted to him. Further, it will provide a cementing platform to evaluate its potentiality to the higher posts in the cadre or otherwise. Ordinarily, the Annual Confidential Reports are recorded annually based on the subjective assessments in regard to the quality of service turned out by the Reported Officer during the calendar year/financial year April to March. It cannot be gainsaid that the said report is initiated by the Superior Officer of the concerned employee/public servant/ Government servant as the case may be, who is in a position to monitor/observe the day to day activities of the employee for a certain period. Subsequently, the said report is reviewed by a higher authority and then accepted by still higher authority, so as to reach perfection in assessing/grading the concerned individual. In this regard, there are administrative instructions issued from time to time by the Department of Personnel and other officers concerned.

The Annual Confidential Reports/Rolls are to be recorded objectively and administrative instructions are issued from time to time laying emphasis that the Reporting Officers are required to state the justification of their reports, of course in the reports itself. To avoid or minimise the error of subjectivity, the Report is prepared at various levels. No wonder, each higher level has the utmost responsibility of moderating the report of the down below officers, before it reaches the stage of final level of acceptance. The Reporting Authority is the Authority who supervise the performance of employees reported upon. The 'Reviewing Authority' is the authority who supervises the performance of Reporting Authority, the Accepting Authority is one who supervises the performance of Reviewing Authority. After review, it is the

Accepting Authority who is to accept report with such modifications as he deems fit and proper, also, the rules may prescribe a time limit within which, the said officer is to perform

The purpose of recording/writing the Annual Confidential Report is to maintain, if not to improve the present standard of public service. Therefore, it is important to usher in confidence the assistance of public servant to improve upon his performance where any shortfall in the standard of his service is noted in the ACRs. However, if the Report is adverse, communication of the Report becomes all the more important. Indeed, the affected officer ought to be provided with an opportunity to show that the Reporting Officer misjudged him or not assessed him in proper prospective. His representation is to reach the level, which is the highest of the levels of the Officers who has taken part in making the reports. The representation is to be attended to without any undue delay and the result is to be communicated to him. “

In another case of *State of U.P v. Yamuna Shankar Mishra*⁶, the court held that

”... the object of writing the confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence. Article 51-A(j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual employee strives to improve excellence and thereby efficiency in administration would be augmented. 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 statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon facts or circumstances.”

In the case of *All India Judges Association & Ors. v. Union of India & Ors.*⁷, after thorough deliberations, Justice Shetty Commission submitted its report, where the

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⁶ (1997) 4 SCC 7

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recommendations of the Shetty Commission were in respect of some topics out which some points discussed about Annual Confidential Reports, which stated that

“The High Courts were required to frame the rules specifying particular age of retirement and it was also recommended that the procedure prescribed for writing Confidential Reports by the self-assessment process was better and more transparent and should be adopted by High Courts for Judicial Officers “

In the case of *U.P Jal Nigam & Others vs. Prabhat Chandra Jain & Others*, the Supreme Court laid down rules to regulate the system of recording Annual Confidential Reports prevailing in the U.P Jal Nigam. The side of the petitioner pleaded to the high court that the grading entries in confidential reports cannot be termed as adverse entries so as to obligate the nigam to communicate the same to the employee and attract the representation. This contention was rejected by High court because according to their views, Confidential Reports were the assets of the employees, since they weigh to his advantage at the promotional and extensional stages of his service.

The Supreme court while justifying the order of the high court stated that the Nigam has rules thereunder an adverse entry is required to be communicated to the employee concerned, but not down grading of an entry. It has been urged on behalf of the Nigam that when the nature of the entry does not reflect any adverseness that is not required to be communicated. The court had held that:

“while writing the confidential reports, if the official were to be downgraded from the previous reports, "as we view it, the extreme illustration given by the High Court may reflect an adverse element compulsorily communicable, but if the graded entry is of 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. All that is required by the authority recording confidential in the situation is to record reasons for such downgrading on the personal file of the officer concerned, and inform him of the change in the form of an advice. If the variation warranted to be not permissible, then the very purpose of writing annual confidential reports would be frustrated. Having achieved an optimum

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7 AIR2002SC1752
8 1996 AIR 1661, 1996 SCC (2) 363
level, the employee on his part may slacken in his work, relaxing secure by his one-
time achievement. This would be an undesirable situation. All the same the sting of
adverseness must, in all events, not be reflected in such variations, as otherwise they
shall be communicated as such. It may be emphasised that even a positive confidential
entry in a given case can perilously be adverse and to say that an adverse entry should
always be qualitatively damaging may not be true. In the instant case we have seen the
service record of the first respondent. No reason for the change is mentioned. The
downgrading is reflected by comparison. This cannot sustain. Having explained in this
manner the case of the first respondent and the system that should prevail in the Jal
Nigam, we do not find any difficulty in accepting the ultimate result arrived at by the
High Court."

In the case of **R.K Jain v. Union of India**\(^9\), the court gave its decision on the basis of
Section 8 (1) (j) and Section 11 of the Right to Information Act’2005, where they came
up with the view point that Annual Confidential Reports of officer of Central Excise &
Service Tax Appellate Tribunal (CESTAT) is not a matter of public interest. So there
is no obligation to give any citizen information which relates to personal information,
disclosure of which has no relationship to any public activity or interest, or which
would cause unwarranted invasion of the privacy of the individual unless the central
Public Information Officer or the State Public Information officer or the appellate
authority is satisfied that the larger public interest justifies the disclosure of such
information.

Another case of **State Bank of India v. Kashinath Kher & Others**\(^10\), highlighted the
object of writing Annual Confidential Reports for judicial Officers, where the court
stated that

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\(^9\) (2013)14SCC794

\(^10\) (1996)8SCC762
"The object of 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."

It further states that:

“Confidential and character reports should, therefore, be written by superior officers higher above the cadres. The officer should show objectivity, impartiality 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 get demoralised which would be deleterious to the efficacy and efficiency of public service. Therefore, they should be written by a superior officer of high rank. Who are such high rank officers is for the appellant to decide. The appellants have to prescribe the officer competent to write the confidentsials. There should be another higher officer in rank above the officer who was written confidential report to review such report. The appointing authority or any equivalent officer would be competent to approve the confidential reports or character rolls. This procedures would be fair and reasonable. The reports thus written would form basis for consideration for promotion. The procedure presently adopted is clearly illegal, unfair and unjust.”

In T. Ramegowda v. R. Krishnamurthy and others, the Court underlined the need to write confidential reports objectively, fairly and dispassionately in a constructive manner either commenting/downgrading the conduct, character, efficiency or integrity of the officer in that behalf.
Further in the case of *State of U.P vs. Yamuna Shanker Mishra and another*¹², laid it clear that

“The object of writing the confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence. Article 51A(j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual employee strives to improve excellence and thereby efficiency of administration would be augmented. 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 statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon the facts or circumstances. Though sometimes, it may not be part of record, but the conduct, reputation and character acquire public knowledge or notoriety and may be within his knowledge. 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 the judgment, conduct, behavior, integrity or conduct/corrupt proclivity. If, despite giving such an opportunity, 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 affected 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. Thereby, honesty, integrity, good conduct and efficiency get improved in the performance of public duties and standards of excellence in services constantly rises to higher levels and it becomes successful tool to manage the services with officers of integrity, honesty, efficiency and devotion.”

¹² AIR 1997 SC 3671
In another case of *Swatantar Singh v. State of Haryana & others*\(^{13}\), adverse remarks were made against the petitioner in his Confidential Report relating to his involvement in corruption. The remarks regarding corruption were made without support of any kind of evidence of the same. Supreme Court thus held that the object of writing Confidential Reports of government servant is to afford him the opportunity to reform himself. It is an objective assessment of his conduct and therefore it is impracticable for reporting officer to give specific instances of shortfalls supported by evidence. Remarks made in Confidential Reports can not be said vague and unsustainable. The court there by pointed out that :

"the object of writing the Confidential Reports or Character Roll of a Government servant and communication of the adverse remarks is to afford an opportunity to the concerned officer to make amends to his remiss; to reform himself; to mend his conduct and to be disciplined, to do hardwork, to bring home his lapse in his integrity and character so that he corrects himself and improves the efficiency in public service. The entries, therefore, require an objective assessment of the work and conduct of a Government servant reflecting as accurately as possible his sagging inefficiency and incompetency. The defects and deficiencies brought home to the officer, are means to the end of correcting himself and to show improvement towards excellence. The confidential report, therefore, would contain the assessment of the work, devotion to duty and integrity of the officer concerned. The aforesaid entries indicate and reflect that the Superintendent of Police had assessed the reputation of the officer, his honesty, reliability and general reputation gathered around the officer's performance of the duty and shortfalls in that behalf."

In the case of *Mrs. M. Sailo v. Union of India*\(^{14}\), the issues raised regarding the case in the administrative tribunal were:

(i) Whether the ACRs of the applicant for the year 2000-01 and 2001-02 have been written in accordance with the guidelines laid down on the subject.

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\(^{13}\) AIR 1997 SC 2105

\(^{14}\) CENTRAL ADMINISTRATIVE TRIBUNAL, Delhi
(ii) Whether an irregularity and deficiency caused in initiation/reporting of an ACR can be covered by the authority deciding the representation, by giving his own interpretation to the contents of ACR.

(iii) Whether the Reviewing Officer can change the grading of an officer recorded in ACR by Reporting authority, without recording any reasons for the same.

The court with respect to which laid down following points:

("Confidential reports are the basic inputs on the basis of which assessment is to be made by each DPC for evaluation while assessing the fitness of a person for promotion/appointment. As per procedure laid down in the guidelines relevant to the issue, whenever there is a change in the reporting officer, it is the duty of the administration or CR Section/Cell to get the report of the concerned officer/employee from the earlier reporting officer within 3 weeks of such change, if no self-appraisal by the officer reported upon is required and within 5 weeks of such change if the self-appraisal by the officer reported upon is required to be given. The reports so written by the earlier reporting officer may be."

In this case, following guidelines were being laid down, as circulated to the ministries or departments by way of amplification or partial modification of earlier instructions:

(i) Reporting, reviewing and endorsing officers should have been acquainted with the work of the official reported upon for at least three months during the period covered by the Confidential Report.

(ii) With a view to enable the reviewing authority to discharge his responsibility in ensuring the objectivity of the Confidential Reports, it has been decided that where he is not sufficiently familiar with the work of the officer reported upon so as to be able to arrive at a proper and independent judgment of his own, it should be his responsibility to verify the correctness of the remarks of the reporting officer after making such enquiries as he may consider necessary and he should also give a hearing to the person reported upon before recording his remarks.
The columns in the ACRs should be filled with due care and attention and after devoting adequate time. Any attempt to fill the report in a casual or superficial manner will be easily discernible to the higher authorities. Every answer shall be given in a narrative form. The space provided indicates the desired length of the answer. Words and phrases should be chosen carefully and should accurately reflect the intention of the Authority recording the answer.

**ANNUAL CONFIDENTIAL REPORTS IN OTHER COUNTRIES**

**BANGLADESH**

In case of Bangladesh, Annual Confidential Reports (ACRs) is used as an appraisal technique, which was introduced in pursuance of a provision under the Boards Miscellaneous Rules’1934. During this period emphasis was given on measuring administrative competence, loyalty, temper, language skill and public relation. Since then the ACR survived as the performance appraisal mechanism of Civil Services of Pakistan and Bangladesh. During Pakistan period, the method of Graphic Rating Scale (GRS) along with a pen picture was introduced in order to measure both the personality as well as the performance traits. After independence, the Administrative and Services Reorganization Committee (1973) reviewed the inherited ACR system and recommended to use a similar form for all types of employees for the sake of comparability and equality.

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Table 2: Fundamental Differences between ACR-1982 & ACR-1990

<table>
<thead>
<tr>
<th>Criteria</th>
<th>ACR-1982</th>
<th>ACR-1990</th>
<th>Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measurement Factors</td>
<td>Total 20 factors: 8 personality and 12 performance factors</td>
<td>Total 25 factors: 13 personality and 12 performance factors</td>
<td>Personality has been given more emphasis which is difficult to measure</td>
</tr>
<tr>
<td>Rating Scale</td>
<td>Ranged from 1 to 5; each with generalized anchor definition, e.g. anchor 5 of punctuality trait was defined as Never late in office</td>
<td>Ranged from 1 to 4; no anchor definition</td>
<td>Without anchor definition, ACR became more prone to subjectivity</td>
</tr>
<tr>
<td>Summary Scale</td>
<td>Top 2 grades thresholds were 91 and 81</td>
<td>Top 2 grades thresholds were 95 and 85</td>
<td>Getting of top grades became stricter</td>
</tr>
</tbody>
</table>

The above diagram highlights the difference inherited in the system of Annual Confidential Reports in the mentioned years, regarding the same.
Table 3: Comparison of Personality Factors Used in ACR

<table>
<thead>
<tr>
<th>ACR 1982</th>
<th>ACR 1990</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sense of Discipline</td>
<td>Same as 1982</td>
<td>No change</td>
</tr>
<tr>
<td>Judgment and Sense of Proportion</td>
<td>Do</td>
<td>Do</td>
</tr>
<tr>
<td>Intelligence</td>
<td>Do</td>
<td>Do</td>
</tr>
<tr>
<td>Initiative</td>
<td>Do</td>
<td>Do</td>
</tr>
<tr>
<td>Public Relations</td>
<td>Do</td>
<td>Do</td>
</tr>
<tr>
<td>Cooperation</td>
<td>Do</td>
<td>Do</td>
</tr>
<tr>
<td>Personality</td>
<td>Do</td>
<td>Do</td>
</tr>
<tr>
<td>Security consciousness</td>
<td>Do</td>
<td>Do</td>
</tr>
<tr>
<td>Punctuality</td>
<td></td>
<td>It was a performance factor in 1982</td>
</tr>
<tr>
<td>Reliability</td>
<td></td>
<td>New addition</td>
</tr>
<tr>
<td>Sense of Responsibility</td>
<td></td>
<td>Bifurcated from performance element of 1982</td>
</tr>
<tr>
<td>Interest in Work</td>
<td></td>
<td>Transferred from performance factor of 1982</td>
</tr>
<tr>
<td>Promptness in taking action and</td>
<td></td>
<td>Do</td>
</tr>
<tr>
<td>carrying out orders</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Adapted from Hossain, 2004

In 1997, the ACR format was again changed. This time, the number of parts of the ACR reduced to 8 from 10. Job description was merged with the Bio-data and the Additional Remark part was abolished. Apart from this, the pen picture part was made unstructured. In the 1982 ACR, the pen picture part was structured into five
components: personality, professional ability, loyalty and reliability, any other strengths/weaknesses that sharply distinguishes the ratee, and advices to the ratee. The structured pen picture provided more uniformity and managerial expediency in measurement and recording. This giving more flexibility to the rater was inconsistent with the uniformity principle that was the dominant theme of the post 1990 reform.
CONCLUSION

After going through all the related documents on Annual Confidential Reports, the major problem being discussed in this area is while filling up ACRs of the officer only those remarks are being communicated to them which are adverse in nature. There is a need for the communication of all kind of remarks because that might affect the concerned officer’s promotion in his office in some way or the other.

As discussed in the case of Dev Dutt v. Union of India16, where the petitioner was not given promotion but all his juniors were given promotion. When the objection was being raised by the appellant, the respondent held that the promotion was given on the basis of the remarks of the officer for past five years. Only if he obtained “very good” remark for his performance continually, only then he would be awarded with the promotion and in the case of petitioner he secured the “good” remark therefore he was not rewarded with the same. The appellant further raised the contention that if there is such criteria then it is the right of the officer to know the remarks of his performance so that he could have this opportunity of improving his performance otherwise they all would be deprived of the opportunity to get a promotion. In their favour the respondents further contended that only adverse remarks are being communicated to the officers and the not all the remarks. The appellant in this case also raised the contention of Principle of Natural Justice by stating that

“Natural sense of what is right and wrong tells us that it was wrong on the part of the respondent in not communicating the 'good' entry to the appellant since he was thereby deprived of the right to make a representation against it, which if allowed would have entitled him to be considered for promotion to the post of Superintending Engineer. One may not have the right to promotion, but one has the right to be considered for promotion, and this right of the appellant was violated in the present case.”

The Supreme Court, thereby held that

16 AIR2008SC2513
“Non-communication of entries in the Annual Confidential Report of a public servant, whether he is in civil, judicial, police or any other service (other than the military), certainly has civil consequences because it may affect his chances for promotion or get other benefits (as already discussed above). Hence, such non-communication would be arbitrary, and as such violative of Article 14 of the Constitution.

We are informed that the appellant has already retired from service. However, if his representation for upgradation of the ‘good’ entry is allowed, he may benefit in his pension and get some arrears. Hence we direct that the ‘good’ entry of 1993-94 be communicated to the appellant forthwith and he should be permitted to make a representation against the same praying for its upgradation. If the upgradation is allowed, the appellant should be considered forthwith for promotion as Superintending Engineer retrospectively and if he is promoted he will get the benefit of higher pension and the balance of arrears of pay along with 8% per annum interest.

We, therefore, direct that the ‘good’ entry be communicated to the appellant within a period of two months from the date of receipt of the copy of this judgment. On being communicated, the appellant may make the representation, if he so chooses, against the said entry within two months thereafter and the said representation will be decided within two months thereafter. If his entry is upgraded the appellant shall be considered for promotion retrospectively by the Departmental Promotion Committee (DPC) within three months thereafter and if the appellant gets selected for promotion retrospectively, he should be given higher pension with arrears of pay and interest @ 8% per annum till the date of payment.”

Any Entry recorded as ‘good’ must be communicated to the appellant and an opportunity to make representation for upgrading the same must be given to him.

The Principle of natural justice met only when entries in Annual Confidential Report of public servant is communicated to him with a right to make representation for upgrading of the same. Therefore, it is important that there should be timely communication of remarks of ACRs so that the officers are given this opportunity to improve their remarks and would not face such problems in their employment.