

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 1787/1998
T.A.No.

Date of Decision 3.12.2001

Azmat Javed

Petitioner

Sh.U. Srivastava

Advocate for the Petitioner

VERSUS

Govt.of NCT of Delhi through
Secretary and Ors.

Respondent

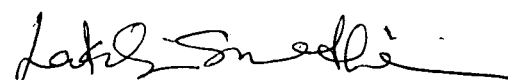
Sh.Rajinder Pandita, learned
counsel through proxy counsel
Sh.H.P.Chakravorty

Advocate for the Respondents

Coram:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri M.P. Singh, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

CEBTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1787/1998

New Delhi, this 3rd day of December, 2001

Hon'ble Smt. Lakshmi Swaminathan, VC(J)
Hon'ble Shri M.P. Singh, Member(A)

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Azmat Javed
3943, New Azad Hind Hotel
Urdu Bazaar, Jama Masjid, Delhi .. Applicant

(By U.Srivastava, Advocate)

versus

Govt. of NCT of Delhi, through

1. Secretary
5, Sham Nath Marg, New Delhi
2. Director General
Home Guard & Civil Defence
Nishkam Sewa Bhawan, Raja Garden
New Delhi
3. Senior Staff Officer (CD)
Dte. General of Home Guards & Civil Defence
Nishkam Sewa Bhawan, Raja Garden
New Delhi .. Respondents

(By Shri Rajinder Pandita, Advocate through proxy
counsel Shri H.P.Chakravorty)

ORDER(oral)

By Smt. Lakshmi Swaminathan, Vice-Chairman(J)

In this application, the applicant has assailed the order dated 27.8.98 issued by the respondents under Rule 6(2) of Civil Defence Act, 1968.

2. Learned counsel for the applicant has been heard at length. He has taken several grounds to assail the aforesaid order and has made a categorical submission that he was not required to exercise the power conferred on him by way of an appeal under section 7 of Civil Defence Act, 1968, even though the impugned has been issued by the respondents under Section 6(2) of the Act.

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3. We have also heard Shri H.P.Chakravorty, learned proxy counsel for the respondents and have perused the relevant records. 32

4. Learned counsel for the respondents has submitted that as per records, the applicant had volunteered his service as a civil defence personnel under the aforesaid provisions of the Act and had become overaged. From the records submitted by the learned counsel for the respondents, we note that the respondents have noted that the applicant had become overaged and is about 65 years of age and he was discharged from Civil Defence. We further note that the applicant's date of birth as mentioned by him in the application for enrolment as a Member of the Civil Defence Service is '22 July 1937.' Learned counsel for the applicant has made a submission that the applicant had enrolled as a Member of the Civil Defence in the year 1962 and so when he enrolled as a Member, he was about 25 years of age. The discharge order has been issued on 27.8.98 when he would have completed 36 years of service and his age would be 61 years but not 65 as wrongly mentioned in the official records. The relevant portion of the official records, including the application made by the applicant himself for enrolling himself as a Member of the Civil Defence Service has been shown to Shri U.Srivastava, learned counsel for the applicant during the hearing and he has admitted that applicant's date of birth is 22.7.1937. However, as rightly pointed out by Shri H.P.Chakravorty, learned proxy counsel for the respondents, in the verification to the OA signed by the applicant, he has

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mentioned that he is aged 50 years and has also stated that the facts stated are true to the best of his knowledge and that he has not suppressed any material facts. 33

5. After verifying the facts from the relevant records, Shri U.Srivastava has made a further submission that the age mentioned by the applicant in the verification to the OA is due to an oversight. We are unable to agree with this contention. We find force in the contentions of the learned proxy counsel for respondents that the applicant has suppressed the material fact of his age by giving a wrong verification in the OA. We also note that the date of birth which the applicant had declared to the authority while making the application for enrolment as a Member of the Civil Defence Service is 22.7.1937. In that event, he would be over 60 years at the time when he filed the OA on 14.4.98 and not 50 years as stated by him. His date of birth is something which the applicant very well knew.

6. In the above facts and circumstances of the case, we are satisfied that the applicant has suppressed a material fact and is, therefore, not entitled to get any relief as he has not come to the court with clean hands. There is no gainsaying the fact that he has tried to suppress a material fact which is relevant, considering the ground on which the respondents have issued the impugned order dated 27.8.98 which is that he has become overaged. We also find that the impugned order is also an order simplicitor passed under the provisions of Rule 6(2) of Civil Defence Act, 1968. In the circumstances


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of the case, we also do not consider it necessary to look into the other submissions made by the applicant's counsel.

BA

7. In view of what has been stated above, since the applicant has tried to misuse the process of law by suppressing the relevant facts, we would have normally dismissed the application with exemplary costs on the applicant. However, considering the fact that the applicant is stated to be unemployed by the learned counsel for the applicant, we dismiss the OA without costs but with a warning not to repeat such action.

8. In the result, for the reasons given above, the OA is dismissed. No costs.


(M.P. Singh)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman(J)

/gtv/