


**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

C.P. NO.348/2004

in

O.A. NO.137/2004

This the 16th day of November, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Kuldeep Singh Rawat S/O Sultan Singh Rawat,
H. No.A-250, Moti Bagh-I,
New Delhi-110021.

... Applicant

(By Shri Surinder Singh, Advocate)

Versus

Himanshu Kumar,
Director General,
Special Service Bureau,
East Block, R.K.Puram,
New Delhi-110016.

... Respondent


(By Shri B. S. Jain, Advocate)

ORDER

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Applicant's OA No.137/2004 staking claim for compassionate appointment and impugning respondents' orders dated 19.11.2003 rejecting the applicant's aforesaid claim was disposed of vide order dated 19.1.2004 at the admission stage itself with the following observations/directions:

"In view of the fact that rights of the respondents are not going to be affected, it is directed to dispose of this application even at the admission stage without issuing notice, particularly, keeping in view the object of compassionate appointment which requires immediate help to the surviving members of the deceased employee's family. As has been brought out by the learned counsel of the applicant, the ban on direct recruitment to group 'C' and 'D' posts do not apply in the case of compassionate appointment as per the existing orders of the Govt. Therefore, the rejection on that account was not proper. In case the applicant was found suitable for compassionate appointment, the respondent should have not rejected the applicant's prayer merely on the ground of there being ban on



such appointment. Therefore, the respondent is directed to consider the claim of the applicant in the light of the Scheme of Compassionate Appointment within a period of two months from the date of receipt of a copy of this order.”

2. Vide Annexure R-1 dated 23.3.2004 respondents communicated their decision dated 6.3.2004 rejecting the applicant's claim for appointment on compassionate ground again declaring him medically unfit for the post of Constable (GD) as well as Constable (Follower) due to lack of visual standard. Through the present petition applicant has alleged that respondents have committed intentional and deliberate contempt of court's orders by denying him appointment on compassionate grounds.

3. The learned counsel of applicant stated that while applicant ought to have been considered for appointment on compassionate grounds in Group 'C'/Group 'D' post (civilian) respondents considered the applicant for the post of Constable (GD) (Group 'C') and Constable (Follower) (Group 'D') which are combatised posts and not civilian posts. He stated that while lack of visual standard may be relevant for a combatised post, it is not so for a civilian post. The learned counsel further contended that ban on recruitment in civilian cadre was held by the Tribunal in its order dated 19.1.2004 as non-applicable to cases of compassionate appointment to Group 'C' and 'D' posts.

4. The learned counsel of the respondents on the other hand stated that respondents considered applicant's claim in terms of Tribunal's directions on 6.3.2004 and rejected applicant's claim for appointment on compassionate ground on the ground that he was not found to be medically fit. The learned counsel of the respondents persisted that applicant could also not be considered for appointment on compassionate ground as there was a ban on filling up such posts imposed upon by the Ministry of Home Affairs vide their letter dated 26.3.2003. Thus, the learned counsel of the respondents submitted that respondents have not committed any deliberate contempt of the directions of this court.

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NO


5. We have considered the rival contentions.

6. True that in Tribunal's order dated 19.1.2004 whereby OA No.137/2004 was disposed of, it was held that "the ban on direct recruitment to group 'C' and 'D' posts do not apply in the case of compassionate appointment as per the existing orders of the Govt.". The learned counsel of the applicant stated that applicant's case should have been considered for appointment against civilian posts in Group 'C' and 'D' and not for combatised posts, where medical standards are different and more arduous.

7. Paragraph 6 of the Scheme for Compassionate Appointment relates to exemptions from observance of certain requirements in compassionate appointments. Certainly ban on filling up of civilian posts in matters of compassionate appointments is not applicable. However, Ministry of Home Affairs order dated 26.3.2003 on the subject of Command structure and officering in SSB-rationalization of higher posts, stipulated various guidelines to be followed while rationalizing the revised Command structure. One of these guidelines is as follows:


- "(iv) All the civilian cadres in the Force is declared as dying cadre. No recruitment will be made in the Force against any civilian post(s) in any cadre. The civilian cadres will be phased out in due course of time as and when the present incumbents vacate such posts and the vacancies in these cadres will be filled in by combatised personnel at the initial recruitment levels."


8. While in the Tribunal's directions there is no reference to considering applicant for a civilian post, these guidelines dated 26.3.2003 state that the civilian cadres have to be phased out by not filling up the posts vacated by the present incumbents, and the consequential vacancies to be filled in by combatised personnel at the initial recruitment level.



9. Considering the respective contentions of the parties, it is apparent that the issue is contentious inasmuch as whether the applicant could be considered for a civilian post of a dying cadre or for Group 'C'/Group 'D' posts of combatised cadre. In this backdrop, it cannot be held that respondents have committed deliberate and contumacious contempt of Tribunal's directions contained in order dated 19.1.2004 when they rejected applicant's claim for compassionate appointment on 6.3.2004.

11. In result, while the CP is dropped and notices to the respondents are discharged applicant shall have liberty to challenge respondents' orders Annexure R-1 dated 23.3.2004 read with proceedings of the Board of Officers held on 6.3.2004 whereby applicant's claim was rejected.


(Shanker Raju)
Member (J)


(V. K. Majotra) 16.11.04
Vice-Chairman (A)

/as/