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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2350/93

New Delhi this the 15th Day of December, 1993.

The Hon'ble Vice Chairman Sh.N.V.Krishnan, V.C.(A)
The Hon'ble Mr. B.S. Hegde, Member(J)

Major S.S. Sirohi,
S/o Sh.M.S. Sirohi
R/o 78/1 Cantt.Raiwala
Unit 31 BN NCC Hardwar

.. Applicant

(By Advocate Sh.D.C. Vohra)

V/s

1. Union of India, through
The Secretary, Ministry of Defence,
South Block, New Delhi-110011
2. The Dte.General, NCC Through its
Director General, Ministry of Defence,
Ministry of Defence, West Block No.4,
R.K.Puram, New Delhi.110066.

.. Respondents

(None for the respondents)

O R D E R (ORAL)

(Hon'ble Sh.N.V.Krishnan, V.C.(A))

The applicant joined the National Cadet Corps (N.C.C.for short) on 31.3.1974. He, alongwith others, were granted permanent Commission by the Govt.of India, Ministry of Defence (Respondent No.1) letter dated 27.12.1985. A copy of that order had been given for our perusal.

2. The procedure for grant of N.C.C. Commission under proviso (iii) to Rule 16 of the N.C.C. Rules and the terms and conditions of service of employment of such



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officers on whole time basis in the N.C.C. were communicated by the 1st Respondent in the letter dated 21.12.1963 (Annexure-C) addressed to the Director General N.C.C. (Respondent No.2). Appendix A to this letter sets out the procedure for grant of N.C.C. Commission. Inter alia, para 4 thereof states as follows "

" Officers will ordinarily hold Commission until reaching an the age of 55 years ;

Provided that an officer may be granted extension upto 57 years of age or may be discharged earlier if his service are not required."

3. The applicant is aggrieved by the order dated 28.1.1992 (Annexure-G) issued by the second respondent which enclos^{es}~~ure~~ a list of N.C.C. whole time officers granted Permanent Commission who have to retire from service in 1993, because the applicant's name figures at serial No.37 of this list which also indicates the applicant is due to retire on 31.10.93 (AN). The date of birth of the applicant is shown as 3.10.1938. It is clear that applicant was being retired on reaching the age of 55 years. He sent a representation on 1.10.92 (Annexure H) to the second respondent praying that he be given extension upto 57 years. As there has been no reply this OA is filed for a declaration that he is entitled to extension upto 57 years.

4. The learned counsel for the applicant points that the impugned Annexure -G order is seen to have been issued with reference to the letter dated 23.5.60 of the

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first respondent which is at Annexure-E. He contends that this circular is not applicable to the applicant's case and that applicant's service should be governed by the terms and conditions which were in force when he joined the N.C.C. i.e. the letter dated 21.12.63 (Annexure-C). In other words, he should have been considered for extension upto 57 years and he submits that the impugned annexure-G order is bad because the case of the applicant has not been considered for extension upto the age of 57 years which is permissible under those terms and conditions.

5. We have carefully considered these arguments. Para 1 of the Annexure-E circular reads as follows:-

" In continuation of this Ministry's letter No 5431/DGNCC/PC/MS(B) 2198/A/D(GS-VI) dated 4.8.78, as amended vide Corrigendum No. 5431/DGNCC/PC(MS(B)/316/A/D(GS-VI) dated 6 Feb., 79 and No.5431/DGNCC/PS/MS(B) 920/A/D (GS-VI) dated 3 May.1980, I am directed to state that the President is pleased to decide that such of the serving whole time NCC Officers, who are granted NCC permanent commission on the recommendation of the Screening Board and approved by the Ministry of Defence in accordance with this Ministry's letters, referred to above, will be governed by the terms and conditions of services, laid down in Appendix 'A' to this letter."

6. It is clear that the applicant was only a whole time NCC Officer on the date this circular was issued. He had not been granted permanent commission/
 /till that date.
 He was given permanent Commission only by the order dated 27.12.1985, a copy of which is taken on record i.e. after the Annexure-E circular came into force. It is thus clear that applicant will be

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governed by this circular dated 23.5.80. This is further corroborated by para-2 of the circular which reads as follows:-

" While time NCC officers, who are not granted permanent commission under these orders, will continue to be governed by their existing terms and conditions of service. Those officers who have already retired/~~have been~~ released from service, will not be covered by these orders".

Para-2 of the circular applies to the NCC officer, not granted permanent commission under the circular dated 23.5.80 but granted commission under, earlier circulars prior to coming into force of the Annexure-E circular. Thus if the applicant had been given commission before 23.5.80, he would have got the benefit of the Annexure C circular.

7. In this view of the matter, we are satisfied that the applicant has not made out any prima-facie case against the impugned Annexure-G order which we find is in conformity with the terms and conditions applicable to him.

8. The learned counsel for the applicant however, produced an order of the High Court/Bombay in Writ Petition No. 4338/1993 dated 20.10.93 filed by Major R.Lamba against the same respondents as in the present O.A. involving identical issues, where an interim order has been passed in favour of the petitioner. The learned counsel for the applicant states that Major R.Lamba is at serial No.39, two

place
~~person~~ below the applicant in the list of persons due to retire in 1993 annexed to Annexure-G. The learned counsel for the applicant clarifies that this interim order has since been made absolute by the Bombay High Court, He, therefore, prays that the applicant before us should also be given the benefit of the same direction has been extended by the Bombay High Court to Major R.Lamba.

9. We have carefully considered^u this plea. We are unable to consider this order of the High Court of Bombay, because it is not a speaking order and does not indicate the considerations which weighed^u with it for granting the interim order.

10. Therefore, we find no merit in the O.A. and therefore, it is dismissed in limini.

B.S. Hegde
(B.S. Hegde)

Member(J)

N.V. Krishnan
(N.V. Krishnan)

Vice Chairman(A)

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