

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD**

(THIS THE 14<sup>th</sup> DAY OF SEPTEMBER, 2010)

PRESENT:

**HON'BLE MR. S. N. SHUKLA, MEMBER-A**

**ORIGINAL APPLICATION NO.1392 OF 2005**  
(U/s, 19 Administrative Tribunal Act, 1985)

Biranjan Singh, Son of Late Ram Bahadur,  
R/o Village Akbarpur,  
P.O. Kasenda, District-Kaushambi.

..... Applicant

By Advocate :Shri P.C. Jhingan

Versus

MA 4262 9/2010  
allowed  
Corrections  
carried out  
wide dt 11/11/2010  
1/11/11/10  
SN  
M(A)  
11/11/10

1. The Union of India through the Secretary, ~~Ministry of Defence, Department of Pensioners' Welfare, Govt. of India, New Delhi, Civil Aviation, Safdarjung, New Delhi.~~ 6/11/10
2. ~~The Regional Executive Director (NR), Chief Engineer (Air Force), Airport Authority of India (AAI), Military Engineering Services, Indira Gandhi International Airport, Palam, New Delhi.~~ 11/11/10
3. ~~The Regional Executive Director, Commander Works Engineer (Air Force), Military Engineering Services, Bamrauli, Allahabad International Airport, Palam, New Delhi.~~ 12/11/10
4. ~~The Director (P&A), AAI, Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi.~~ Garrison Engineer (Air Force), Military Engineering Services, Bamrauli, Allahabad. 13/11/10

..... Respondents  
14/11/10

By Advocate: Shri Anil Dwivedi

**ORDER**

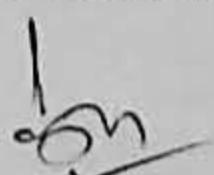
1. This OA is against impugned order dated 05.12.2006 placed at Annexure A-1 being in the nature of speaking order rejecting the claim of the applicant for appointment on compassionate grounds. In a long and winding order various rulings by Higher Judicial forum have been cited. Part 7 of the impugned order reads as under:-

1/11/10  
SN

*"As per Govt. of India MOD ID No. 19(4)/824-99/ 1998-D (Lab) dated 09 mar 2001, the candidates are required to apply only one and the application if not recommended in the first Board Of Officers for want of vacancy is to be considered afresh alongwith the fresh applicant by the Board of Officers on three occasions consecutively and the final decision is to be communicated to the applicant by a detailed speaking order."*

2. Heard learned counsel for the parties and perused the pleadings on record. It is to be noted that vide MOD Instructions dated 9.03.2001 have been cited above. Some what similar instructions issued vide office Memorandum dated 5.5.2003 of the Departmental of Personnel and Training, Ministry of Personnel, Public Grievances and Pension Government of India having the effect of restricting the number of years was held as ultra virus to the constitution by Hon'ble High Court of Allahabad vide judgment (SB) reported in [2009(6)ADJ 90] passed in Civil Misc. Writ petition No.2412 of 2008 decided on 8<sup>th</sup> April 2009 and also vide judgment (DB) dated 7.5.2010 passed in Writ petition No.13102 of 2010. Following the same rulings the impugned order is also found to be unsustainable as per the existing rulings of the Hon'ble High court of Allahabad.

3. It will not be out of place to mention that when the authorities are directed to pass a speaking order the idea is not to invite an essay on rulings. Similarly no useful purpose is served if the order is vague, in general terms and gives an impression of being subjective. On the contrary the order must contain details such as number of vacancies in the year/years in which the applicants case was considered, names of the candidates who were considered and their relative merit in the selection process. Similarly the evaluation and assessment has to be totally objective

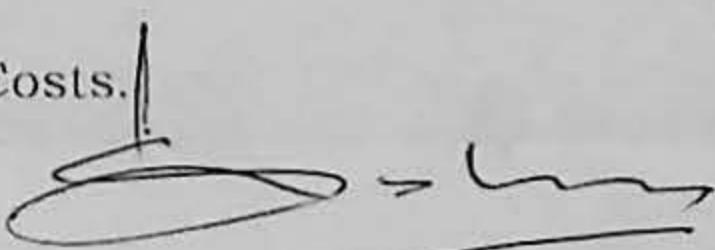


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in as much as it must ~~be~~ disclosed the parameters considered and weightage allotted to each such parameter. The applicants are more likely to accept their fate if the selection process is uniform, transparent in procedure and discloses full result of selection process for each vacancy filled up under the rules for compassionate appointment.

4. With these observations the impugned order dated 5.12.2006 is quashed and set aside with direction to respondent no.2 to pass a fresh reasoned and speaking order on the application of the applicant by including the relevant details such as number of vacancies filled up, comparative position of the applicant vis-à-vis other applicant who may have been considered along with the applicant and then their evaluation based on objective criteria. The speaking order **will be passed** by ignoring the MOD instructions of 2001 in so far as they relate to the limitation of number of chances an applicant can be considered. The order will be passed within three months of receipt of a certified copy of this order. The decision will also be communicated to the applicant forthwith.

5. OA stands disposed of. No Costs.



Member-A

/ns/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
**ORDER SHEET**

O.A / MA / RA / CP NO. 1392 OF 2005

Applicant/s Biranjan Singh Respds. UOI & Ors.

Advocate for Applicant/s Sri P.C. Jhingan Advocate for Respondent/s S.

Notes of the Registry	Orders of the Tribunal	Sheet No.
	<p>MA No.4262/2010 in <u>OA No.1392/2005</u></p> <p><u>11.11.2010</u> HON'BLE MR. S.N. SHUKLA, A.M.</p> <p>Shri P.C. Jhingan, learned counsel for the applicant. Respondents counsel is present.</p> <p><b>MA No.4262/2010</b>-for correction of error having crept in the judgment and order dated 14.9.2010 in as much as the array of the respondents is all together incorrect and seems to have been picked up from some different OA. The correct array of parties should be read as given in the MA. Ma No.4262/2010 is allowed. The judgment and order dated 14.9.2010 is corrected by deleting the name of respondents stated therein and inspite of respondent no.1 to 4 as stated in the MA No.4262/2010 will be inserted in the order.</p> <p>Copy of the revised order will be provided to counsel for the parties at the earliest.</p> <p style="text-align: right;"> A.M.</p> <p>/ns/</p>	

Contd. On Sheet No. \_\_\_\_\_