

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR.A.K. GAUR , MEMBER (J).

Original Application Number. 842 OF 2005.

ALLAHABAD this the **24th** day of **April, 2009.**

Smt. Pushpa Pandey, W/o Late Sergeant, Ex. No. 672545 R.K. Pandey,
resident of 20/ 17, New Benajhaber Colony, Kanpur.

.....Applicant.

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1. Union of India through its Secretary, Ministry of Defence, South Block, New Delhi.
2. The Joint Director Personnel (Civil), Headquarters Vayu Bhawan, New Delhi.
3. Air Officer Commanding, AFCAO, Subroto Park, New Delhi.

.....Respondents

Advocate for the applicant: Sri S. Mukherjee
Advocate for the Respondents: Sri S. Srivastava

ORDER

Learned counsel for the applicant at the very out set submitted that in similar circumstances, one Smt. Mangesh Dwivedi, who had obtained only 52 marks, has been granted appointment on compassionate grounds whereas the applicant obtained 57 marks but her case has not been considered by the competent authority against Group 'D' post. He invited my attention towards paragraph 9 and 19 of Rejoinder Affidavit and submitted that as a matter of fact, number of vacancies in Group 'D' are much more than the number of vacancies in Group 'C' and when once the case of the applicant could not be considered against group 'C' vacancy then it was incumbent upon the respondents to have advised the applicant to apply for group 'D' post but

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it was not done in the instant case. Learned counsel for applicant would further contend that Smt. Mangesh Dwivedi, who had secured 52 marks i.e. much less than the applicant, was advised to give her option for Group 'D' post and after giving her option for group 'D' post, she was considered for appointment on compassionate grounds. In support of his contention, learned counsel for the applicant placed reliance on a decision rendered by Hon'ble Supreme Court in National Institute of Technology and another Vs. Niraj Kumar Singh - 2007 (1) SCC (L&S) 668 and submitted that even in the matter of compassionate appointment, Article 14 of the Constitution of India has to be followed.

2. Learned counsel for respondents on the other strongly refuted the arguments advanced by the learned counsel for applicant and submitted that Smt. Mangesh Dwivedi was granted marks on her merit in Group 'D' and not in Group 'C'.

3. Having heard learned counsel for both sides and in view of judgment (referred to above); I am of the considered view that the case of the applicant for appointment against group 'D' post should have been considered by the respondents.

4. In view of the observations made above, O.A is allowed. Order dated 26.08.2004(Annexure A-6 of O.A) is hereby quashed and set aside. I hereby direct the applicant to file a certified copy of this order alongwith complete copy of the O.A (with all annexures) and a fresh comprehensive representation, if so advised, within two weeks from the date of receipt of certified copy of the order before competent Authority and the said authority shall consider and decide the same by a reasoned and speaking

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order meeting all the contentions raised by the applicant in her representation within a period of three months on receipt of certified copy of the order, as contemplated above, in accordance with law and relevant rules on the subject and communicate the decision to the applicant forthwith

4. There will be no order as to costs.

Anand
MEMBER- J.

/Anand/