

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

O.A. NO.:
T.A. NO.:

CCA No-137/94
In
OIA No-1807/92 (P)

DATE OF DECISION: 3.5.1995

----- Piras ----- PETITIONER(S)

----- Sr. H.S. Sanyal ----- ADVOCATE FOR THE
PETITIONER

V E R S U S

2 ----- Lt. Surendra Verma & another ----- RESPONDENT (S)

----- Sr. Anil S. Shalekar ----- ADVOCATE OF THE
RESPONDENTS

C O R A M

The Hon'ble Mr. J. L. Verma, J. M.

The Hon'ble Mr. K. Mathur, J. M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Bench ?

No

Signature
SIGNATURE

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

ALLAHABAD THIS THE DAY 3.5.95 OF 1995.

CIVIL CONTEMPT APPLICATION NO. 137 OF 1994.

IN

ORIGINAL APPLICATION NO. 1807 OF 1992.

Paras S/o Late Shanker,

R/o Village _ Sihipur,

P.O. Sarain Inayat, District-Allahabad.

By Advocate Sri H.S. Srivastava... Petitioner.

Versus

1. Lt. General Surendra Verma,

Director General of Ordnance Services,

Army Headquarters,

DHQ, P.O. New Delhi-110011.

2. Brig. A.B. Goshi,

Commandant,

Central Ordnance Depot,

Chheoki, Allahabad.

By Advocate Sri Amit Sthalekar.

..... Respondents.

CORAM: Hon'ble Mr. T.L. Verma, MEMBER (J)

Hon'ble Mr. K. Muthukumar, MEMBER (A)

O R D E R (RESERVED)

By Hon'ble Mr. T.L. Verma, MEMBER (J)

1. This Contempt Application arises out of the order dated 30.9.1993^{passed} in O.A. No. 1807/92

Paras Vs. Union of India & others, in which the

Tribunal has issued the following directions:-

"It is further directed that the respondents shall consider the representation of the petitioner for compassionate appointment on the ground of his father's retirement due to medical unfitness with reference to the relevant provision in that behalf."

2. According to the petitioner, the respondents have, wilfully and intentionally committed breach of the aforesaid directions and have thereby committed Contempt of Court. In order to appreciate the arguments advanced a brief reference to the circumstances leading to filing of the O.A. No. 1807/92 is necessary.

3. The father of the petitioner was employed as Mazdoor in Central Ordnance Depot Chheoki, Allahabad. When he reached the age of 55 years, it is stated, he became physically unfit to continue on the job, on account of physical ~~my~~ debility and as a result of that he became irregular in ~~his~~ ^{his duty.} attendance. He, therefore, made a request to the Administrative Authorities to retire him on medical ground. The Official Procedure, however, ^{it is} took a long time before the decision on the representation filed by the father of the petitioner could be taken and in the mean time, he crossed the age of 57. The father of the petitioner was sanctioned invalid pension w.e.f. 15.8.1978. ^{He} ~~and~~ ^a submitted representation on the same day, i.e., 15.8.1978, for appointment of the petitioner on compassionate ground. The representation, however, was rejected by the order dated 18.1.1980. The petitioner was below

18 years of age on the date representation submitted by his father was rejected.

4. The petitioner on attaining the age of majority filed fresh representation for his appointment on compassionate ground as his father had been retired on medical ground. The aforesaid representation of the petitioner was also rejected. He thereafter filed O.A. no. 1807/92. This Tribunal by its order dated 30.9.1993 disposed of the said O.A. with the directions as extracted above.

5. According to the petitioner, the above directions of the Tribunal have not been complied with by the respondents and ^{that} they have thereby committed Contempt of Court. The Contemner no. 2 (Brig. A.B. Joshi) has filed Counter Affidavit, denying the allegations of the deliberate and wilful violation of the directions issued by this Tribunal.

6. We have heard the learned counsel for the parties and perused the record.

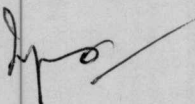
7. The respondents, it is clear, from the material on record, constituted a Board of Officers on 26.5.1994 to consider the representation of the petitioner for appointment on compassionate ground alongwith other similarly situated. The Board of Officers considered the case of the petitioner and his claim.

his case was not accepted for appointment on compassionate ground. The contentions of the learned counsel for the petitioner is that although the respondent's claim to have considered the case of the petitioner for appointment on compassionate ground, in terms of the rules prevailing at the time his father was given invalid pension but the fact is that the respondents have circumvented the directions of this Tribunal under the cover of the consideration of the petitioner's claim for appointment on compassionate ground in terms of Rules obtaining at the time of consideration of the claim of the applicant. It was stated that the Government of India, Ministry of Home Affairs (Department of Personnel and AR) O.M. no. 14034/1/77-Esst (D) dated 23.5.1978 does not put any restriction on the age of retirement on medical ground for appointment on compassionate ground. It was submitted that the condition of age bar for giving benefit of compassionate appointment to the son / daughter or near related of Government Servant who retire on medical ground, ^{for the time was} was first incorporated under Government of India O.M. No. 14014/10/80-Esst (D) dated 18.3.1982. This provisions regarding the age bar was, however, not to apply to employees who retired on medical ground prior to 18.3.1982. It was submitted that the respondents have applied the said principles in determining the entitlement of the petitioner, although his father had been medically retired ~~in~~ way back in 1978. Thus the respondents have deliberately flouted the directions, by not deciding his representation on the basis of the provisions as were obtaining at the time the father of the petitioner was given invalid pension. It is true

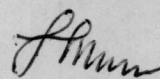
that as per para 6 of the O.M. no. 14034/1/77-Esst (D) dated 25th November 1978, there is no rider of age of retirement in the matter of compassionate appointment of Government Servant retired on medical grounds. We are, however, not persuaded by the argument of the learned counsel for the petitioner ^{that} the respondents have circumvented the instruction issued in that behalf to disobey the directions issued by this Tribunal. The direction to consider the representation for appointment on compassionate ground does not necessarily mean that appointment should be made so as to bring non-appointment under the mischief of contempt of court.

8. ^{Defence} The Ministry has been issuing guidelines from time to time for appointment on compassionate grounds. C.A-I contains the guidelines issued regarding employment in relaxation to normal rules. The respondents have considered the case of the petitioner on the basis of the guidelines issued to Army Head Quarter under letter no. 93669/Policy/DS-8C(i) dated 7th August 1987. From para 5 of the C.A., it appears that 46 persons including the petitioner were considered for appointment on two posts. The Board of Officers, who examined the claim of the petitioner, selected two persons for appointment on the said posts whose claim was found to be most deserving. On examination of the material on record, we are satisfied that the claim of the petitioner for appointment on compassionate ground has been considered by the respondents and that the same was not rejected ^{on the ground that} his father was retired on medical ground after attaining the age of 57 years. There has thus been the substantial compliance of the directions.

8. For reasons stated above, we find no case for taking action against the alleged contemners for Contempt of Court has been made out. This application is, therefore, dismissed and the notices are discharged.



MEMBER (A)



MEMBER (J)

ALLAHABAD: DATED:

am/