

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1034 OF 2002

ALLAHABAD, THIS THE 27th DAY OF MAY, 2003

HON'BLE MRS. MERA CHHIBBER, MEMBER(J)

Narendra Kumar Shahu,
s/o Late Shri K.C. Shahu,
r/o House No.284 Shahganj,
Allahabad.

....Applicant

(By Advocate : Shri D.K. Pandey)

V E R S U S

1. Union of India through,
Secretary Defence, New Delhi.
2. Directorate General of Ordnance,
Services Master General of Ordnance
Branch Army Headquarter, New Delhi.
3. Commandant Central Ordnance Depot,
Chheoki, Naini,
Allahabad.

... Respondents

(By Advocate : Shri A. Mohiley)

O R D E R

This is second round of litigation. Applicant had filed O.A. No.1481/01 because even though applicant had applied for compassionate appointment, after the death of his father on 05.05.2000, the same was not considered. In the said O.A. applicant had stated that the deceased employee had left behind 2 blind daughters and one blind son therefore, Tribunal vide



....2/-

its order dated 06.05.2002 ~~Tribunal~~ had given the following direction to the respondents:

"considering the facts that the matter regarding appointment on compassionate grounds of the applicant is still pending with the respondents, it is expected that three children of the deceased employee being blind and handicapped will be taken into consideration while considering the application for appointment on compassionate ground by the Board of Officers."

2. Respondents vide order dated 10.08.2002 rejected the claim of applicant by passing a detailed order stating therein that his case had been considered by Board of Officers 3 times before the directions were given by the Tribunal and each time he did not come in the merit within 5% vacancies reserved for compassionate appointment. Since there were more deserving cases than the applicant, therefore, his case is rejected.

3. Perusal of this letter shows that last time his case was rejected on 30.04.2002 whereas Tribunal had given direction on 06.05.2002. It seems that Tribunal's directions were not at all looked into therefore, I had directed the respondents' counsel to produce the proceedings where respondents had considered the case of applicant keeping in view that all the 3 sisters & brothers were totally handicapped and applicant had the sole responsibility to look after them whole of their life as both the sisters were 100% blind while one brother was 60% blind which is apparent from the certificates annexed at page 23, 24 and 25.

4. Counsel for the respondents produced the proceedings



before me and to my surprise this aspect has not at all been ^{into R} looked ¹ by the respondents. Counsel for the respondents tried to justify that Board of Officers considered the case of applicant as per set norms and guidelines and there was no extra column for physically handicapped children in the guidelines.

5. It is unfortunate that inspite of specific directions given by the Tribunal to take this factor into consideration, that all the other 3 children of deceased employee are blind and their mother had already predeceased the father, the respondents have totally ignored the directions. If there was no column for physically handicapped children, it was so because it might not have struck the authorities while framing the norms but that does not mean respondents could have ignored the directions. If the respondents felt directions given were not in accordance with the rules as was being contended by respondents counsel, they should have challenged the same in ^{they} higher court but under no circumstances could have ignored the directions given by a court of law. Hon'ble Supreme Court has already held that officers cannot sit in appeal over the judgment passed by a court of law, therefore, they are bound by the orders passed by Tribunal. Infact this is one of those exceptional cases where any person would come to the same conclusion that the children of deceased need special consideration because of extra ordinary situation. It is rather unfortunate that when deceased employee died he left behind ~~1~~, 2 unmarried daughters



and 2 sons. Out of whom 3 children were handicapped as both daughters were 100% blind while one son was 60% blind so naturally all the burden would come on the fourth son viz the applicant so if Tribunal had given directions to the respondents to keep this special factor in mind while considering applicant's case, respondents were duty bound to do so.

6. As stated above, I had seen the records produced and had also asked the respondent's counsel to show me that portion where respondents had considered applicant's case as per Tribunal's directions but even the counsel for the respondents could not find the same.

7. ^{intimated} I could have taken ~~summons~~ contempt proceedings against the respondents but that would not have served any purpose as far as applicant is considered. So I just leave it at that by observing that actions of respondents is not appreciated and they are warned to be careful in future in complying with the directions given.

8. Since directions already given by Tribunal have not been complied with, the order dated 10.08.2002 is quashed and set-aside. This matter is remitted back to respondents with a clear direction to reconstitute the Board of Officers who should reconsider the case of applicant by keeping it in mind that all the 3 other children of deceased are physically



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handicapped specially the unmarried two sisters who are 100% blind and the second son who is 60% blind. This exercise shall be completed within 3 months from the date of receipt of a copy of this order and the result thereof shall be communicated to the applicant. Since applicant has been dragged to the court for not complying with the directions of court, a cost of Rs.1000/- is imposed on respondents in favour of applicant.

9. With the above directions this O.A. is disposed off with no order as to costs.



MEMBER (J)

shukla/-