

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O. A.No. 964 of 2003

Allahabad: This the 27th day of May, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Umesh Kumar son of Late Daya Ram,
Resident of House No. 211/199, Tula Ram Bagh,
Allahabad.

....Applicant

By Advocate: S/Shri B.Behari and D.K.Rawat

Versus

1. Union of India through its Secretary Ministry of
Defence, Defence Head Quarter New Delhi
2. Army Ordinance Carpus
Record Office Trimul Gherry
P/o Secunderabad (DN) 15 through its Incharge.
3. Director General of Ordinance Services,
Army Head Quarter, Sena Bhawan, New Delhi
4. Personal Officer Incharge, CDD Chheeki, Allahabad.

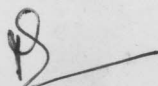
...Respondents.

By Advocate: Shri P.D.Tripathi

O R D E R

By Hon'ble Mrs. Meera Chhibber, JM

By this O.A. applicant has challenged the order dated 05.04.1999 whereby his request for compassionate appointment has been rejected on the ground that "the same could not find place in the merit in the face of more deserving cases and limited number of vacancies."



.....pg 2/-

The case accordingly stands rejected finally."

2. It is submitted by the applicant that his father died on 10.4.1993 leaving behind his widow, two sons and two daughters totally dependents on him. In September, 1993 widow of the deceased made an application for her appointment in place of her husband but no response was given thereon by the respondents. Thereafter she gave number of representations for compassionate appointment of her son, who had attained majority in the mean time vide ~~her~~ letter dated 31.7.1995. Respondents demanded the details of children from Smt. Kamla Devi mother of the applicant, which was duly given. However, vide ~~her~~ letter dated 18.4.1996 and 07.3.1997, respondents had informed the applicant that there was only one vacancy in the department and his name in the merit list was at serial no. 5 and 11 respectively. She was asked to give an-other application. Accordingly on 19.7.1997 applicant gave another application, however, the same was also rejected on 05.4.1999 and applicant was advised to ^{get himself} ~~himself~~ registered in Employment Exchange.

3. It is submitted by the applicant that being aggrieved he filed Writ Petition No. 52682 of 1999 in Hon'ble High Court of Allahabad, which was decided on 01.11.2002 by a detailed order while observing as under:-

" It is more strange that the Union of India despite a direction, has not come forward to file response and bother to give assistance to the court for disposing of the petition. Therefore, this case is being decided in absence of the respondents' counsel as the impugned order dated 05.4.1999 suffers from arbitrariness, discrimination and non application of mind as the official who has decided application has no basic idea of disposing of the application and deciding the application/representation for giving employment in the Dying-in-Harness Rules. Therefore, a mandamus is issued



to the respondents to consider the case of the petitioner and pass appropriate order for giving appointment to the class IV post from the date of application of the petitioner."

The case was directed to be listed in first week of January, 2003 for reporting compliance, ^{Sub B2} ~~which was~~ at this stage ~~the~~ respondents filed a recall application on the ground that Writ Petition is not maintainable in the Hon'ble High Court as jurisdiction lies with the Central Administrative Tribunal. It was in these circumstances that Writ Petition was ultimately dismissed vide order dated 21.5.2003. The matter was relegated to the Central Administrative Tribunal (pg.76 and 78). Thereafter applicant filed the present O.A. in the Tribunal. It is submitted by the learned counsel for the applicant that the order of rejection is absolutely non-speaking order and has been passed in stereo type mechanical manner, which shows total non-application of mind.

4. Respondents have opposed this O.A. ~~and~~ They have stated in para 11 of the C.A. that on attaining the age of 18 years, the case of the applicant was considered by a duly constituted Board of officers regularly against the vacancies released by Army Headquarter. He could not be selected on the basis of the criteria laid down to determine the relative hardship in the face of more deserving candidates and limited number of vacancies. They have submitted that the applicant was duly informed about the result of Board vide letters dated 24.7.1995, 18.4.1996, 01.3.1997 and 09.12.1997. The case of the applicant was finally rejected on 09.12.1997 in terms of Army Headquarters circulars dated 08.6.1989 and 9.3.90.

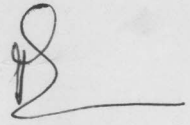
5. ~~have~~ I have heard both the counsel and perused the pleadings as well. As the outset I would like to say that the order passed by the respondents cannot be said to be speaking order from any angle. Hon'ble Supreme Court has repeatedly held that whenever a representation is given to the Authorities, the least that ~~the~~^{is} expected from the Authorities is, to apply their mind and pass a reasoned and speaking order so that it may satisfy the person concerned at that level itself without taking botheration of coming to the Court of law. It is only when stereo type orders are passed that persons ~~fail~~^{fail} to understand the actual reasons for rejection of his claim and it forced him to knock the doors of Court of law. I have repeatedly been giving direction to the respondents not to resort to non speaking orders and to pass reasoned order. Yet I am faced same kind of stereo type order, in this case also. Not only order passed by the respondents is a non- speaking order but in the C.A. also respondents have not taken any pains to explain as to what criteria was followed by them and how applicant is said to be deserving than the other candidates. In fact for passing such type of an order, as has been passed by the respondents, one does not even have to ~~open~~ the file and such an order can be dictated without considering any facts at all but that only shows non application of mind. Respondents ^{have} merely stated in the C.A. that case has been considered thrice but without giving the details as to how the case was considered, therefore, such an order cannot be sustained.

6. We are only concerned with whether the case of person concerned, has been considered properly or not. Since respondents have not given any details either in the impugned order or in the C.A. as to how the case of the applicant was considered and what is the basis for saying that his case was less meritorious than others, I do not think that impugned order can be sustained. The impugned order,



in these circumstance, is quashed and set aside. The matter is remitted back to the authorities with a direction to re-consider the case of the applicant in accordance with the parameters laid down by various guidelines issued by Government of India on the subject and then to pass a reasoned and speaking order in accordance with law within a period of three months from the date of receipt of a copy of this order under intimation to the applicant.

7. The O.A. is partly allowed with no order as to costs.



Member-J

Brijesh/-