

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 28th day of JANUARY 2010

Original Application No. 24 of 2008

Hon'ble Mr. S.N. Shukla, Member (A)

Kedar Nath Mishra, S/o Sri R.N. Mishra, R/o Village Khaira Chak (Amra)
Parvati Katra Post Khandva, C/o Parath Keshari, Tehsil Bhojubeer Police
Station Rohania, Distt: Varanasi.

Applicant

By Adv : Sri O.P. Gupta & Sri S. Singh

VERSUS

1. Union of India through its General Manager, D.L.W. Varanasi.
2. Chief Mechanical Engineer (Production) Varanasi.

Respondents

By Adv: Sri K.S. Saxena

ORDER

Heard Sri O.P. Gupta, learned counsel for the applicant and Sri
K.S. Saxena, learned counsel for the respondents.

2. This OA has been filed seeking the following reliefs: -

- i. *issue a writ, order or direction in the nature of mandamus directing the respondents to get the applicant examined by a competent medical officer to ascertain the facts as to whether the applicant is unfit or not*
- ii. *to issue an order or direction directing the respondents to employ the son of the applicant, if it is found that the applicant was unfit during the course of his duty*
- iii. *issue writ, order or direction in the nature of mandamus directing the respondents to make payment of arrears of salary from Sept.2005 to 31 March 2007 in the interest of justice.*

3. It is to be noted that in this case earlier OA No. 800/07 (Kedar Nath Mishra Vs. Union of India and others) was filed and the same was decided vide order dated 14.08.2007. In the said order the applicant was allowed to file a self contained representation raising all his grievances, which has

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been disposed of through office order No. WUP/Kalyan/HOD 32/04 dated 12.09.2007 where all the grievances of the applicant have been dealt with in detail.

4. On going through the facts of the case, pleadings on record and after hearing the learned counsel for the parties, it is seen that there is no illegality and infirmity pointed out in the order dated 12.09.2007. Incidentally order dated 12.09.2007 (Annexure A-1/Compilation I) has not even been impugned in this OA. The case of the applicant revolves on presumption that during the period between 13.08.2005 to 16.03.2007 when the applicant was intermittently in and out of the hospital his entire period spent in the hospital should be treated as 'on duty' and salary be paid to him and also he should have been retired on medical ground instead of retiring on superannuation. Had that been so perhaps his son could have got appointment on compassionate ground.

5. Needless to say that genuine grievance of the applicant have already been dealt with in order dated 12.09.2007 and the other pleas based on presumptions and imagination.

6. In view of the above this OA is devoid of merit and the same is dismissed. No cost.

Member (A)

/pc/