

Y/o

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA No. 16/2013
Jodhpur this the 02nd day of September, 2013.

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)

Pratik Limba S/o Late Shri Om Prakash, aged 21 years, R/o K-58, Veer Durgadas Colony, Baldev Nagar, Akhilya Chouraha, Jodhpur, Rajasthan, who is unemployed.
His father Late Shri served in AGE B/R II Pokaran, under Garrison Engineer (Army) Jaisalmer.

.....Applicant

(Through Advocate Mr Samual Masih)

Versus

1. Union of India through, the Secretary to the Govt. of India, Ministry of Defence, Raksha Bhawan, New Delhi - 110011.
2. Chief Engineer Southern Command, Pune-411001.
3. Chief Engineer Jodhpur Zone, Opp. Military Hospital, MES, Jodhpur.
4. Commander Works Engineer (Army) Banar, Jodhpur, Rajasthan.
5. Garrison Engineer (Army) Jaisalmer, Rajasthan.

(Through Advocate Ms K. Parveen)

.....Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

This OA has been filed by Shri Pratik Limba under Section 21 of the Central Administrative Tribunal Act, 1985 against the respondent-department averring that his father Late Shri Om Prakash was permanent employee in the Department of Military

Engineer Service at Garrison Engineer (GE) Army under AGEB/R II at Pokran, Jaisalmer who expired on 07.08.2009 while performing his bonafide duty. After death of the applicant's father, applicant applied for appointment on compassionate ground to GE (Army) Jaislmer. The applicant received a speaking order 3rd look from CE Bhopal Zone letter dated 05.03.2011 intimating rejection of employment assistance to the applicant. In another communication received as a speaking order 4th look from CE Bhopal Zone vide letter dated 09.05.2011, 5th look, 6th look and 7th look from CE Bhopal Zone vide letters dated 15.09.2011, 19.10.2011 and 21.10.2011 respectively. The applicant served notice to the respondent authority to consider his candidature to appoint him on compassionate grounds. The claim of the applicant for employment assistance by way of appointment on compassionate ground has been rejected by the respondent-department, therefore, the present OA has been filed seeking following relief(s) :

- (i) **That on the basis of the facts and grounds mentioned herewith, the applicant prays that the respondents may kindly be directed to give appointment on compassionate grounds to the applicant forthwith.**
- (ii) **Cost of the litigation may also be awarded to the applicant from the respondents.**
- (iii) **Any appropriate order or relief which the Hon'ble Tribunal deems fit in favour of the applicant may kindly be granted to the applicant.**

2. The Miscellaneous Application filed by the applicant in this Tribunal to put on record certain documents including the report filed under Section 174 of the CrPC by the Police Station, Pokaran, District – Jaisalmer, post mortem report of the father of the applicant conducted by the Medical Officer at Primary Health Centre, Pokaran, District-Jaisalmer and the complaint filed in the office of J.V.V.N.L., Jodhpur regarding non-supply of electric current to the AG feeder of MES, has been allowed today.

4. The respondent-department by way reply averred that the case of the applicant was considered 3 times for consecutive years against the 5% vacancies available for appointment on compassionate grounds and after due consideration the applicant could not find place in merit. Therefore, candidature of the applicant was rejected by the respondent-department. It has been averred that appointment on compassionate ground cannot be claimed as a matter of right as the nomenclature of the arrangement itself suggests. It has been averred that the case of the applicant was considered for the year 2009-10, 2010-11 and 2011-12 and has been recommended for the year 2012-13 but before any final rejection or decision on the same, the applicant has approached this Tribunal. It has been averred that in the absence of final rejection order, the present OA filed by the applicant is not maintainable.

5. Heard both the parties. Counsel for the applicant contended that by way of MA the applicant has filed certain documents regarding inquiry report filed under Section 174 of the CrPC, post mortem report and other documents and he further contended that the applicant's claim has been recommended for the next look for the vacancies arising for the year 2012-13 but on earlier 3 occasions his claim was rejected, therefore, he approached this Tribunal.

6. Per contra counsel for the respondents contended that the case of the applicant for appointment on compassionate ground is still pending before the respondent-department for the consideration against the vacancies arising for the year 2012-13.

7. In view of the fact that case of the applicant is still pending consideration against the vacancies arising for the year 2012-13, we are proposing to dispose off this OA with the directions that applicant may file a representation to the respondent-department alongwith the documents which have been filed by the applicant today by way of MA alongwith other documents within one month from the date of receipt of this order. Thereafter, respondent-department is directed to consider these documents alongwith representation within 4 months from the date of receipt of such representation.

8. With above directions, OA is disposed off with no order as to costs.

Meenakshi Hooja
(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

Justice K.C. Joshi
(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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