

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00239/14

Jodhpur, this the 6th September, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

Anil Yadav S/o Late Shri Deen Dayal Yadav aged about 24 years, resident of C/o Shri Naino Ram Gahlot, Plot No. 83, Vyas Colony, Near Air Force Gate Jodhpur – 342011 (Raj). His late father was last employed on the post of Mazdoor C.O.D. Kanpur (UP).

.....Applicant

By Advocate: Mr J.K. Mishra.

Versus

1. Union of India through Secretary to the Govt. of India, Ministry of Defence, Raksha Bhawan, New Delhi-110001.
2. Directorate General of Ordnance Services (OS-8C (i) Master General of Ordnance Branch, Integrated HQ of MoD (Army) DHQ PO – New Delhi - 110001.
3. The Commandant, Central Ordnance Depot, Kanpur – 208013 (UP) PIN – 9000273 C/o 56 APO.

.....Respondents

By Advocate : Mr B.L. Bishnoi.

ORDER (Oral)

The present Original Application has been filed U/s 19 of the Administrative Tribunals Act, 1985 seeking following reliefs:

(i) That impugned order dated 11.04.2014 (Annex. A/1) may be declared illegal and the same may be quashed. The respondents may be directed to reconsider the candidature of the applicant afresh objectively as per rules in force and

allowed with all consequential benefits including giving appointment if already recommended by the Board.

- (ii) The respondents may be directed to produce at the time of hearing of this case, the relevant original records/the relevant case file of minute of Board of Officers' proceedings/file containing noting, including the comparative merits of the candidates considered/selected during the years in which the case of the applicant is said to have been considered for appointment on compassionate grounds.
- (iii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded.

2. The case of the applicant is that his father expired on 29.11.2011 while in active service of the respondents. The family is survived by widow and two sons. The applicant is the younger son of the deceased employee. Applicant's mother did not apply for compassionate appointment on account of her ill health and being illiterate. The applicant's elder brother is unemployed and remains sick. The applicant applied for the compassionate appointment vide application Annex. A/4. However, the applicant was informed vide letter dated 07.08.2013 that he had secured 62 marks out of 100 marks and therefore, he could not be selected. His candidature would automatically be considered for 2nd time in the Annual Board Proceedings. The applicant served a legal notice dated 31.03.2014 (Annex. A/6) through his counsel for demand of justice. However, the applicant was again informed vide letter dated 11.04.2014 (Annex. A/1) that his case was

considered in February, 2014 but he could not be selected due to the laid down procedure. The grievance of the applicant is that in the said letter, nothing is disclosed as to which laid down criterion has not been fulfilled by the applicant. He has reasonable doubt regarding proper consideration of his case since his family has been passing through a miserable condition and facing financial difficulties.

2. The respondents in their reply have stated that the vacancies are released by the MOD/AGs Branch under ADRP Scheme. The timing and numbers of vacancies are entirely controlled by the said authorities. Only on receipt of such vacancies, Integrated HQs of Ministry of Defence (Army) hold the meeting of Annual Selection Board. On receipt of vacancies under ADRP Scheme for the year 2010-11, IHQ of MoD (Army) held Board of Officers meeting on 23.05.2013. The result was forwarded to the applicant vide letter dated 07.08.2013 (Annex. R/1). The 2nd Board of Officers for the vacancies for the year 2011-12 was held on 07.02.2014. The result was intimated to the applicant vide letter dated 11.04.2014 (Annex. A/1). The case of the applicant will be re-considered for appointment on compassionate ground in the 3rd Board of Officers. The applicant has neither taken the cognizance of the letter issued by respondent No. 3, nor waited for the result of 3rd Board of Officers

meeting in which his case will be reconsidered for the purpose of appointment on compassionate ground. Thus, the OA filed by the applicant is premature.

3. Heard both the counsels.

4. Mr J.K. Mishra, Ld. counsel for applicant stated that through impugned order dated 11.04.2014 (Annex. A/1) the applicant has merely been informed that his request for compassionate appointment has been turned down. Since the applicant had secured 62 marks, it made him eligible for being considered against 5% quota assigned by the Government for compassionate appointment. The applicant has not been supplied with the details of the other, so called meritorious candidates who have been selected stealing a march ahead of him. The Ld. counsel for the applicant felt that both communications, rejecting his candidature i.e. letter dated 07.08.2013 (Annex. R/1) and 11.04.2014 (Annex. A/1) have been issued mechanically even the language is identically worded, exhibiting a non-application of mind. He contended that the applicant would be in a better position to assess the situation about the judiciousness of the selection, if the parameters used for selection by the respondents are made available to him.

5. Mr B.L. Bishnoi, Ld. counsel for respondents stated that while he is willing to accede to the request of the applicant for his comparative merit but quashing of Annex. A/1 letter is certainly not warranted being merely an information given to the applicant regarding status of his candidature.

6. I have considered the rival contentions and perused the record. The respondents have a responsibility while considering, and then, rejecting the application, to explain to some extent at least, as to how the case of the applicant is/was less meritorious compared to other candidates, who have been selected by the Board of Officers. The applicant cannot be dismissively informed of rejection. Therefore, the respondents are directed to supply minutes of Board of Officers' meeting dated 23.05.2013 and 07.02.2014, in which his case was considered, to the applicant within 02 months from the date of receipt of copy of this order. The respondents shall also supply the comparative merit to the applicant vis a vis the selected candidates.

7. In terms of above direction, OA is disposed of with no order as to costs.


[Praveen Mahajan]
Administrative Member

Ss/-

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