

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 234/2009

This the 12/15 day of February, 2010

Hon'ble Dr. A.K. Mishra, Member(A)

Usman Ali, S/o late Musibat Ali, R/o Ramzan Nagar, Telibagh, Post Kharika, District Lucknow

.....Applicant

By Advocate: Sri A.P. Singh

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Adjutant General, Adjutant General's Branch, MP-5 Integrated Headquarters of MOD, (Army) DHQ, P.O. New Delhi.
3. Provost Marshal, Provost Marshal's Office, Adjutant General's Branch, Integrated Headquarters of MOD (Army), DHQ, P.O. New Delhi.
4. Officer Incharge, Records Corps of Military Police Records, PIN 900493 C/o 56 APO.
5. Commanding Officer, Central Command Provost Unit, Lucknow.-2.

.....Respondents

By Advocate: Sri K.K. Shukla

ORDER

The applicant has challenged the letter dated 2.6.2008 issued on behalf of Respondent no.5 in which the applicant's mother was informed that her request for compassionate appointment of her son was considered by the Board of Officers and it could not be allowed on merits. The applicant has prayed for quashing of this order on the ground that it is cryptic in nature without revealing any reasons for rejection.

2. The learned counsel for the respondents raised the preliminary objection that this application had been filed by Sri Usman Ali, whereas the impugned order was communicated to his mother Smt. Roshan Bibi. The applicant has no locus standi in filing this application, inasmuch as the impugned order was not addressed to him. The learned counsel for the applicant drew my attention to the fact that the impugned order was in respect of rejection of the case of

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compassionate appointment of the applicant, who being aggrieved by this rejection order, had necessary cause of action to file this application. He also pointed out the letter of the respondent-authority dated 24.5.2006 at Annexure A-5, which clearly referred to the case of the applicant being considered on compassionate ground. Further, the applicant's mother in her representation dated 3.6.2005 and subsequently on 17.10.2006 had requested for considering the case of the applicant for compassionate appointment; therefore, there should not be any doubt that the applicant was the necessary aggrieved party and was legally entitled to file this application. I find that the contentions of learned counsel for the applicant are valid and accordingly the preliminary objection of the learned counsel for the respondents is overruled.

3. At the time of hearing, the learned counsel for the applicant confined his argument to the impugned letter being cryptic in nature and, therefore, being unsustainable in the eyes of law. The impugned letter is extracted below for better appreciation:

"It has been intimated by CMP records that application for compassionate appointment in respect of Shri Usman Ali was placed before the Board of Officers and the same had not come up in the merit.

The same is forwarded for your information."

4. It is clear that no reasoning has been given and no grounds have been mentioned why the case of the applicant, which was considered by the Board of Officers, was not recommended on merit. The learned counsel for the respondents submits that there were discrepancies in the affidavits furnished by the applicant's mother as regards the details of her family members furnished by her at different points of time. Further, the dates of birth of the applicant mentioned in the School Transfer Certificate issued by Ram Bharose Maiku Lal Inter College, Lucknow on 17.2.2001 and in the mark-sheet for High School Examination for 2007 issued by the Board of High School and Intermediate Education, U.P. are widely differing from each other. According to him, it indicates that the applicant had not come with clean hands either before the respondent-authority or before this Tribunal.

5. The learned counsel for the applicant rebuts by saying that the High School examination marks-sheet for 2007 was never submitted



by the applicant, or his mother. All along in the representations made to the respondent-authorities, it was their claim that the qualification of the applicant was IXth standard pass. In any case, these are not the grounds on which his case was rejected by the competent authority or the Board of Officers as seen from the impugned letter.

6. I find that the impugned letter dated 2.6.2008, being cryptic in nature, cannot be sustained in law. Therefore, this letter is set-aside and the competent respondent authority is directed to pass fresh reasoned order on the representations of the applicant's mother for compassionate appointment of the applicant. No costs.

A. K. Mishra
(Dr. A.K. Mishra) 12/02/2011
Member-A

Girish/-