

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Original Application No. 406 of 2010

Order Reserved on 3.2.2015

Order Pronounced on 18/2/15

**HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

Surendra Kumar aged about 18 years son of Yogendra Kumar Badshah residence of house No. 596GHA/36, Badrakhera, Kanpur Road , Police Station Krishna Ngar, Lucknow.

Applicant

By Advocate Sri D. Kumar.

Versus

1. The Union of India through its Secretary, Ministry of Defence.
2. Director/Disciplinary Authority, Defnece Research and Development Organization, Kanpur.
3. Senior Administrative Officer Grade-1, Defence Materials and Stores Research and Development Establishment, Kanpur.

Respondents

By Advocate Sri S. P. Singh for Sri Rajendra Singh.

ORDER

By Hon'ble Mr. Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:

- (a) This Hon'ble Tribunal may very kindly be pleased to set aside the impugned order dated 10.5.2010 passed by the opposite party No. 2 contained as Annexure No. 1 to the Original application.
- (b) This Hon'ble Tribunal may kindly be pleased to direct the opposite party No. 2 deem the father of applicant in

service until he is found or declares died in the eyes of law, after expiry of seven year.

(c) This hon'ble Tribunal kindly further direct the opposite party to pay the interim amount to the applicant if admissible in rule under the facts of the case.

(d) This Hon'ble Tribunal may kindly be pleased to pass any other order or direction as may deem and fit under the facts and circumstances of the case.

2. The brief facts of the case are that the applicant is son of Yogendra Kumar Badshah, who was an employee of the respondents organization and the applicant's father was working in the respondents organization at Kanpur did not returned back to his home for considerable period then the applicant submitted information about his father and he came to know that he is not attending duties since 29.12.2005. As such, applicant came to know that his father is missing. Not only this, the applicant also received a notice from the respondents office asking the employee to report for duty and finally the respondents passed an order of compulsory retirement vide order dated 10.5.2010 indicating there in that despite due opportunity, the applicant's father failed to report for duty as such a punishment of compulsory retirement was passed.

3. The learned counsel for the applicant has also indicated that the applicant has also submitted the representations to the authorities asking the authorities to release the admissible retiral dues to the applicant as the applicant is the son and not only this, he has also sought certain information under the RTI and as per the RTI information, it is indicated that the applicant is a son of Yogndra

Kumar as declared by him. The applicant has also brought to the notice of the Bench about the declaratory suit filed before the Civil Judge Malihabad Senior Division vide Civil Suit No. 738 of 2013 and has indicated that the said suit is still pending before the competent court.

3. On behalf of the respondents, the counter reply is filed. Through their counter reply, it is indicated by the respondents that the applicant's father was unauthorisedly absent since 29th December, 2005 and when he has not reported for duty, he was served with a notice at his local and permanent address, but neither he responded nor reported for duty therefore, board was constituted to enquire about the whereabouts and subsequently a notice was published on 8.6.2007 in the local daily News Paper Amar Ujala directing the employee to report for duty failing which disciplinary proceedings under rules may be taken against him and in absence of any reply from him within 10 days of publication, the competent authority decided to issue a charge sheet upon him. After the appointment of the inquiry officer when the applicant's father did not appear before the enquiry officer, the ex-parte inquiry report was submitted and finally the applicant's father was informed through local daily news paper to submit his defence and a notice was also sent to his last known address and subsequently the punishment of compulsory retirement was passed. Not only this, it is also indicated by the learned counsel for the respondents that the applicant has also appealed for giving terminal benefits and also for compassionate appointment.

4. The learned counsel for the respondents has also indicated that the present O.A. is accordingly liable to be dismissed as there is no illegality.

5. On behalf of the applicant rejoinder affidavit is filed and through rejoinder mostly the averments made in the O.A. are reiterated and the contents of the counter reply are reiterated.

6. Heard the learned counsel for the parties and perused the record.

7. The applicant is the son of the employee namely Yogendra Kumar. The applicant's father was unauthorisedly absent since 29.12.2005. There were number of notices which were issued and when nothing was heard from the employee, the respondents have decided to proceed ex-parte against the employee and accordingly the charge sheet was issued.

8. The notice so issued was also published in the News Paper and when no one has turned up to give reply to the notice and responded upon the notice duly published in the News Paper, the authorities have decided to impose a punishment of compulsory retirement. Accordingly, the impugned orders are passed.

9. Now by means of the present O.A., the applicant has prayed for quashing of the order of compulsory retirement and has also praying for issuing a direction upon the respondents to pay the interim amount if admissible in accordance with rules.

10. It is also pointed out by the applicant that he has also filed a declaratory suit before the Civil Judge Mahihabad, Senior Division which is pending before the court below.

11. The father of the applicant was given due notice and when no one has responded on the said notice, only thereafter, the respondents have passed an order of compulsory retirement. Hence there is no need for interference. As regard, the payment of retiral dues is concerned, the respondents may consider for release of the same in accordance with law to the applicant within a period of three months from the date of receipt of copy of this order is produced.

12. With the above observations, the O.A. stands disposed of. No order as to costs.

J. Chandra
(Ms. Jayati Chandra)
Member (A)

Navneet Kumar
(Navneet Kumar)
Member (J)

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