

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No.138/2012

This the 13th day of April 2012

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Gaurav Kumar, aged about 24 years, son of Late Mahadeo Pratap Singh, resident of House No.98, Colonelganj Fatehgarh Cantt.- 229601, presently residing at Nai Basti, Neelmatha, Cant., Lucknow.

...Applicant.

By Advocate: Sri Dharmendra Awasthi.

Versus.

1. Union of India through Deputy General of Infantry/If-6(Pers.), General Staff Branch, Integrated Head Quarter of Ministry of Defence (Army), Sena Bhawan, New Delhi-110105.
2. Chief Record Officer, Rajput Regiment, Abhilekh Karyalaya, Record the Rejput Regiment, C/o-56, APO, Fatehgarh, U.P.
3. O.I.C. Records, Rajput Regiment, Abhilekh Karyalaya, Record the Rajput Regiment, Fatehgarh, U.P.

....Respondents.

By Advocate: Sri P.K. Awathi holding brief for Sri R. Mishra.

ORDER (Oral)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Heard.

2. This O.A. has been filed impugning the order dated 22.11.2011 passed by Respondent No.3 contained in Annexure-1 in respect of compassionate appointment.

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3. The perusal of the impugned order shows that it has been passed in view of O.M. No.14012/19/2002-Estt. (D) dated 05.05.2003 issued by D.O.P.T., which has already been struck-off on the ground of it being ultra-virus of the Constitution of India in the case of **Hari Ram Vs. Food Corporation of India and Others reported in (2009) 3 UPLBEC-2212**. Following the above verdict this Tribunal has already decided similar matter in **O.A.No.97/2010 inre: Amar Nath Sukul Vs. Union of India & Others decided on 18.04.2011**. The learned counsel for the applicant submits that he wants similar relief that his matter may not be treated as closed in view of the aforesaid O.M., and the respondents may consider his case for compassionate appointment as and when vacancy may arise, in accordance with the relevant provisions, ignoring the aforesaid O.M. dated 05.05.2003, which has prescribed the maximum period of three years for considering such applications.

4. In view of the above submission, this Tribunal is not adverting to other grounds. There is also no need to call for counter affidavit

5. The fixing of time limit of three years for offering compassionate appointment has been declared to be irrational, arbitrary, unreasonable and violative of Article 14 and 16 of the Constitution of India by our own Hon'ble High Court in the above case of **Hari Ram (Supra)** and this Tribunal has already followed the above judgment in the aforesaid O.A.No.97/2010 decided on 18.4.2011 and several other O.As. Therefore, there is no

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justification to adopt a different view now in the present matter.

6. In view of the above, this O.A. is allowed. The impugned order is hereby quashed. The respondents are directed to keep alive and reconsider the claim of the applicant for compassionate appointment as and when vacancy arises in accordance with relevant existing rules ignoring the aforesaid O.M. dated 05.05.2003 issued by D.O.P.T. No order as to costs.


(Justice Alok Kumar Singh)

Member (J)

Amit/-