

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:428/2001

MONDAY the 9th day of SEPTEMBER 2002

CORAM: Hon'ble Shri S.L.Jain, Member (J).

Ravindra Dilip Manjare
Residing at
PO, Kudje, Tal.
Haveli, Dist. Pune.

...Applicant.

By Advocate Shri S.V. Marne.

V/s

1. The Union of India through
The Director General of
Military Training,
General Staff Branch,
Army Head Quarters
DHQ PO, Delhi.

2. The Commandant
National Defence Academy
Khadakwasla, Pune.

...Respondents.

By Advocate Shri R.K. Shetty.

ORDER(ORAL)

{Per S.L.Jain,Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 to quash and set aside the impugned order dated 28.11.2000 with the direction to the respondents to appoint the applicant on compassionate grounds.

2. It is the settled proposition of law that the Tribunal can only direct the respondents to consider for appointment on compassionate ground and cannot direct the respondents to appoint on compassionate ground.

P.S.M.

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3. Applicant's father Dilip N Manjare was medically invalidated on 4.4.1998. Thereafter the applicant had submitted an application for compassionate appointment in December 1998 and the respondents have passed the impugned order dated 28.11.2000 deleting the name of the applicant from the waiting list.

4. The learned counsel for the respondents relied on para 1 and 9 of the Written Statement along with Annexure R-7, R-8 and R-9. It is worth mentioning that principal of poverty line has not been upheld by this Tribunal in *accordance with law*.

5. On perusal of the written statement para 1 it is apparent that the respondents have applied the criteria which came in force on 28.11.2000. In view of para 9 of the written statement, it is clear that respondents have taken into consideration the pensionary benefit received by applicant's father and also applied the criteria which came in force on 12.7.2001 (Exhibit-R-9).

6. The consideration of the respondents is vitiated on account of the fact that the applicant's right to consider the case came into existence only on 4.4.1998. The criteria which is laid down later on cannot be applied to this case. The benefit received on account of retirement also can not be taken into consideration.

ALM -

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7. In the result, the OA. is allowed. Order dated 28.11.2000 Annexure A-1 (Page 15) is quashed and set aside. The matter is remitted to the respondents to consider afresh in accordance with Rules prevailing at the relevant time within three months from the date of receipt of copy of the order. No order as to costs.


(S.L.Jain)
MEMBER (J)

NS/mrj.