

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 23-09-88

APPLICATION NO.

670 & 716 / 88 (F)

W.P. NO.

Applicant(s)

Maj. Kartar Singh Vs U.O. I by Secy. M/Defence & ors.
To Maj. Kartar Singh, Padwal

(1) Maj. Kartar Singh, Padwal,
Administrative Officer,
3, Karnataka Battalion NCC,
Race Course Road,
Bangalore - 560 001.

(2) Sh. N. B. Bhat, M.A. LL.M.,
Advocate,
545, 16-A, Main, III Block
Koramangala
Bangalore - 34.

(3) The Secretary,
Ministry of Defence,
New Delhi - 110 022

(4) Director NCC,
NCC Directorate, PUNJAB,
Haryana, Himachal Pradesh and
Chandigarh, CHANDIGARH - 160 026.

(4) Director General NCC,
Ministry of Defence,
R.K. Puram, West Block-4
New Delhi - 110 066

(5) Sri. M S. Padmarayiah,
SC & SC,
High Court Buildings,
BANGALORE - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 19-09-88.

O/C

Rec'd 1/1

Rec'd
27/9/88

K. S. Padwal

27-9-88 Regd

O/C

R. J. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 19TH DAY OF SEPTEMBER, 1988.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy, .. Vice-Chairman.

And

Hon'ble Mr.L.H.A.Rego, .. Member(A).

APPLICATIONS NUMBERS 670 AND 716 OF 1987

Maj.Kartar Singh Padwal,
S/o A.Shankar Singh Padwal,
Administrative Officer,
3, Karnataka Battalion NCC,
Race Course Road,
Bangalore-560 001.

.. Applicant

(By Sri N.B.Bhat,Advocate)

v.

1. Union of India
by the Secretary to Government of India,
Ministry of Defence,
New Delhi-110 022.

2. Director General NCC,
Ministry of Defence,
Government of India,
R.K.Pura,
New Delhi - 110 066.

3. Director NCC,
NCC Directorate, Punjab,
Haryana, Himachal Pradesh and
Chandigarh, CHANDIGARH - 160 026.

.. Respondents.

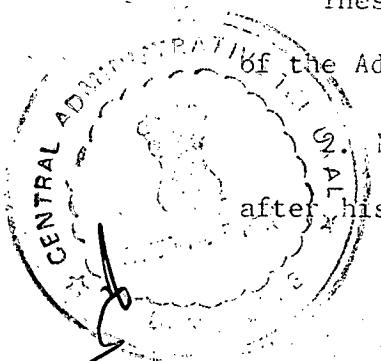
(By Sri M.S.Padmarajaiah, SCGSC)

This application having come up for hearing this day, Hon'ble Vice-Chairman made the following:

O R D E R

These are applications made by the applicant under Section 19 of the Administrative Tribunals Act,1985 ('the Act').

2. Major Kartar Singh Padwal, the common applicant before us, after his discharge from the Indian Army, has been working as a NCC



Permanent Commissioned Officer from 8-6-1968 in the National Cadet Corps ('NCC'), functioning under the National Cadet Corps Act, 1948 (Central Act 31 of 1948) ('NCC Act') and the National Cadet Corps Rules, 1948 ('the Rules') framed by the Central Government thereunder.

3. On 10th December, 1985, on which day a Promotion Board ('Board') constituted thereto considered the cases of eligible officers of the NCC for promotion to the rank of Lt. Col., the applicant was also eligible for promotion to that rank. In that view, on that day the Board considered the case of the applicant for promotion to the aforesaid rank and placed the results of its deliberation in regard to him, in a 'sealed cover' on the ground that there was a disciplinary proceeding against him. On this view, the applicant had not been promoted to the rank of Lt. Col. from 10-12-1985 or thereafter.

4. In connection with an incident, the details of which are not necessary to set out, the Director General, NCC, Ministry of Defence, New Delhi and the Disciplinary Authority ('DA') on 4-6-1986 (Annexure-C) had initiated disciplinary proceedings against the applicant under the NCC Act and the Rules and they are still pending disposal before him.

5. On 29-7-1987 the applicant has approached this Tribunal to quash the disciplinary proceedings initiated against him by the DA and for a direction to promote him to the rank of Lt. Col. from the date his immediate junior was promoted.

6. The applicant has urged more than one ground in support of his cases.

7. In justification of the adoption of 'sealed cover procedure' and the initiation of disciplinary proceedings, the respondents have filed their reply and have produced their records.

8. Sri N.B.Bhat, learned counsel for the applicant contends that as on the day the Board considered the case of the applicant for promotion, there were no disciplinary proceedings initiated against him under the NCC Act and the Rules and, therefore, it was not open to the Board to adopt the 'sealed cover procedure' against him and withhold his promotion on that day. In support of his contention, Sri Bhat strongly relies on the Full Bench ruling of this Tribunal in K.CH.VENKATA REDDY AND OTHERS v. UNION OF INDIA AND OTHERS [(1987) 3 A.T.C.174].

9. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents refuting the contention of Sri Bhat, however, contends that the circumstances that had so far developed also justify us to decline to interfere, even if there was any merit in the same.

10. In challenging the initiation of disciplinary proceedings by the DA under the NCC Act and the Rules, the applicant sought for their stay, which had not been granted by us. On this, the DA had continued with the disciplinary proceedings against the applicant and they are now in a very advanced stage. Sri Bhat did not rightly dispute this position. On this development that stares at us, we are of the view that this is a fit case in which we should decline to examine the two claims made by the applicant in these cases and the legal contentions urged by both sides in support of their respective cases, leave them open and only direct the respondents to expeditiously dispose of the disciplinary proceedings and thereafter finalise the case of promotion in regard to the applicant early.

11. Sri Padmarajaiah seeks three months' time for completing the disciplinary proceedings and one month thereafter to regulate the promotion. Sri Bhat urges for completion of all matters within one month from this day.

12. We have considered every aspect touching on this. On such an examination, we consider it proper to direct the completion of the disciplinary proceedings against the applicant on or before 30-11-1988 and thereafter the promotion on or before 31-12-1988.

13. In the light of our above discussion, we make the following orders and directions:

- 1) We direct the respondents to complete the disciplinary proceedings initiated against the applicant on 4-6-1986 (Annexure-C) with all such expedition as is possible in the circumstances of the case and in any event on or before 30-11-1988 and thereafter regulate his promotion to the rank of Lt. Col. from the date his immediate junior was so promoted to the aforesaid rank with due regard to the recommendations of the Board extending him all such consequential benefits flowing from the same on or before 31-12-1988.
- 2) We leave open all other questions.

14. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.

15. Let this order be communicated to all the parties within a week from this day.

Sd/-
VICE-CHAIRMAN. 19/9/88

np/

TRUE COPY

Sd/-
MEMBER(A) 19-9-88

BAL DURGAI 19-9-88