

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 399/97

Date of Decision: 6.5.97

Shri Uday Gopal Sunil

.. Applicant

Shri D.V.Gangal.

.. Advocate for  
Applicant

-versus-

Union of India and others.

.. Respondent(s)

.. Advocate for  
Respondent(s)

CORAM:

Shri  
The Hon'ble/ M.R. Kolhatkar, Member (A)

The Hon'ble

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to  other Benches of the Tribunal ?

M.R. Kolhatkar  
(M.R. Kolhatkar)  
Member (A)

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH 'GULESTAN' BUILDING NO:6  
PRESOT ROAD, BOMBAY:1

Original Application No. 399/97

Tuesday the 6th day of May 1997

CORAM: Hon'ble Shri M.R. Kolhatkar, Member (A)

Uday Gopal Sunil  
residing at Building  
No.7-A R.No. 129  
Sector - VII C.G.S.  
Colony, Antop Hill  
Mumbai. ... Applicant.

By Advocate Shri D.V.Gangal.

V/s.

The Union of India through  
the Secretary  
Ministry of Defence  
South Block, New Delhi.

Garrison Engineer (North)  
Kalina, Santacruz (E)  
Mumbai. ... Respondents.

O R D E R (ORAL)

( Per Shri M.R.Kolhatkar, Member (A) )

In this O.A. two fold reliefs have been sought namely compassionate appointment for which an application has been filed on 29.4.97 and secondly for settlement dues of the <sup>late</sup> ~~father~~ other than family pension. The applicant has sought interim relief of not distrubing the applicant and his brother from the quarters in their occupation (originally allotted to late father). In this O.A. two distinct reliefs have been sought and <sup>or</sup> ~~is hit~~ by <sup>vicel</sup> ~~multiple~~ reliefs. The present O.A. is therefore to be treated as one for ~~compassionate~~ appointment. The O.A. appears to be premature as the respondents have not ~~taken~~ any decision regarding the application of the applicant for compassionate appointment. In the circumstances O.A. is disposed of at the admission stage,

directing the respondents to consider the application dated 29.4.97 of the applicant for compassionate appointment as per Rules within a period of two months from the date of receipt of this order.

2. In the meanwhile, till the decision is taken and communicated and two weeks thereafter, the applicant and his brother may not be disturbed from the quarter in their occupation subject to payment of rent, water and electric charges etc. as per Rules. O.A. is accordingly disposed of.

M.R. Kolhatkar

(M.R. Kolhatkar)  
Member (A)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P.62/97 in  
Original Application No. 399/97

Tribunal's order

Dated: 1.6.98

Shri D.V.Gangal, counsel for the applicant.  
Shri R.R.Shetty for Shri R.K. Shetty counsel for the  
respondents.

2. This C.P. has been filed by the applicant  
alleging that the respondents have committed contempt  
of the order passed by this Tribunal dated 6.5.97 in  
O.A. 399/97. The respondents have filed the reply  
opposing the C.P. We have heard the counsel for  
both sides.

3. The applicant has filed the O.A. for  
compassionate appointment. The said O.A. came to  
be disposed of at the admission stage directing the  
respondents to consider the case of the applicant for  
compassionate appointment as per Rules within two  
months from the date of receipt of the order.

4. The applicant has submitted that although  
he has filed all the document as required by the  
respondents, they have not passed any order for  
compassionate appointment and thereby the respondents  
have violated the order dated 6.5.97.

5. The respondents submits that the applicant  
had not produced all the documents as required by  
them as per rule and further the applicant has not  
produced the NOC from his step monther and therefore  
applicant's claim for compassionate appointment could  
not be considered.

6. At the time of argument, the learned counsel for the applicant submitted that the step mother is not willing to give the NOC and therefore he cannot be made to do something which is impossible and his claim should be considered by the respondents on available documents produced by him. The learned counsel for the respondents contended that as per rules the NOC of step mother has to be produced by the applicant before his case is considered for compassionate appointment.

In so far as other documents are concerned it appears that the applicant had sent the documents and the same has been subsequently returned by the respondents.

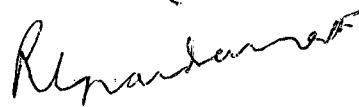
7. In our view the respondents should consider the case of the applicant as per Rules on the available documents produced by him and decide whether he is entitled for compassionate appointment or not. If the applicant is aggrieved by any such order that may be passed by the respondents then he will have to challenge the same according to law. At this stage it may be difficult to give a finding whether the respondents have committed wilful dis-obedience or not. We have taken a view to give direction to the respondents to pass appropriate speaking order on the claim of the applicant. There is no necessity to record positive finding whether the respondents have committed contempt of the order passed by the Tribunal or not.



We hereby give liberty to the applicant to produce whatever documents that are available with him to the respondents including undertaking to be given within a period of four weeks from today. After such documents or additional documents are furnished by the applicant, the respondents shall consider the same as per rules and pass a speaking order within a period of four weeks on the question whether the applicant is entitled to compassionate appointment or not.

8. In the result the C.P. is disposed of subject to above observation made in this order. No order as to costs.

  
(D.S. Bawej)  
Member (A)

  
(R.G. Vaidyanatha)  
Vice Chairman

NS