

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR

Original Application No. 781 of 2005

Jabalpur, this the 6th day of January, 2006

Hon'ble Mr. Justice P.K. Sinha, Vice Chairman

Vijendra S/o late Virendra Singh,
Aged 22 years, R/o 307
Chhoti Omti, Jabalpur

-Applicant

(By Advocate – Shri Rakesh Soni)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Defence, New Delhi.
2. The Chairman Ordnance Factory Board,
Saheed Khudi Ram Bose Marg, Kolkatta,
West Bengal.
3. The General Manager, Ordnance Factory Khamariya,
Jabalpur.

-Respondents

By Advocate – Shri A.P. Khare)

O R D E R

The applicant seeking relief for issuance of a direction to the respondents to consider his appointment on compassionate grounds, had come up before this Tribunal in OA No.824/2003 which was disposed of vide order dated 13.8.2004 (Annexure-A/7), in which this Tribunal, observing that, as per policy framed by the Ministry of Defence, Government of India vide letter dated 9.3.2001 and by the Army Head Quarters vide letter dated 20.7.1999, the case of the applicant had been considered only once. On this ground, the impugned order was quashed and set aside and the respondents were directed to consider afresh the case of the applicant within three months of receipt of a copy of the order. Accordingly, the respondents considered the case of the applicant

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afresh and recorded an order dated 15.10.2004 (Annexure-A/1) rejecting the prayer again which necessitated filing of this fresh OA.

2. To recapitulate, the father of the applicant had died in harness on 24.5.2001 whereafter the widow applied for appointment of the applicant on compassionate grounds. As will also appear from order at Annexure-A-7 that the respondents in their reply had stated that the case of the applicant was considered by the competent authority and he was given 69 marks out of 100 for all attributes (see.DOPT's OM No.14014/6/1994 Estt.(D) dated 9.10.1998 and MOD ID No.19(4)824-99/98-D(Lab) dated 9.3.2001). As per Annexure A/7, the respondents had argued that even the candidates who had secured higher marks i.e. 70 - 93 could not be considered for appointment on compassionate grounds. As already said, the case of the applicant was remitted back for fresh consideration on the ground as stated above.

3. Amongst other points it was also argued by the learned counsel for the applicant that even those candidates who had secured lesser marks than the applicant had been offered appointment whereas the case of the applicant was overlooked. This Tribunal asked the learned counsel if he had any such example then this Tribunal would allow him time to file supplementary application giving the details of such candidate^s. The Tribunal reminded the learned counsel that since the argument has been made on this point that must be on the instructions received by the learned counsel from the applicant, hence on behalf of the applicant he could give undertaking that such details would be filed and then this Tribunal would allow time, though this case after completion of pleadings was under the heading of 'hearing' and was being heard for final disposal. The learned counsel said that he was not in a position to give any such undertaking but prayed that this Tribunal should call for the entire records^s of such consideration/considerations of the case of the

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applicant and others in order to find out as to whether the ground taken by the applicant was correct.

4. In view of what has been mentioned in the written statement, and particularly in the impugned order which I will revert to later, it is not possible for the Tribunal to call for the entire record and proceed on scrutinizing those on just a submission by the applicant that there might be something wrong in evaluation of the cases of different candidates. That can be done only under specific circumstances when the applicant is able to point out particular discrepancy. Otherwise, if on just such a vague argument the Tribunal starts scrutinizing all the cases relating to the candidates who were considered, this would create a wrong precedence and would be without any cogent basis. Moreover, from order at Annexure-A/7 recorded by this Tribunal it does not appear that the point that persons securing lesser marks were appointed was pressed. Hence, on this ground also the applicant cannot be allowed to press this new point.

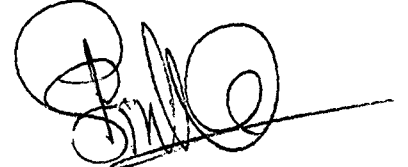
5. Now, coming to the speaking order, the concerned authority has given a chart in Annexure-A/1 as to how the applicant had secured 69 marks out of 100. In the speaking order it has been stated that for the first time when the competent authority considered the case of the applicant, there were only six vacancies (out of 5% of total vacancies quota) in which those candidates were recommended who had secured more than 93 marks. Second time, 17 vacancies were available for appointment on compassionate ground in which the candidates securing more than 84 marks were recommended. The third time there were 14 such vacancies and the candidates securing more than 78 marks were recommended. This order also points the OFB's direction, and OFB's circular letter dated 4.8.2003 as per which if a particular case could not be recommended three times, then that case should be closed.



6. The learned counsel for the respondents submitted that as per this speaking order, three times the case of the applicant was considered and every time the candidates securing more eligibility marks than the applicant were recommended, hence now it was not possible to consider his case.

7. In so far as marking was concerned, the learned counsel for the applicant in the course of arguments admitted that the applicant deserved 69 marks at the time when the marks were allotted

8. In view of the aforesaid, I do not find any merit in this application which stands dismissed. No costs.



(P.K. Sinha)

Vice Chairman

rkv

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
यतिनियि अन्ते यित्त:-

(1) सचिव, उच्च न्यायालय एवं एनोसिएशन, जबलपुर

(2) अध्यक्ष, एनोसिएशन, जबलपुर

(3) प्रत्यक्षी, एनोसिएशन, जबलपुर

(4) वर्यपार, एनोसिएशन, जबलपुर

सूचना एवं आचार्यका कार्यवाही हेतु

के काउंसल R.K. Sinha 02-03-08

के काउंसल D.P. Khare 02-03-08

उप रजिस्ट्रार

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