Central Administrative Tribunal
Jaipur Bench, JAIPUR

OA. 170/2009 & OA. 307/2009

This the 14th day of October, 2010

Hon'ble Shri M.L. Chauhan, Member (Judicial)
Hon'ble Shri Anil Kumar, Member (Administrative)

OA No.170/2009

C.D.Aniyankunju aged about 47 son of Late Shri C.N. Damodaran resident of C-1/5, AWHO, 'C' Pocket, Sector-1, Vidhyadhar Nagar, Jaipur Rajasthan lastly worked as SPA to GOC-in-C HQ South Western Command, Jaipur

...Applicant

(By Advocate: None

- VERSUS -

1. Union of India through, the Secretary, Ministry of Defense, South Block, Central Secretariat, New Delhi-110011.

2. The GOC-in –C, HQ South Western Command, Military Station Jaipur- Pin 908546, C/o APO

.....Respondents

(By Advocate: Shri D.C.Sharma)

OA.307/2009

C.D. Aniyankunju, aged about 47 years, son of Late Shri C.N. Damodaran resident of C-1/5, AWHO, 'C' Pocket Sector-1 Vidhyadhar Nagar, Jaipur Rajasthan, lastly worked as PA/SPA (Civilian) to GOC-in-C HQ South Western Command, Jaipur

...Applicant

(By Advocate: None

- VERSUS -

1. Union of India through, the Secretary, Ministry of Defense, Room No.101, South Block, Central Secretariat, New Delhi-110011.

2. Chief of the Army Staff, COAS Sectt.1HQ of Ministry of Defence (Army) South Block, DHQ PO, New Delhi-110011

3. Lt. Gen CKS Sabu AVSM, VSM, GOC-in-c, HQ South Western Command, Military Station Jaipur, Pin-908546 , c/o APO

4. Sh. Jagir Singh, Staff Duties, 7, General Staff Branch, 1HQ of Ministry of MoD (Army), South Block, DHQ PO New Delhi-110011.

5. Shri Muni Lal, Director Staff Duties, 7, General Staff Branch, IHQ of MoD (Army) South Block DHQ New Delhi-110 011.

.....Respondents

(By Advocate: Shri D.C.Sharma)

O R D E R (ORAL)

By this common order we are disposing both these OAs, as common question of facts and law is involved in both the OAs.

2. When OA.170/2009 was listed on 23.9.2010, this Tribunal had passed the following order:-

> OA No.170/2009
> None present for applicant.
> Mr. D.C.Sharma, counsel for respondents.
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> None was present on behalf of the applicant even on 26.8.2010 and 14.09.2010. It appears that the applicant in not interested in pursuing the matter. Let this OA alongwith OANo. 307/2009 be listed for hearing on 14.10.2010 on which date the matter will be finally decided even if no appearance is made on behalf of the applicant.

3. In this case none has appeared on behalf of the applicant even today. Thus We have proceeded to decide these cases on merits instead of dismissing the same for non prosecution, in terms of provision contained in Rule 15 of the Central Administrative Tribunal (Procedure) Rules 1987.

4. Briefly stated, one of the grievances of the applicant in both the OAs is regarding termination of his services vide order dated 30.11.2008 (Annexure A-I) and rejection of representations vide order dated 11.04.2009 (Annexure A-2) in OA No.170/2009 and

similar orders dated 24.6.2009 Annexures A-2 in OA No. 307/2009. It may be stated that Annexure A-2 in OA. 170/2009 and in OA 307/2009 are the same order but of different dates. It may be stated that earlier the applicant had filed OA.16/2009 thereby praying for quashing the order of termination dated 30.11.2008 and with additional prayer that direction may be given to the respondents to give appointment to the post of regular Stenographer grade III as he has been declared successful in the selection. The said OA was disposed of by this Tribunal vide order dated 13.1.2009 thereby directing the respondents to dispose of the self-contained representation of the applicant by passing a reasoned and speaking order. Consequently, the respondents have passed two different orders Annexure A2 giving the same reasons whereby the representation of the applicant has been rejected. As can be seen from the reasoning given in Annexure A-2, it is evident that the applicant retired from service on 3.1.2007 and after his retirement he was re-appointed as PA (Civil) till the recruitment process got completed as there was no person available with the respondents and the appointment was expected shortly. It is further stated that pay of the applicant was Rs.8500 per month. In the reply affidavit, respondents have categorically stated that ad-hoc employment of the applicant was terminated once regular incumbent was posted. It is further stated that the applicant has retired from service and was re-engaged on humanitarian grounds and payment was made from the Regiment fund (Command Welfare Fund). In view of what has been stated above the decision so taken by the respondents to terminate the service of the

applicant especially when the applicant has not controverted the stand taken by the respondents in reply by filing rejoinder, cannot be said to be bad decision. Thus, we are of the view that no relief can be granted regarding termination of service of the applicant as prayed for.

5. The second grievance of the applicant in these OAs is regarding his appointment to the post of Stenographer grade III pursuant to the recruitment process initiated in the year 2006. It has been averred that the selection has been finalized still no appointment order has been issued in favour of the applicant for the post of Stenographer Grade III. The respondents in the reply has stated that entire recruitment process is subject to scrutiny and decision of the superior Headquarters. Since the selection process for the said post has still not been approved by the Intergral Headquarters of Ministry of Defence (Army), as such applicant has no right to be appointed against the said post.

6. From the material placed on record, it is evident that applicant was selected as Stenographer Grade 'III' in the year 2006 as is evident from the letter dated 23.11.2006(Annexure A4). Now we are in 2010 and no final decision appears to have been taken by the competent authority regarding such selection. Under these circumstances, we are of the view that end of justice will be met if a direction is given to the competent & appropriate authority to take decision in respect of recruitment/ selection conducted for the post of Stenographer Grade III in the year 2006. Accordingly respondent No.1 will ensure that appropriate authority in the integrated Headquarters of Ministry of Defence (Army) shall take decision in this

regard within a period of three months from the date of receipt of a copy of this order. It is clarified that in case the applicant is still aggrieved by the decision so taken by appropriate authority, it will be open for him to file a substantive OA for the same cause of action. For the foregoing reasons, the OAs are disposed of, with no order as to costs.

Anil Kumar

(Anil Kumar)
Member (Administrative)

(M.L.Chauhan)
Member (Judicial)

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