

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Dated : This the **12th** day of **October** 2018

Original Application No. 330/00795 of 2015

Hon'ble Mr. Gokul Chandra Pati, Member – A

Bhola Nath Yadav, S/o Late Shri Mithai Lal, R/o Village Dulhapur, Post Office Hanumanganj, District Allahabad.

. . .Applicant

By Adv : Shri S.K. Kushwaha

V E R S U S

1. The Union of India, through the Secretary of Defence, North Block, New Delhi.
2. The Commandant, Ordinance Depot Fort, Allahabad.

. . .Respondents

By Adv: Shri A.K. Rai

ORDER

The OA has been filed with the following reliefs:-

- "a. Issue a writ, order or direction in the nature of mandamus commanding the respondents to provide / give the appointment letter to the petitioner on compassionate ground in place of his deceased father Mithal Lal within a stipulated period prescribed by this Hon'ble Court.*
- b. Issue a writ, order or direction in the suitable nature which this Hon'ble Court may deem fit and proper in the circumstances of the present case.*
- c. Award the cost of application to awarded in favour of the applicant."*

2. The applicant's case for compassionate appointment after death of his father on 27.10.1996, while he was in service was pending with the respondents.

3. Learned counsel for the applicant was heard in the matter. He submitted that the applicant had filed the OA No. 694/06 which was disposed of by this Tribunal vide order dated 19.10.2012 (Annexure A-7), remitting the matter to the respondents to reconsider in the light of the OM dated 09.10.1998. It is stated by the learned counsel for the applicant, that after the direction of the Tribunal, no action was taken by the respondents. Vide order 25.05.2015 (Annexure CA-2 to the counter

affidavit), the case of the applicant was not considered as per the direction for the Tribunal. He further stated that the break-up of the merit point of 61 assigned to the applicant as stated in the order 25.05.2015, is not furnished by the respondents.

4. Learned counsel for the respondents submitted that the case of the applicant has been considered on merit as stated in the order dated 25.05.2015. His case could not be considered within available vacancies for which more meritorious candidates were considered.

5. It is seen that the order dated 25.05.2015 in which the order dated 19.10.2012 of the Tribunal has been complied with states as under:-

“It is to inform you that as per direction of Hon’ble CAT, your case for appointment has been considered 3rd time by Board of Officer at Army HQ for the year 2010-11. But you were placed at Ser No. 35 of concerned Board obtaining 61 marks. Vacancy for the year 2010-11 was only 17 and the last candidate on Ser No. 17 who was selected for appointment had obtained 70 marks. Thus the candidates at Ser No. 18 onward of the concerned board including you (at Ser No. 35) could not find merit for selection for appointment. As per rules your case had been considered 3rd time by the board of Officer in which you could not find merit as such no further chance will be given to you.”

6. It is seen from above that the applicant’s case has been closed because his case has been considered for third time as stated in the order dated 25.5.2015. This is against the guidelines of the Government on compassionate appointment. As per order of this Tribunal dated 19.10.2012, the case was to be considered in the light of the OM dated 09.10.1998. There is no reference to the provisions of the said OM in the order dated 25.5.2015. Hence, I am of the view that this has not been considered appropriately as per the order dated 19.10.2012 of this Tribunal.

7. In view of the above, the case of the applicant is remitted to the respondents to reconsider the case in the light of order of this Tribunal 19.10.2012 as well as the OM 09.10.1998 of Government of India and to pass an appropriate speaking order on merit as per the instructions of Government of India and communicate a copy of the said order to the applicant, with the breakup of the merit points, within four months from the date of receipt of a copy of this order. The OA is disposed of accordingly.

(Gokul Chandra Pati)
Member (A)

/pc/