

***Central Administrative Tribunal
Principal Bench***

OA No.1941/2015

Order reserved on: 01.08.2016

Pronounced on: 20.09.2016

Hon'ble Mr. V.N. Gaur, Member (A)

Amit Puri aged about 33 years
S/o Late Sh. Jugal Kishore (Code EXGS-134839-M-LDC)
R/o RZ-8, Durga Park,
Gali No.1, Near Nasirpur Road,
Palam Village,
New Delhi-110045.

-Applicant

(By Advocate: Mr. Anil Kumar with Mr. Rajesh Khari)

-Versus-

1. Union of India
Through Ministry of Defence,
Through its Secretary,
South Block,
New Delhi.
2. Border Road Organisation
Through its
Director General Border Roads
Seema Sadak Bhawan,
Ring Road Naraina,
Delhi Cantt,
New Delhi-110010.
3. Recruitment Officer,
GREF Centre, Dighi Camp,
Pune-411015.

-Respondents

(By Advocate: Mr.C.Bheemanna)

O R D E R

The applicant has filed this OA questioning the order passed by the respondents on 26.11.2014 by which the request of the applicant for compassionate appointment was turned down. The father of the applicant was a LDC under respondent no.3, i.e., General Reserve Engineer Force (GREF) Centre, Dighi Camp, Pune. He was medically boarded out on 19.11.1991 and expired on 13.07.2006. The applicant approached the respondent no.3 for compassionate appointment which was rejected by the impugned letter. Before going into the merits of the case the question of jurisdiction, raised by the respondents as preliminary objection, needs to be settled. The respondents have stated that the Commanding Officer of the GREF working under the Director General, Border Road Organisation (BRO) is not covered under the provision of Section 2 (a) of Administrative Tribunals Act, 1985. Learned counsel has relied on the judgment dated 02.08.2013 delivered by Hon'ble Guwahati High Court in WP (C) No.4074/2012 setting aside the order dated 18.06.2012 passed by the Guwahati Bench of this Tribunal.

2. Learned counsel for the applicant, on the other hand, submitted that the father of the applicant was a civilian governed by CCS (CCA) Rules. Even though uniformed personnel of BRO and GREF who are governed by the Army Act do not come under

the jurisdiction of this Tribunal, that does not apply to the civilian employees of GREF. Learned counsel referred to the order of Lucknow Bench of the Tribunal in the case of **Ram Kali Mishra vs. Union of India and others**, decided on 21.02.2001 wherein after discussing the decision of the Apex Court in the case of **R.Viswan vs. Union of India and ors.**, AIR 1983 SC 658, a view was taken that the Tribunal had jurisdiction to entertain the OA filed by the applicant, who was a civilian employee.

3. It is noticed that the Hon'ble High Court of Guwahati in its order dated 02.08.2013 in WP (C) no.4074/2012 had considered the judgment of Constitution Bench of Supreme Court in **R.Viswan** (supra) and took the following view:

“32. What surfaces from the above discussion is that the present respondent, as a member of the GREF and a member of the Armed Forces, cannot, in the light of the decision, in **R.Viswan** (supra) read with the decision, in **Vidyawati**’s case (supra), and could not have taken recourse to the provision of the Administrative Tribunals Act, 1985. Consequently, the learned Central Administrative Tribunal has/had no jurisdiction in the matter of the petitioner’s (i.e., the present respondent’s) grievance as regards refusal to grant him financial up-gradation and, at the same time, the respondent’s grievance shows that even the Armed Forces Tribunal cannot redress, and could not have redressed, his grievance as regards refusal to grant him financial up-gradation. The remedy of the respondent, therefore, lies in making appropriate application in the High court, under Article 226 of the constitution of India, or instituting appropriate suit for remedy of his grievances.

33. In the result and for the reasons discussed above, this writ petition succeeds and the impugned order, dated 18.06.2012, passed by the learned Tribunal is hereby set aside and quashed.”

4. In OA No.2107/2011 this Tribunal vide order dated 11.07.2011 and the Hon'ble High Court of Delhi in WP (C)

no.6480/2011 vide order dated 12.09.2011 had taken the same view. In the face of these judgments and orders the order in Ram Kali Mishra (supra) can only be considered as per incuriam.

5. For the aforesaid reasons, the OA is dismissed for want of jurisdiction.

(V.N.Gaur)
Member (A)

‘sd’

September 20, 2016