

**SCENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR**

Civil Contempt Petition No.200/00081/2016
(in O.A. No.108/2009)

Jabalpur, this Thursday, the 26th day of July, 2018

**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Preeti Shukla, D/o Late Shri Prahalad Prasad Shukla,
W/o Sh. Radheshyam Shukla, age about 33 years,
R/o H.No. 438, Hanumantal, Jabalpur - Petitioner

(By Advocate –Shri R.N.Shrivastava)

V e r s u s

1. Sh. G. Mohan Kumar,
The Secretary of Defence,
South Block, Union of India,
New Delhi, P.110001

2. Brigadier Shri N.R.Babu,
The Director of Defence
Security Corps, General Staff Branch,
Army Head Quarter,
West Block-II, R.K.Puram,
New Delhi, Pin-110066

3. Col. Cal. Sh. K. C. Jaggi,
The Officer In-charge of Records,
Raksha Suraksha Corp, Mill Road,
Cannamore-901277

-Respondents

(By Advocate –**NONE**)

O R D E R (ORAL)**By Ramesh Singh Thakur, JM:-**

This Petition has been filed by the petitioner against the act of dis-obedience of order of this Tribunal passed in Original Application No. 108/2009 dated 09.08.2010.

2. The case of the petitioner is that this Tribunal vide order dated 09.08.2010 in O.A. No. 108/2009 have passed the order whereby the respondents were directed to consider the case of the applicant once more. The relevant portion of direction by this Tribunal is as under:-

“(9). In view of this, we direct the respondents to consider the case of the applicant once more. In this consideration, the Respondents shall take into account the submission of the Applicant mentioned in the appeal, that her score should have been 62 while awarding marks. The respondents shall specifically consider this claim of the Applicant. Moreover, it is also clarified that the case of the Applicant should be considered for civilian posts falling vacant and available for compassionate appointment anywhere in the Department of Defence. This should be done within a period of six months from the date of receipt of this order.”

3. The respondents have filed their reply. The replying respondents have submitted that candidature of the applicant for appointment on compassionate ground has already been considered by a constituted board of Officers for three consecutive occasions in the quarter ending September 2002, December 2002 and March 2003 for which the board was held on 01.10.2002, 01.01.2003 and

01.04.2003 respectively. Due to non-availability of vacancy the Board of Officers finally dropped the candidates name from the waiting list and the outcome of the same has been communicated to them. It has been specifically submitted by the replying respondents that Board No. 10 held for the grant of compassionate appointment in pursuance of the order of this Tribunal, the Board has examined 349 case and evaluated the comparative merit of the applicant for compassionate appointment in accordance with the guidelines of DoPT and instructions given by Ministry of Defence for assessment of financial status and conditions of family of deceased employees on the basis of relative merit on hundred points scale. It has been specifically submitted that the applicant finds place at a much lower position on the basis of merit points as compared to selected applicants and hence she could not be accommodated within limited vacancies (5 only) available. Moreover, on 15.05.2010 the applicant got married and she is not eligible for compassionate ground appointment from 15.05.2010 as per Annexure C-21 (in Contempt Petition).

4. In the rejoinder the applicant/petitioner has submitted that the petitioner is still not granted the compassionate appointment by the respondents and the respondents in their turn averted that the compliance of the above order of this Tribunal has been made. So

the respondents did not obey the order dated 09.08.2010 passed by this Tribunal.

5. The replying respondents has filed supplementary affidavit dated 30.01.2018. On observation by the Tribunal by hearing the case on 30.11.2017 that there is no whisper in the reply regarding meeting of the Board between the period when this Tribunal had passed the order i.e. on 09.08.2010 and when the applicant was considered on 24.07.2014. In this supplementary affidavit it has been specifically submitted in Para 4 that in view of the order of the Tribunal dated 09.08.2010, the name of the applicant was considered by the Board on 02.11.2010 held at DSC Records, Kannur for compassionate appointment for the fourth chance. A copy of which is annexed as Annexure R-1.

6. It has been specifically submitted that due to non-availability of vacancy, her name was not accommodated for compassionate appointment. So the replying respondents have strictly adhered to the order of the Hon'ble Tribunal whereby the respondents were directed to consider the case of the applicant within a period of six months.

7. In addition to this the replying respondents has taken further steps and details has been communicated in Para 4 of this supplementary affidavit. From perusal of this Para 4 it is clear that

the replying respondents has taken the various steps till 27.12.2012 and on the said date the name of the applicant has been retained by the competent authority and will be considered in the next Board as and when held on availability of vacancies.

8. The replying respondents have also raised the issue of limitation for filing this Contempt Petition. It has been submitted by the replying respondents that the Hon'ble Tribunal has passed the orders on 09.08.2010 (Annexure C-1) and the present Contempt Petition has been filed in the year 28.10.2016. So the present Petition is not maintainable being barred by limitation.

9. The applicant/petitioner has filed rejoinder and has reiterated that replying respondents has not complied with the order passed by this Tribunal.

10. We have considered the pleadings and the documents attached with the petition.

11. From the reply of the respondents it is clear that after our order dated 09.08.2010 the matter of the applicant was considered by the Ministry of Defence and the Board has examined 349 cases and evaluated the comparative merit of the applicant as per guidelines for assessment of financial status and the condition of family of deceased employee and on the basis of relative merit on hundred point scales. It has been specifically submitted that the

applicant finds place at a much lower position on the basis of merit point as compare to selected applicants and hence she could not be recommended within limited vacancies (five) available.

12. In the supplementary affidavit dated 30.01.2018 the replying respondents has filed the detail of various steps taken after the order of this Tribunal which has been depicted in Para 4 of the supplementary affidavit.

13. In view of the above we are of the affirmed view that our order dated 09.08.2010 passed in O.A. No. 108 of 2009 has been duly complied with by the replying respondents and there is no willful or intentional dis-obedience of our order. Resultantly, the Contempt Petition No. 200/00081/2016 is dismissed.

(Ramesh Singh Thakur)
Judicial Member
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(Navin Tandon)
Administrative Member