

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.240/2019 with MA No.250/2019

This the 24th day of July, 2019

**Coram : Hon'ble Shri Pradeep Kumar, Administrative Member
Hon'ble Shri M.C.Verma, Judicial Member**

Vijay S/o. Jayantilal Vaghela
Aged : 32 years, Male
Occupation : NIL,
Residing at : Digvijay Plot No.39,
Samatvas, Jamnagar:361001. Applicant

(By Advocate : Shri Hasit H.Joshi)

VERSUS

1. Union of India,
Through Secretary
Ministry of Defence, South Block,
New Delhi 110 001.
2. Chief Engineer (AF)
Office of the Chief Engineer (AF)
Camp Hanuman
Shahibaug, Airport Road,
Ahmedabad. 380 003.
3. Garrison Engineers (AF)

Military Engineer Service (MES)
Air Force Station
Jamnagar – 361 003.

4. 17 P& SU, Air Force
Komal Nagar,
Khodiyar Colony,
Jamnagar 361 006.
5. H.Q. Swap IAF
(Command PC)
Gandhinagar, Ahmedabad 380 061.... Respondents

O R D E R – ORAL

Per : Hon'ble Shri Pradeep Kumar, Member (A)

1.0 Instant applicant has filed this petition seeking compassionate ground appointment. This case has already seen two rounds of litigations in OA No.14/2016 and thereafter in OA No. 766/2016.

2.0 Applicant had now impugned the letter issued by the respondents dated 24.8.2012 as well as 04.7.2014. These two letters have already been impugned and discussed in the

Tribunal's judgment dated 24.10.2018 in OA No.766/2016. The operative part reads as under :

"10. Respondents has pleaded that application dated 17.4.2012 only was received, it was considered in 2012, 2013 and lastly in 2014, but each year applicant could not find place in merit list as more indigent persons than him were there and vacancies were small in number and each time he was communicated the outcome of his application. Copy of letter dated 30.4.2012, vide which application of applicant for compassionate appointment, preferred in year 2012 was forwarded to Command Headquarter (having enclosed with it copy of applicant dated 17.4.2012 and copy of letters, dated 24.8.2012, 26.6.2013 and 04.7.2014) whereby applicant was communicated the development relating to his application (having enclosed List of candidates which were considered for compassionate appointment in year 2013-14 & showing their position in merit) has been produced on record by respondents as Annexure R- 9 &10 . Applicant has not disputed genuineness of these documents much less seriously.

11. Learned counsel for applicant has also contended that applicant never received any communication, from respondents regarding consideration or decision on his application nor any decision was ever communicated to him and he came to know about the same, for the first time upon receiving copy of reply filed by the respondents. Even if it is assumed to be correct, the applicant at least came to know about the fate of his application when he received the copy of reply and at that stage, if he was not aware already, it was needed on the part of the applicant to take necessary steps to challenge the correctness of Order of respondents that he was not

found place in merit but he did nothing. This OA, in totality of fact has become infructuous and needs to be dismissed on this aspect as well for being devoid of merit and accordingly is dismissed. However, the applicant if intend and is advised to agitate the correctness of decision taken by respondents, he may agitate the same, before appropriate forum, provided that intended fresh proceedings is otherwise permissible under law and in that eventuality Order of dismissal of instant OA will not come in the way nor would operate as bar.”

3.0 Applicant has now pleaded that vide letter dated 04.7.2014, he was advised by respondents that the representation for CGA by the applicant was considered by them in the year 2013-14 wherein he was allocated a total of 45 merits point and as per relevant rules, his case for compassionate ground appointment could not come up high in merit for selection vis-a-vis other candidates and therefore, the request of the applicant was rejected.

4.0 Matter has been heard at admission stage. In instant OA, the applicant is now aggrieved that his compassionate request appointment has been rejected and he was advised vide letter dated 04.7.2014. However, he has not brought out any infirmity in the allocation of marks in the year 2013-14.

In view of this, nothing new has been brought out and the issue raised in the present OA, is barred by *res judicata* and hence nothing survives. The OA is liable to be dismissed for want of merit and it being hit by *res judicata*.

5.0 OA is dismissed. The applicant has liberty to seek his remedies as per law. In view of disposal of instant OA, MA No.250/2019 also stands disposed. No costs.

(M.C.Verma)
Member (J)

(Pradeep Kumar)
Member (A)

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