



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

MA. 350/00409//2014
OA. 350/00584/2014

Date of Order: 07.09.2015.

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member

Kanti Bansfore
Vs.
Union of India & Ors. (Defence)

For the Applicant : Mr. P. Mukherjee, Counsel

For the Respondents : Ms. M. Bhattacharyya, Counsel

ORDER (Oral)

This matter is taken up in Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. This application is a sequel of an earlier application being OA. No. 2293/2010 which was filed seeking the following reliefs:

"(a) Leave be granted to file the instant application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure), 1987 the applicants being similarly situated so far as cause of action, grounds for relief and relief paid for are concerned.

(b) A direction upon the respondents and more particularly upon the respondent no. 2 to provide compassionate appointment to the applicant no. 2 to any Group 'D' post under the respondents.

(c) The impugned order being no sustainable in accordance with grounds shown hereinabove, the said order dated 8.2.10 set aside and/or quashed.

(d) A direction upon the respondents to produce relevant documents pertaining to the offer of compassionate appointment to the persons appointed during the three quarter preceding January, 2010, as well as those of the applicants before this Hon'ble Tribunal to show the basis of recruitment to them in exclusion of the claim of the applicant.

(e) Any other order or orders as this Hon'ble Tribunal may deem fit and proper to pass under the circumstances of the case."

The OA was disposed of with the following manner:

"9. Even if we consider the case of the respondents, that they have considered the case as per the DOPT guidelines in vogue, we cannot agree that consideration of the case three times in three consecutive quarters within one year instead of considering the case three times on a yearly basis spreading over three years, is the right interpretation of the guidelines. Accordingly, we hold that

the impugned order passed by the respondent, namely CGO (A), OIC PC dated 8.2.2010 is neither fair nor maintainable and therefore fit to be quashed and set aside.

6. In view of this, we do not feel any hesitation to quash and set aside the order No. EAC/1631/4/PC dated 8.2.2010 and direct the Station Commander, Air Force Station, Barrackpore i.e. respondent no. 2 to consider the application for compassionate appointment filed by the applicants dated 27.1.2007 for compassionate appointment of applicant no. 2 as per the relevant rules, guidelines and procedures within a period of four months and pass a speaking order with an intimation to the applicants.

7. With the above direction the OA is disposed of. No costs."

3. Pursuant to the said direction on 27.06.2013, the speaking order was issued reflecting the consideration in following manner:

"And whereas, out of the quota 5% vacancies earmarked for compassionate appointments, a total of 05 (five) vacancies were left vacant for the financial year 2012-13 against which 19 candidates were considered by the Screening Committee Meeting (Board of Officers) for compassionate appointment. The criteria for allotting merit points in terms of Govt. of India, Ministry of Defence letter No. 19(4)/824-99/1998/D(Lab) dated 09 Mar 01 (as amended vide their letter No. 19(3)/2009/D(Lab) dated 22 Jan 10) is enclosed at Appendix 'A'. The merit point of selected candidates is enclosed at Annexure 'A'. However, your name could not figure in the merit list for consideration of a compassionate appointment due to lower marks secured by you.

Now therefore, keeping in view of above, after due circumspection and consideration in the light of the guidelines of DOP&T and various judgments of the Hon'ble Supreme Court and after a balanced and objective assessment of the totality of the circumstances, it is regretted to inform that your case for grant of employment assistance on compassionate grounds has not been considered by Competent Authority."

4. The learned counsel for the applicant has filed an MA stating that admittedly that the score point of present applicant is 63 and she was at Srl. No. 6 of the list of which persons placed upto 5th position were granted appointment. She was marginally left out. She has also alleged that one Smt. Sunita Yataw, wife of late Satendra Kumar Yataw, whose case earned 62 marks, was considered for appointment by way of superseding the applicant no. 2. She has thus made out a case of discrimination meted out to her, in violation of Articles 14 & 16 of the Constitution.

5. The Reply to the said MA is conspicuous by its silence in regard to the said allegation. If it is a fact that the person with 62 points have been granted appointment, no sufficient or good reason have been furnished by the respondent authorities as to why the present applicant should languish.

6. In such view of the matter, respondents are directed to consider the case of the present applicant afresh by placing it before the Board of Officers likely to meet shortly. The consideration of the present application would be governed by the decision of the Board of Officers ^{to be taken by} in accordance with law. It goes without saying that the decision of the Board of Officers would govern the entitlements of the present applicant and they shall be granted appropriate relief, in accordance with law, if found deserving.

7. OA is accordingly disposed of. No costs.

(Bidisha Banerjee)
Member (J)

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