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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.210/00554/2019

Dated this Wednesday, the 07th day of August, 2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N. SINGH, MEMBER (J)

Shri Vishal S. Sathe, Aged about 34 years,
R/at Type 'C' 18/10 Range Hills, Kirkee,
Pune 411 020. .. *Applicant*
(By Advocate Shri P.J.Prasadrao)

VERSUS

1. Union of India, Through the Secretary,
Ministry of Defence Production, Sena Bhavan,
New Delhi 110 011.
2. The Chairman, Ordnance Factory Board,
10 S.K. Bose Road, Kolkata 700 001.
3. The Senior General Manager Ammunition Factory,
Kirkee, Pune 411 003. ... *Respondents*

ORDER (Oral)

Per : R.N.Singh, Member (Judicial)

Heard Shri P.J.Prasadrao, learned
counsel for the applicant.

2. The applicant by way of this present
application, filed under Section 19 of the
Administrative Tribunals Act, 1985 has
challenged the show cause notice dated
10/16.05.2019 (Annexure A-1) whereby the
applicant has been required to explain as to
why his services shall not be terminated in
view of his failing to acquire the minimum

educational qualification (10th pass) within five years from the date of appointment as laid down in DOP&T letter dated 11.12.2009 and 03.04.2012.

3. The learned counsel for the applicant submits that after the death of his father who has been working under the respondents, the respondents have granted appointment to the applicant on compassionate ground to the post of Durwan i.e. a Group 'D' post and he has been working with effect from 09.11.2011 i.e. for more than seven years.

4. The learned counsel for the applicant submits that the present show cause notice is issued by the incompetent authority and as he has been appointed on a Group 'D' post i.e. Durwan and the requisite educational qualification for such post is 8th class pass and not the 10th class pass.

5. The learned counsel for the applicant urges that even otherwise the Secretary to the Government of India is the competent to terminate the services of a person who has been appointed on compassionate ground as per the OM dated 24.11.2000 (Annexure A-18),

issued by the Department of Personnel and Training.

6. The learned counsel for the applicant further submits that in pursuance of the impugned show cause notice, the applicant has submitted a detailed representations dated 13.07.2019 (Annexure A-14) and another dated 22/29.07.2019 (Annexure A-15) and the same are pending. He further submits that the applicant is having bonafide apprehension that the respondents Nos.2 and 3 may terminate his services even without considering the aforesaid reply /representations.

7. The learned counsel for the applicant submits that the applicant shall be satisfied if the present OA is disposed of with a direction to the respondents to consider his aforesaid representations dated 13.07.2019 (Annexure A-14) and 22/29.07.2019 (Annexure A-15) and to dispose of the same by passing an appropriate reasoned and speaking order in a time bound manner and not to terminate his service before consideration thereof by the Competent Authority.

8. In view of the aforesaid facts and circumstances, the OA is disposed of with a direction to the respondents to consider the applicant's aforesaid reply/representations dated 13.07.2019 (Annexure A-14) and 22/29.07.2019 (Annexure A-15) and to dispose of the same by passing a reasoned and speaking order within a period of eight weeks from the date of receipt of certified copy of this order.

9. It is further directed that such consideration should be made by the respondents keeping in view the OM dated 24.11.2000 (Annexure A-18), issued by the Department of Personnel and Training on the subject.

10. It is further made clear that the respondents shall not give effect to any adverse order, passed by them in pursuance of the impugned show cause notice till the service thereof upon the applicant.

(R.N. Singh)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

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