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Central Administrative Tribunal
Principal Bench

C.P. No.448/2003 in
O.A. No.611/2003

New Delhi this the 20th day of January, 2004

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)

V.P. Sharma
F Wing 2nd Floor
Nirman Bhawan,
New Delhi-14.

-Applicant

(By Advocate: Mrs. Prashanti Prasad)

Versus

Hemant Desai
Director General
Border Security Force,
Block No.10, Vth Floor,
CGO Complex, Lodhi Road,
New Delhi.

-Respondents

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)

Learned counsel heard.

2. By order dated 3.10.2003 OA-611/2003 was allowed with the following observations/directions to the respondents:-

There is no dispute that the applicant was re-employed as Senior Air Craft Mechanic in the year 1991. There is no specific mention in the appointment letter that he was being given appointed on the combatised post of BSF. However, it is stated in the appointment letter dated 4.12.91 (Annexure R-2) that he was offered a post of Senior Air Craft Mechanic Rank Subedar in BSF. The letter dated 21.10.91 (Anexure A-5) states that he has been approved for appointment to the post of Senior Air Craft Mechanic on his being re-employed in BSF. Learned counsel for the respondents placed before us communications dated 4.5.80 and 19.9.89 to claim that the President had approved the combatisation of the BSF posts. We do not find ourselves in the agreement with the contention of the learned counsel of the respondents as we do not find the post of Senior Air Craft Mechanic in the posts for which the Presidential Sanction was granted. Therefore.. we have no alternative but to

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hold the same view as has been held by this Tribunal in the order dated 27.1.2003 in the case of A.V. Balchandran (supra) and order dated 18.8.2003 in the case of B.N. Chaubay (supra). There is no evidence to support the contention of the respondents that the post held by the applicant is a combatised post. In these facts and circumstances of the case we find that the applicant was re-employed on a civilian post which was non-combatised. In this view of the fact that the applicant was not due for retirement on attaining the age of superannuation on 31.3.2003, the impugned order dated 14.11.2002 (Annexure A-15) is quashed and set aside. We direct the respondents to take the applicant in service as if he has not attained the age of superannuation being a re-employed Civilian employee. The applicant will be entitled to consequential benefits in accordance with law. Accordingly, the OA is allowed without any order as to costs".

3. Learned counsel stated that respondents have yet not complied with the directions of the Tribunal though the impugned order dated 14.11.2002 (Annexure-A15) of the OA was quashed and set aside and the respondents were directed to take the the applicant back in service as if he had not attained the age of superannuation being a re-employed civilian employee. Applicant was also held entitled to consequential benefits in accordance with law.

4. Taking stock of the situation in regard to the implementation of directions of this court by this Tribunal, we are hereby stipulating time till 8.4.2004 to the respondents for implementation of directions of this court made in order dated 3.10.2003, failing which a serious view would be taken.

5. With these directions, C.P is disposed of.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra) 20.01.04
Vice-Chairman (A)

cc.