

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

ALLAHABAD this the 11<sup>th</sup> day of **APRIL, 2003.**

**HON'BLE MR. K. S. MENON, MEMBER- A.**

**ORIGINAL APPLICATION NO. 1326 OF 2004**

Baban Thakur, S/o Late Makai Thakur,  
R/o Nand Nagar, Dargahiya, Distt. Gorakhpur.

.....Applicant.

**VER S U S**

1. Union of India through the Secretary,  
M/o Defence, Govt. of India, Vayu Bhawan,  
New Delhi.
2. CGO (Adm.) OI/C PC, Headquarter, Central Air Command,  
Indian Air Force, Bamrauli, Allahabad.
3. Air Officer Commanding, Air Force Station,  
Gorakhpur.

.....Respondents

Present for the Applicant:

Sri Bashishtha Tiwari

Present for the Respondents:

Sri Saumitra Singh

**ORDER**

This O.A is filed challenging the order dated 24.10.2003 passed by the respondent No. 2, by which the applicant's claim for grant of compassionate appointment has been rejected.

2. The father of the applicant Late Makai Thakur while working as Watchman at Air Force Station, Gorakhpur ~~had~~ died on 11.03.2001. Wife of Late Makai Thakur thereafter submitted representation dated 28.01.2002 seeking compassionate appointment in favour of her son Sri Baban Thakur i.e. the applicant. After receiving the requisite

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documents, the case was processed and information was given by the respondents' authorities that ~~the~~ <sup>in</sup> her case for grant of compassionate appointment against Group 'D' post was considered by the Committee in its meeting for quarter ending March, June and September, 2003 but could not be recommended for the same as the applicant could not come in the merit for selection. It appears that there were other candidates, who were in worst financial condition, who have to be selected and also limited number of vacancies was available, therefore, the case of the applicant was finally rejected.

3. Learned counsel for the applicant submits that in case, the respondents were not able to consider the claim of the applicant due to non-availability of vacancies, the case should have been referred to other Central Government departments/offices. This submission<sup>is</sup> of the counsel for the applicant is strictly not tenable because the Government of India has since deleted this provision.

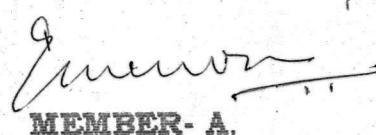
4. I have heard learned counsel for the parties at length and also perused the pleadings on record.

5. It is seen that the applicant's case has been considered in accordance with relevant rules and provisions existing and due to want of vacancies and availability of more deserving cases at the time, when the case of the applicant was considered, the respondents have not been able to grant him compassionate appointment. Respondents have also cited different case laws of the Apex Court in this connection, wherein it has specifically been held that the compassionate appointment, which is

to be given only as an exception, is to be given only when the vacancy/post is available for grant of the same.

6. I am conscious; this court cannot direct the respondents to grant compassionate appointment but can only direct them to consider the case. While the case of the respondents <sup>is</sup> that they had considered the case of the applicant in its entirety in accordance with rules, the said impugned order 24.10.2003 is not a speaking order in the sense that it does not contain the number of vacancies, which were available and the case of the applicant was considered and what marks he had obtained vis-à-vis the candidates, who were selected.

7. In view of the above, The O.A is allowed and the impugned order dated 24.10.2003 is set aside. The respondents are directed to re-consider the applicant's case strictly in accordance with the D.O.P.T.O.M dated 09.10.1998 and corresponding instructions/guide lines of the Ministry of Defence framed in this regard as well as the latest judicial pronouncements of Apex Court on the subject, within a period of three months from the date of receipt of certified copy of the order. No costs.



MEMBER - A.

/Anand/