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RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.**

Original Application No. 1007 of 2005.

Allahabad this the 22<sup>nd</sup> day of March, 2007

**Hon'ble Mr. P.K. Chatterji, A.M**

Arshad Khan son of (late) Shri Mukhtar Ahmad Khan, resident of 74, Sultanpur Bhava, Buddha Tazia, Allahabad.

.....Applicant

(By Advocate: Col (Retd) R.A. Pandey)

1. Union of India through Secretary Ministry of Defence DHQ PO New Delhi 110011.
2. Director General, Electrical and Mechanical Engineer (DG EME), Army Headquarters DHQ PO New Delhi 110011.
3. Commandant and Managing Director, 508 Army Base Workshop Fort, Allahabad.

.....Respondents

(By Advocate: Sri Saumitra Singh)

**O R D E R**

The facts of this O.A. briefly are as follows:

- (i) The applicant's father Late Mukhtar Ahmad Khan was working as Fitter in 508 Army Base Workshop Fort Allahabad under the control of respondent NO.2. He died in service on 7.6.93. The mother of the applicant requested the respondents for providing a job to her son Arshad Khan who was the only male member in the family. Respondent NO.3 intimated the applicant's mother on 14.5.94 that the applicant could not be kept in the waiting list as he was underage.
- (ii) The applicant's mother made another application to the respondents on 21.8.95. As no reply was received from the

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respondents, the mother of the applicant made a further representation on 17.8.96. On 3.9.96 the office of respondent NO. 3 intimated the mother of the applicant that he would be considered for providing employment when he attained 18 years of age. One form was also sent by the respondents to the applicant's mother for furnishing requisite information. The applicant attained the age of 18 years on 9.12.96 and he also made representation on 6.2.97. On 3.12.96 the applicant was informed that his request for providing the job on compassionate ground was examined by a Board of Officer at the Army Headquarters. But the Board did not find that it was a fit case for granting appointment on compassionate ground. The mother of the applicant made a representation for reconsideration of the decision. However, vide letter dated 25.1.98, the office of respondent NO. 3 replied that a case once turned down by the Army Headquarter could not be resubmitted.

2. The applicant filed a writ petition NO.29248 of 2000 at the Hon'ble High Court, Allahabad challenging the decision of the respondents. After exchange of counter and rejoinder the Hon'ble High Court, Allahabad dismissed the writ petition on the ground of alternative remedy with the observation that it will open to the Tribunal to adjudicate the case on a fresh application without taking into account the question of limitation. But the case could be decided on merit. In pursuant of that direction this O.A. has been filed.

3. The applicant has challenged the order of the respondents dated 3.12.98 (Annexure 1) on the ground that rejection of the applicant's representation as

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being not a fit a case of compassionate appointment is unjust, improper, contrary to law and without application of mind. It is further stated by the applicant that the plea that once turned down by the Army Headquarter this case could not be reconsidered was malafide, arbitrary and unjust. The applicant has further stated that his request was most deserving because with the meagre family pension of his mother and no source of livelihood, the family was passing through great distress.

4. The applicant has further pleaded that the Tribunal should not dispose of his case as belated in view of the decision of the Hon'ble High Court in the writ petition and also on the basis of the decision of the Hon'ble Allahabad High Court judgment in the case of Jagdish Ram Vs. C.A.T. Allahabad 2001- ESC 501 ALL. It is however, made clear by me at this stage that I intend to dispose of this case on merit and the O.A. is not being disallowed as being time barred on limitation clause.

5. The learned counsel for the respondents has taken me through the relevant paras of the counter affidavit. It has been stated by the learned counsel that as per Rules of compassionate appointment the case of the applicant was forwarded to the Army Headquarter through the Base Workshop Group EME. Board of officers convened at the Army Headquarter. The case of the applicant was considered by the Board of Officers alongwith other similar case. As the case of the applicant was not found to be deserving enough in comparison with other cases it had to be rejected.

6. The learned counsel for the respondents has also stated that (para c page 9) as required under the Rules the case of the applicant was considered

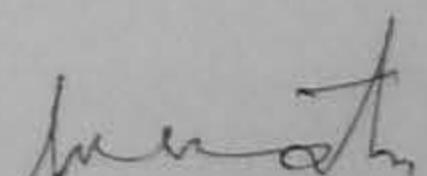
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in all its aspects such as size of family, assets and liabilities, the number of dependent of the deceased. The learned counsel has also stated that in view of the limited number of vacancy i.e. only 5% under compassionate ground it was not possible to approve the request of the applicant for compassionate appointment. The learned counsel has emphatically denied that there is any illegality and irregularity in the order. No right of the applicant has been violated. The representation of the applicant was considered as the applicant has the right for such consideration. But in view of the position it was not possible to approve the request of the applicant. It was not possible to approve each and every request of job under compassionate appointment .

7. The learned counsel for the respondents has also stated that the death occurred in the year 1993 the respondents waited for son of the deceased employee to attain the age of 18. After that his case was considered. Therefore, there was no lack of goodwill on the part of the respondents. From the year 1998, another 9 years have passed fresh cases have cropped up. Keeping in view the settled law as pronounced by the Apex Court in several judgments that the purpose of compassionate appointment was to provide immediate relief to enable the family to overcome the sudden crises, there was no scope for reconsideration of such old cases at the expense of fresh cases.

8. Having heard both counsel and going through the pleadings I am of the view that there is no merit in this case, which is therefore, dismissed.

**Member-A**

Manish/-