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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH.**

Original Application No. 108 of 2003

Dated of order: August 16th, 2005.

CORAM:

HON'BLE MR. J K KAUSHIK, JUDL. MEMBER

Madan Singh S/o Sh. Udai Singh, aged about 23 years, resident of Sher-Vilas Gali, Behind Hawali, Opp. Air force Officers Mess, Air Force Area, Jodhpur.

...Applicant

Mr. R.S. Shekhawat: counsel for the applicant.

V E R S U S



1. Union of India through the Secretary, Ministry of Defence, Govt. of India, Raksha Bhawan, New Delhi.
2. Garrison Engineer, Army No. 1, Jodhpur.
3. Chief Engineer, Head Quarters, Chief Engineer Jaipur Zone, Power House Road, Bani Park, Jaipur.

.... Respondents

Smt. K. Parveen, counsel for the respondents.

O R D E R (Oral)

This is a very hard case where Shri Madan Singh has challenged the order dated 27.01.2003 (Annexure A/1) and has sought for quashing the same with the direction to the respondents to consider his candidature for appointment on compassionate grounds.

2. The pleadings, in this case, are complete and with the consent of both the learned counsel for the parties, the case was

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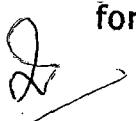
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heard for final disposal at the stage of admission. I have carefully perused the pleadings and records of this case.

3. The brief facts of this case are that the applicant is the son of late Shri Udai Singh. Shri Udai Singh while working on the post of F.G.M. in respondent-department expired on 13.08.1998. He was survived with a large family consisting of four members including wife, two sons and one daughter. The matter was taken up with the respondent-department for consideration of appointment on compassionate grounds in respect of the applicant but the same has been turned down vide impugned order dated 27.01.2003.

3. The case has been contested by the respondents and it has been averred specifically in para 4.4 and 4.5 that the case of the applicant was considered at number of occasions but unfortunately his case could not be recommended due to his lower position in merit or for want of vacancies.

4. Both the learned counsel for the parties have reiterated the facts and grounds enunciated in their respective pleadings. The learned counsel for the applicant has pathetically argued and submitted that recently an office memorandum ^{was} published in the year 2003 wherein it is specifically mentioned that the cases of appointments on compassionate grounds should be considered for three consecutive years but applicant's case was considered



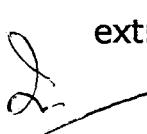
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only two times. He has also submitted that one more chance may be given to him. On the other hand, the learned counsel for the respondents has submitted that the respondents have very fairly given the details of the various considerations made in respect of the applicant against the vacancies for the year 2001 and 2002 and as per the rules in force the case has been fairly considered but at some occasion he was in a very low merit and on the other occasion no one was recommended for want of vacancies. In this view of the matter, no fault can be fastened with the action of the respondents. She has also submitted that the office memorandum which has been issued somewhere in May 2003 would have no application to the case of the applicant since the death of the applicant's father took place as early as on 13.08.1998.



5. I have considered the rival submissions put forth on behalf of both the parties. It is borne out from the reply,  that the respondents have fairly considered the case of the applicant and have exposed the complete picture in the matter inasmuch as they have given the details regarding the vacancy position as well as the cut-off-marks. I have no reason to disbelieve the version of the respondents in this regard. Otherwise, also it is not the case of the applicant that there was some biasness or mala fide against the applicant and he has in any way being deprived of the consideration of appointment due to some extraneous reasons. I am also impressed with the submissions



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of the learned counsel for the respondents that the office memorandum which has been issued somewhere in the year 2003 would have no application in the case of the applicant. It may be added that one has only right to consideration for appointment as per the scheme in vogue and there is no right to appointment as such. The rule is not one death one appointment. The numerous factors shall have to be taken into account in such cases and the respondents are also bound by certain restrictions especially the restriction of the quota which is only 5% of the vacancies of the direct recruitment for a year, which is the main constraint in extending the benefit of the compassionate appointment in normal cases. In this view of the matter, the action of the respondents cannot be said to be arbitrary or faulty.

6. The result is rather very unfortunate but I am left with no option except to dismiss this Original Application, which I do so accordingly, but with no order as to costs.



J. K. Kaushik
(J.K. KAUSHIK)
Judicial Member

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