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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JOPDHPUR.**

Original Application No. 73/2003

Date of Decision: 27.09.2004.

Hon'ble Mr. Kuldip Singh, Vice Chairman.

Hon'ble Mr. M K Misra, Administrative Member.

• Bhanwarlal Patel, S/o Shri Vena Ram Patel, aged 27 years, resident of Near Mahadevji Temple, Luni, Dist. Jodhpur.

: Applicant.

Mr. R.K. Soni : Counsel for the applicant.

Versus

1. Union of India, through the Defence Secretary, Government of India, New Delhi.
2. Commandant, Ammunition Depot, Dehu Road, 412 101 (Maharashtra)
3. Personnel Officer (Civilian), Ammunition Depot, Dehu Road, (Maharashtra)

: Respondents.

Mr. Kuldeep Mathur: Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

The applicant has filed this O.A under Sec. 19 of the Administrative Tribunal Act, 1985, in which he has challenged the order dated 14.06.2002(Annex. A/1), vide which he has been informed that his case for employment in relaxation to the normal rules was considered by the Board of Officers in the meeting held on 09.11.2001, at Headquarters, Southern Command, Pune/ Ammunition Depot, Dehu Road, for the 3rd



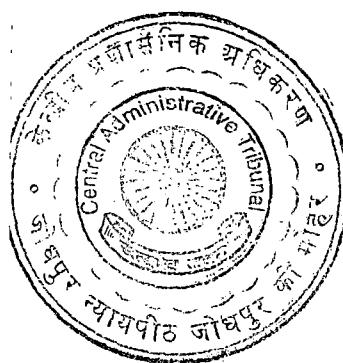
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time, as his case was more than one year old but the case could not find its place in the merit in the face of more deserving cases and limited number of vacancies, of a particular year, the case of the applicant was finally rejected.

2. The facts, which are not in dispute, are that the applicant's father, namely Vena Ram Patel, was working under the respondents as Leading Hand (fire) who died in harness. The applicant thereafter made an application seeking appointment on compassionate grounds, which was considered by the Board of Officers in its meeting held on 09.11.2001, which was rejected by the impugned order.

3. In the grounds to challenge the impugned order, the applicant alleged that his case for compassionate appointment has been rejected in an arbitrary and illegal manner and he has been discriminated, which is violative of Art. 14 and 16 of the Constitution of India. It is also pleaded that for the purpose of giving compassionate appointment, a candidate is not required to compete and stand high in the merit, nor the application can be rejected on the grounds that the applicant's name does not find place in the merit. It was further pleaded that the case of the applicant cannot be rejected for want of vacancies. Thus it is prayed that the impugned order be quashed and the respondents be directed to give appointment to the applicant on compassionate grounds.

[Signature]



4. The respondents have contested the case by filing a detailed reply. In the reply, it is pleaded that the grant of appointment on compassionate grounds is regulated by the policy, issued by the DOPT and the object of providing compassionate appointment to the dependents of Defence Personnel is based on various judgements of the Hon'ble Supreme Court. The respondents have further pleaded that as per the policy a 5 % limit of vacancies which arise in particular year under Direct Recruitment quota has been fixed for the grant of compassionate appointment. The learned counsel appearing for the respondents submitted that the case of the applicant has been considered four times and he has also supplied a copy of the proceedings vide which the case of the applicant has been considered finally. He further averred that there were 22 candidates including that of the applicant for consideration for appointment on compassionate grounds. As per the criteria adopted by the Board of Officers, who considered the cases, the applicant's case stood at Sl. No. 18, whereas only two vacancies were available for appointment on compassionate grounds. The first two candidates have been granted appointment and the applicant being lower in merit, he could not be granted appointment on compassionate grounds and his case has been rejected

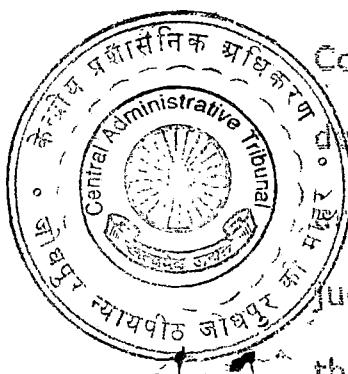
5. In reply to this, the learned counsel for the applicant submitted that merits are not seen at all for dependants of persons who died in harness and they have to be accommodated in some vacancies and since his case is for accommodation in

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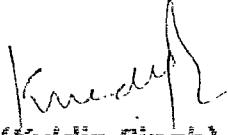
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Group 'D', the applicant could have been provided the appointment.

6. In our considered view, this contention of the learned counsel for the applicant has no merit, because of the policy for providing appointment on compassionate grounds, which is incorporated in Annex. R/1 and R/5, would go to show that there is a ceiling limit of 5 % vacancies arising in a particular year under Direct Recruitment quota, which can be given to the wards and dependants of the deceased employee and this limit of 5% vacancies is based on the basis of judgements of the Apex Court. This would go to show that this limit is justified by the Supreme Court for grant of compassionate appointment to the wards and dependants of the employees who died in harness. This policy and guidelines which are issued based on the Apex Court judgements have not been challenged at all by the applicant and the record of the proceedings, which has been placed before us by the learned counsel for the respondents, would go to show that the case of the applicant has been considered strictly in terms of the policy, in which the applicant could not come in the merit for grant of compassionate appointment. Hence we find no reason to interfere with the orders passed by the respondents. The O.A stands dismissed. No costs.




 (M K Misra)
 Administrative Member,
 JSV


 (Kuldip Singh)
 Vice Chairman.

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Part II and III destroyed
in my presence on 30.10.2013
under the supervision of
section officer (1) as per
order dated 18.10.2013

J.R. Shrestha
Section officer (Record) 30.10.2013