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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 156/2003

Date of order: 08.12.2004

CORAM: **HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN**

Nandlal Deshantri S/o Late Shri Jethanand Ji, aged 29 years,
R/o Jathiyon Ka Bas, Hamirpura, District - Barmer (Raj.)

.Applicant.

Mr. Hemant Shrimali, Advocate for the applicant.

V E R S U S

1. Union of India through Sec., Ministry of Urban Development, Nirman Bhawan, New Delhi.
2. Executive Engineer, Central Coordinator Council, Central Public Works Department (C.P.W.D.), I.G. House, New Delhi.
3. Chief Engineer, North Achal-3, Central Public Works Department (C.P.W.D.), Construction House, Sector-10, Vidhyadhar Nagar, Jaipur.
4. Executive Engineer, Central Public Works Department (C.P.W.D.), Central Council, IIrd Building, Circuit House Road, Jodhpur (Raj.).

.....Respondents

Present : None for the respondents Mr. Vineet Mathur, Advocate for respondents.

[Signature]

ORDER (oral)
:PER HON'BLE MR. KULDIP SINGH, VC:

None is present for the respondents despite second call. I proceed to decide the O.A. No. 156/2003 as per Rule 16 of the Central Administrative Tribunal (Procedure) Rule, 1987, by hearing learned counsel for the applicant and perused the pleadings.

[Signature]



Deleted vide
Order dtd.
17.12.2004 in
MANo.150/04 in
OA No.156/03.

By order.

[Signature]
C.N. Pradeep
Registrar.

2. The brief facts of the case are that applicant's father late Shri Jethanand was serving as a Class-IV employee in the office of Central Public Works Department, Jodhpur. Shri Jethanand expired on 28.06.2001, while in service due to heart-attack. The applicant Shri Nandlal Deshantri son of late Shri Jethanand submitted an application for appointment on compassionate grounds. The deceased Govt. Servant left behind three sons. None of them was employed. The applicant is the only elder member of his family, who has to take care of his family and other family members.



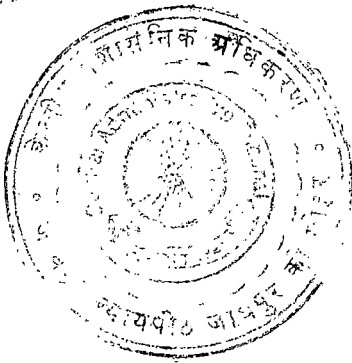
3. The respondents contested the Original Application by filing a reply. The respondents submit that the case of the applicant was considered and the matter was referred to the competent authority of the Department but the same has been rejected as there are 122 candidates already in the waiting list and since there are no further vacancies which are anticipated within a period of one year and within the prescribed ceiling of 5% quota against direct recruitment vacancies meant for grant of appointment on compassionate grounds, hence, the case of the applicant could not be considered favourably for compassionate appointment and the same was rejected.

4. I have considered the rival contentions as raised in the pleadings and as per the impugned order Annexure A/6. I find that case of the applicant has been rejected only on the ground that the department was unable to give appointment to the

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applicant within a period of one year as per the then instructions issued by the Government of India and moreover since there were 122 candidates already in the waiting list for such type of appointment, applicant could not be successful. However, at the time of arguments, the learned counsel for the applicant has drawn my attention towards the OM dated 09.10.1998 and another OM dated 03.12.1999 on the subject of time limit for compassionate appointment and submitted that as per OM dated 5th May 2003, if compassionate appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for Compassionate Appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year and maximum time a person's name can be kept under consideration for offering Compassionate Appointment would be three years and these instructions mentioned in the earlier OMs stood modified.

5. The learned counsel for the applicant submitted that since the earlier OMs has been modified, the case of the applicant should have been considered in accordance with the instructions



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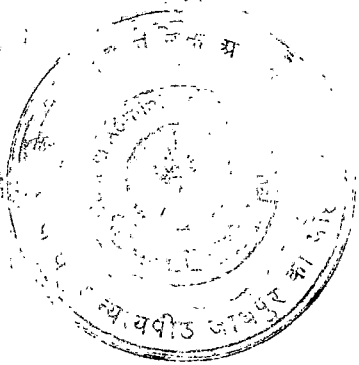
issued vide OM dated 5th May 2003 which has an effect of modifying the earlier instructions/OMs making a provision that if compassionate appointment in genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for Compassionate Appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving^{by} the name of such a person can be continued for consideration for one more year and maximum time a person's name can be kept under consideration for offering Compassionate Appointment would be three years and these instructions mentioned in the earlier OMs stand modified.

6. From the perusal of the above OM dated 05.05.2003 it reveals that earlier OM dated 09.10.1998 and OM dated 03.12.1999 have been modified. Hence, the respondents can be directed to consider the case of the applicant in accordance with the modified instructions as modified vide OM dated 05.05.2003.

7. Consequently, the Original Application is partly allowed. The respondents are directed to consider the case of the applicant afresh in accordance with the modified instructions as per the OM dated 05.05.2003 and shall pass a reasoned and



speaking order for grant of compassionate appointment within a period of three months from the date of receipt of a copy of this order. No costs.



8. The Original Application stands disposed of accordingly.

A handwritten signature in black ink, appearing to read 'Kuldip Singh'.

(KULDIP SINGH)
VICE CHAIRMAN

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Correction copy received
@ 23/12/04

Received
after correction
R/Corp, 23/12

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14/12

Copy received
@ 13/12/04