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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**Original Application No. 186/2003
Date of Decision : this the 24th day of March, 2004.**

Hon'ble Mr. J.K. Kaushik, Judicial member
Hon'ble Mr. G.R. Patwardhan, Administrative Member

Irsardoo Rehman S/o Late Sh. Anwar Ahmed
Aged 23 years, Janta Colony, Khetanadi, Jodhpur
Late Sh. Anwar Ahmed S/o Sh. Haji Allahrakh Khan,
Ex. Ref. Mechanic in the office of Garrison Engineer, MES
Army (U) Jodhpur.

[By Mr. Vijay Mehta, Advocate, for applicant]

.....Applicant.

vs.

1. Union of India through the Secretary to the Government of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, MES, Jaipur Zone, Jaipur.
3. Commander Works Engineer (Army), MES, Multan Lines, Jodhpur.

[By Mr. Arvind Samdaria, Advocate, for respondents]

.....Respondents.



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**ORDER
[BY J.K. KAUSHIK]**

O.A. 186/2003 has been filed under section 19 of the Administrative Tribunals Act, 1985 with the prayer that the order dated 4th April, 2003 at Annex. A/1 may be quashed and the respondents may be directed to give appointment on compassionate grounds to the applicant.

2. The O.A. is listed for admission today. The pleadings are complete. With the consent of the learned advocates for the parties, it was heard for final disposal at admission stage. We

[Signature]

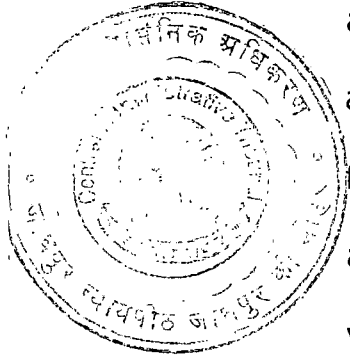
have carefully perused the pleadings and the records of this case.

3. The brief facts of this case borne out from the pleadings of the parties are that applicant is son of Shri Anwar Ahmed, who was a permanent employee on the post of Ref. Mechanic at Jodhpur under the Commander Works Engineer (Army), MES, Jodhpur. The said Shri Anwar Ahmed expired while in service on 14.1.2001 and was survived with his widow, three daughters and two sons. His one daughter is un married and is also minor and one of his son is handicapped and is not able to move. The family was left in harness and in indigent condition with none of the family members in the employment and also no means of earning. The case of the applicant was considered by the respondents for compassionate appointment and finally, the same came to be rejected vide the impugned order at Annex. A/1 primarily, on the ground that there was no vacancy.

4. There is hardly any quarrel as far as the factual aspects of the matter. The respondents have been fair enough to make available records wherein, case of the applicant has been considered. From the record, it is borne out that applicant has secured 49 marks. The learned counsel for the applicant has submitted that the calculation of marks is not correct and the marks of the applicant should have 57. A perusal of the comparative statement makes it evident that even if the applicant would have secured 57 marks still his case could have not been recommended for want of vacancies inasmuch as the

persons who have secured much higher marks than him, had not been so placed and the primary reason for not placing those persons in the recommended zone, was due to non availability of vacancies.

5. The learned counsel for the applicant has submitted that vacancy position may be ascertained from the respondents so as to give impartial justice to the applicant. At page No. 35 of the reply filed by the respondents, the position regarding the vacancies has been made clear and we do not find that there is any rebuttal of the same. We have no reason to disbelieve the version of the respondents in absence of any contrary reasons for arriving at a different conclusion. In this view of the matter, we do not find any illegality, impropriety or arbitrariness in the action of the respondents. One has only a right for consideration and there is no right to appointment as such under the scheme for compassionate appointments and we are satisfied that applicant's case has been duly considered but for want of vacancies, he could not find place in the list of candidates recommended for appointment on compassionate grounds.



6. In view of what has been said and discussed above, we are left with no option except to dismiss this O.A. and we do so accordingly, but, without any order as to costs.


[G.R. Patwardhan]
Administrative Member


[J.K. Kaushik]
Judl. Member

jrm