

के.प्र.प्र. (प्रक्रिया) 11/2002 के नियम 22 के अन्तर्गत निः शुल्क प्रति

I/8

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

- (1) ORIGINAL APPLICATION NO: 112/2002
(2) ORIGINAL APPLICATION NO: 114/2002

DATE OF ORDER: 26 May, 2003

Liladhar son of late Shri Polaram Mali, aged about 23 years,
resident of Village Badabagh, Post Amarsagar, District Jaisalmer.

...Applicant in O.A. No. 112/2002



Hukma Ram son of late Shri Prema Ram Mali, aged about 21
years, resident of Village Badabagh, Post Amarsagar, District
Jaisalmer.

....Applicant in O.A. No. 114/2002

VERSUS

**COMPARED &
CHECKED**

The Union of India, through the Secretary,
Ministry of Defence, Raksha Bhawan, Government of
India, New Delhi.

- (2) Head Quarter, Southern Command,
Pune-01.
(3) OOC (Adm.), Personnel Officer for Commandant,
19 Field Ammunition Depot,
C/o 56 APO.

...Respondents in O.A. No. 112/2002 & 114/2002

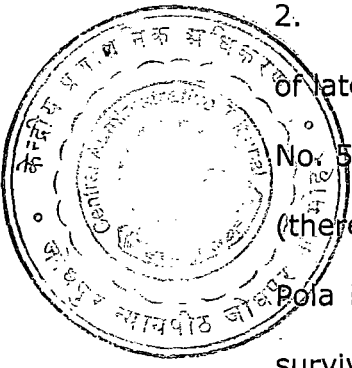
Mr. Sanjeet Purohit, Adv. brief holder for
Mr. Vinod Purohit, counsel for the applicant.
Mr. Ravi Bhansali, Counsel for the respondents.

CORAM:

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

ORDER

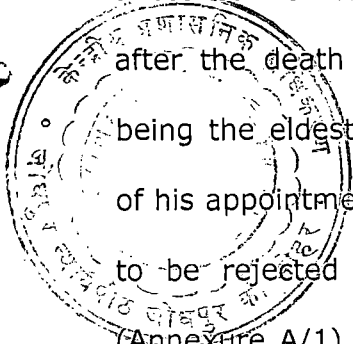
Shri Liladhar Mali & Shri Hukma Ram Mali have filed Original Application Nos. 112/2002 & 114/2002, respectively, for seeking a direction to the respondents to consider their cases for grant of compassionate appointment. A common question of facts and law is involved in this case and therefore, both Original Applications are being decided by a common order.



2. Shri Liladhar Mali applicant in O.A. No. 112/2002 is the son of late Shri Pola Ram Mali who was employed as Mazdoor (Token No. 556) in Up Gola Barood Bhandar under the respondent No. 4 (there is no respondent no. 4 in this Original Application). Shri Pola Ram Mali expired on 21.10.1993 while in service and was survived with three sons and a daughter in addition to widow. The family of the deceased Government servant was left with without a bread-winner and has been suffering great hardship in as much as the dependent family members have been surviving only with meagre family pension paid to the mother of the applicant. The applicant is 8th standard pass and the eldest son of the deceased Government servant. An application was submitted but the same was not considered and it was only in the year 2000 that the case was rejected. Thereafter a notice for demand of justice was got served on the respondents.

3. As regards the other case of Shri Hukma Ram Mali applicant in O.A. No. 114/2002, the brief facts are that the

applicant is son of late Shri PremaRam Mali. Shri Prema Ram Mali was also employed on the post of Mazdoor (Token No. 557) in Up Gola Barood Bhandar under the respondent no. 4 (there is no respondent no. 4 in this Original Application). Shri Prema Ram Mali expired on 06.11.1998 while on active service. He was survived with widow, two sons and two daughters. The applicant has studied up to 7th standard. He is the eldest son of the deceased Government servant. There was no bread-winner left after the death of the father of the applicant. The applicant being the eldest son submitted an application for consideration of his appointment on compassionate ground but the same came to be rejected vide communication dated 9th October, 2000 (Annexure A/1). Thereafter a notice for demand of justice was got served through his counsel to the department but there has been no response.



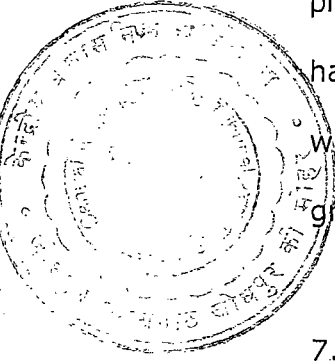
4. Both the Original Applications have been filed almost identical grounds which are not being narrated here in view of the order being passed hereunder.

5. The respondents have contested the matter and have filed the detailed counter reply to the Original Applications. It has been specifically averred that the cases of applicants in both these Original Application have been duly considered for compassionate appointment in accordance with rules in vogue by the competent authority. But none of them could find place in

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the merit list against the vacancies earmarked for consideration of such cases for employment in relaxation to normal rules. They have also cited certain authorities on the subject in addition to the Government of India's instructions.

6. With the consent of parties the case was taken up for final disposal at admission stage. I have heard the learned counsel for the parties and have carefully perused the records and pleadings of this case. The learned counsel for the respondents has also produced the original record of the Board of Officers where in the cases of the applicants have been considered for grant of compassionate appointment.



7. The learned counsel for the applicants has reiterated the averments made in the Original Applications and has submitted that there has been factual mistake in assigning the marks for dependents and as per the marks assigned in case of the applicant Shri Liladhar, two dependents have been left out and in case of Hukma Ram Mali, one of the dependent is left out. He has also submitted that the conditions of the family of the deceased Government servants are in indigent and they do not have any other source of income. He has also submitted that the matter needed very sympathy and justice oriented approach so as to enable the said family to exist.

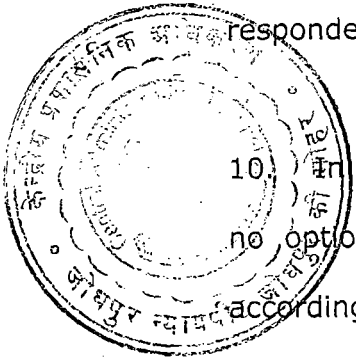
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8. On the contrary, the learned counsel for the respondents has opposed the contentions urged on behalf of the applicants. It has been submitted that the cases of the applicants have been duly considered keeping in view the guidelines and the various authorities on the subject. They have not been able to get bearth in department due to their low merit. Thus, there is no case of interference by this Hon'ble Tribunal.

9. I have considered the rival contentions raised on behalf of the parties and have perused the record file submitted on behalf of the respondents. From the records, it is clear that cases of both the applicants have been duly considered and they have obtained the total marks as per the tabulation and have got 57 and 52 marks, respectively. Even if there is some discrepancy in reckoning the number of dependents as is contended by the learned counsel for the applicants, and the submission are taken to be true, the applicants would get maximum of 67 and 57 marks, respectively. Whereas, the persons who have been selected, has secured 73 marks. In this view of the matter, the claim of the applicants cannot be sustained and the Original Applications deserves to be dismissed without examining any other grounds. In my considered opinion, one does not have any indefeasible right to get appointment on compassionate ground and whatever the right is it is right to consideration and that too within the parameters of the scheme, the case can be considered. The parameters laid down certain constraints

relating to the vacancy position which can be 5% of the vacancies against direct recruitment for one year from the date of death. Other one is the comparative hardship. The respondents have made a clean breast of their action and a fair treatment has been given to the applicants. In my considered opinion, the cases of applicants have been duly considered strictly in accordance with the scheme. Thus, there is absolutely no infirmity, arbitrariness or illegality with action of the respondents.



10. In the premises, the result is very unfortunate and I have no option except to dismiss both the applications. Ordered accordingly. In the facts and circumstances of the cases, there shall be no order as to costs.

(J.K. KAUSHIK)
JUDICIAL MEMBER

Kumawat

प्रमाणित की प्रतिलिपि
प्रमुख न्यायाधीश (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जयपुर

Part II and III destroyed
in my presence on 1.8.88
under the supervision of
section officer (1) as per
order dated 27.2.88

Section officer (Record)

Recd copy
on 28.5.03
Jagmohan
Mun
28/5