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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION 274 of 2006
Jodhpur, this the 9.11.2009**

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CORAM :
HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
.....

Abdul Rashid S/o Late Shri Abdul Hafiz, aged 30 years, R/o Kabir Nagar, Kaylana Chorya, Jodhpur, Shri Abdul Hafiz S/o Shri Abdul Hai, deceased Valveman in the Office of AGE(I), MES, R&D, Jodhpur.

[By Advocate : Mr. Vijay Mehta]

.....Applicant.

-Versus-

(1) Union of India through the
Secretary to the Government of India,
Ministry of Defence, Raksha Bhawan,
New Delhi.

(2) Commander Works Engineer,
MES (Army), Jodhpur.

.....Respondents.

[By Advocate :Mr. K. Parveen]

.....
: O R D E R : (Oral)
BY THE COURT

The applicant, Abdul Rashid has preferred this O.A. claiming the relief that the order dated 23.12.2003 passed by the respondent and communicated to him through letter dated 10.11.2006 (Annex.A/1), be quashed and the respondents be directed to give appointment on compassionate ground to the applicant forthwith.

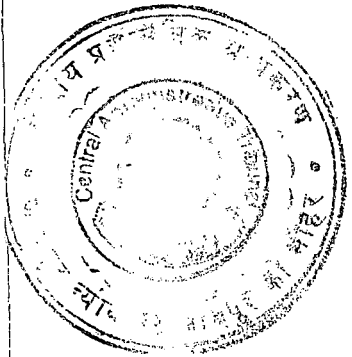
2- The brief facts are as follows :-

Applicant's father late Sh. Abdul Hafiz, was employed as Valveman in the Office of AGE(I), MES, R&D, Jodhpur, and while he was in active service, he died on 18.2.1999. About a month



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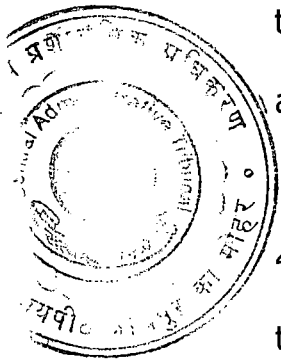
after the death of the applicant's father, his mother filed an application on 31.3.1999 for appointment of the applicant on compassionate ground. Thereafter, the respondent No. 2 vide his letter dated 4.11.1999, called the applicant for interview and accordingly the applicant appeared in the interview. After the interview, the applicant was informed that the result of the interview would be communicated to him after the order was received from the competent authority. But, for a considerable time, no intimation was received from the side of the respondents. The applicant, time and again, went to the office of respondent no. 2, who assured him that as soon as the order is received from the competent authority, he would inform the applicant. In the month of November, 2006, the applicant received a letter dated 10.11.2006 (Annex.A/1) issued from the Office of respondent No. 2 whereby, the applicant was informed that vide order dated 23.12.2003, the appropriate authority has rejected his claim for compassionate appointment. However, no such order of the competent authority was attached with the correspondence nor any reasons for rejection of the claim was disclosed. Thus, the rejection of the claim of the applicant for compassionate appointment gave rise to the filing of this O.A. wherein, the applicant has challenged the validity of Annex.A/1.



3- On filing of the O.A., notice was issued to the respondents who have filed a reply wherein, it has been admitted by them that the father of the applicant was employed under the respondents and died while in active service. It is also admitted that after his death, the mother of the applicant had preferred

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an application for compassionate⁻³⁻ appointment of the applicant. It is also admitted that the case of the applicant was considered thrice in the meeting of the Board of Officers' and on two occasions the Board recommended the name of the applicant for grant of compassionate appointment. It is further stated that lastly, the case of the applicant was considered on 22.10.2002 by the Board of Officers and the applicant's name was not recommended for appointment on compassionate ground because of the fact that no vacancy was existed. Thereafter, the matter was considered by the appropriate authority and finally, his claim for compassionate appointment was rejected by the appropriate authority which was communicated to the applicant through Annex. A/1.



4- The contention of the learned Advocate of the applicant is that the impugned order [Annex.A/1] whereby, the applicant was informed by the respondents that his claim for compassionate appointment was rejected, is a non speaking order and no reason for rejection of the claim of the applicant for compassionate appointment has been assigned therein. He has submitted that the order itself shows that while rejecting the claim of the applicant, the respondents have not applied their mind and in a mechanical way the authority rejected the claim of the applicant. He has submitted that the order which has been passed without applying the mind and without considering the relevant facts, cannot be said to be a legal order and hence, it should be set aside.



5- In this regard, the learned Advocate of the applicant has placed reliance upon the decision of the Apex Court given in the case of Mohinder Singh Gill and another, appellants Vs. The Chief Election Commissioner, New Delhi and Ors., respondents, reported in AIR 1978 SC 851.

6- Replying to the arguments of the learned Advocate of the applicant, the respondents Advocate submitted that the sole ground on which the applicant's claim was rejected, was that there was no vacancy for appointment on compassionate ground in the Department during the relevant period.

7- After perusing the case law and hearing the arguments advanced on behalf of the parties, I have come to the conclusion that there is no denial of this fact that the applicant's father had died during his service and immediately thereafter, the applicant had applied for compassionate appointment. It is also not in dispute that the applicant did not fulfill the requisite qualifications for appointment, rather, the enclosures and annexures attached with the OA as well as with the reply show that the applicant was interviewed for the post of Mazdoor and atleast on two occasions, his name was recommended for appointment on compassionate ground by the Selection Board. But, lastly, the Board did not recommend the name of the applicant without assigning any reason and thereafter, the respondents issued Annex. A/1 on 10.11.2006 intimating the applicant that his claim was rejected by the competent authority on 23.12.2003. On perusal of this Annex. A/1, it appears that no



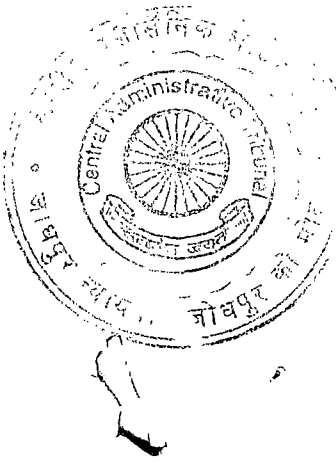
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reason has been assigned in the ⁻⁵⁻order for rejection of the claim of the applicant for compassionate appointment. The order simply mentioned that by order dated 23.12.2003, the appropriate authority has rejected the claim of the applicant for compassionate appointment. But, the order of the appropriate authority had not been attached with the communication (Annex.A/1). Under these circumstances, I have no alternative except to hold that the impugned order is a non speaking order and has been passed by the concerned authority without applying its mind. The law is very clear on this point that the validity of any order can only be judged by the reasons mentioned therein and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. My view finds support from the following observation of the Apex Court given in the case of Mohinder Singh Gill and Anr. Vs. The Chief Election Commissioner, New Delhi and Ors., "when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds, later, brought out".

8- Relying upon the above mentioned decision, I have no hesitation in holding that the order which is under challenge incorporated in Annex.A/1, is a non speaking order and has been passed by the competent authority without application of mind and so it cannot be allowed to stand.

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9- In the result, I find merit in this OA and accordingly the same is allowed and the impugned order dated 23.12.2003 communicated to the applicant through Annex. A/1 dated 10.11.2006, is quashed and set aside and the respondents are directed to re-consider the case of the applicant for appointment on compassionate ground within a period of three months. However, there will be no order as to cost.

*S.M.M. Alam*

**(S.M.M.Alam)
Member (J)**

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Part II and III destroyed
in my presence on 8/10/09
under the supervision of
section officer () as per
order dated 07/07/2015

Section officer (Records)

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29.12.09
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