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

Original Application No. 45/2006
With
Misc. Application No. 29/2006

Date of order: 23.11.2006

**HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER**

Tejpal Son of late Shri Maan Lal, aged 29 years R/o C/o Shri Narain Prasad Saini, 8 Vyas Colony, Haripura, Jodhpur : Shri Madan Lal deceased – Mate in the office of Garrison Engineer (Air Force) MES, Jodhpur.

...Applicant.

Mr. Vijay Mehta, counsel for the 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 (Air Force), Jodhpur.
3. Chief Engineer (Air Force) MES, Camp Hanuman, Ahmedabad.

...Respondents.

Mr. Vinit Mathur & Mr. M. Godara, counsel for respondents.

ORDER

(By Mr. J K Kaushik, Judicial Member)

Shri Tejpal, the applicant, has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, wherein he has questioned the validity of order dated 10 March 2003 (Annex. A/1) by which his case for consideration for appointment on compassionate grounds came to be turned down. He has further prayed that the respondents may be directed to give appointment on compassionate grounds.

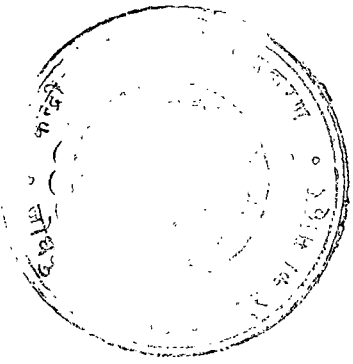
2. We have heard learned counsel for both the parties at a considerable length and have carefully perused the pleadings as well

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as records of this case. Learned counsel for the respondents has also been fair enough to make available the proceedings of Board of Officers which considered the case of the applicant as well as other candidates in consideration zone for appointment on compassionate grounds.

3. The factual matrix of the case is within a very narrow compass. Applicant is the son of one Shri Madan Lal. Shri Madan Lal was employed on the post of Mate in the office of Garrison Engineer, MES (AF), Jodhpur. Shri Madan Lal died in harness on dated 14.12.2000. The case of applicant was taken up for consideration for appointment on compassionate grounds. The same has been turned down vide impugned order. The respondents have contested the case and have generally refuted the averments made in the Original Application.



4. A separate Misc. Application No. No. 29/2006 has been filed for condonation of the delay. In the Misc. Application, it is averred that the case of the applicant was rejected on 13.02.2003 and thereafter he remained under constant treatment and a medical certificate is filed to this effect. The respondents have not filed any reply to the same. We find that there are good and sufficient reasons for condoning the delay and we are inclined to use our discretion for condoning the delay, therefore, the delay in filing of the O.A. is hereby condoned and the Misc. Application No. 29/2006 stands accepted.

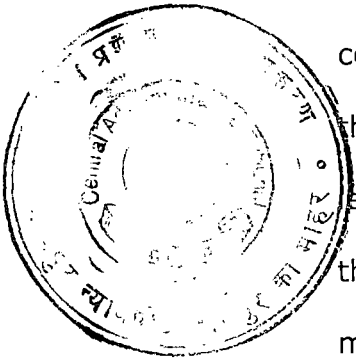
5. Both the learned counsel for the parties have reiterated the facts and grounds raised in the respective pleadings of the parties. Learned counsel for the respondents has produced a copy of the proceedings of Board of Officers wherein the case of the applicant is

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considered and has demonstrated that there was only one vacancy against 5% of direct recruitment quota for the particular year against which the cases for compassionate grounds was considered. There were 9 persons in the consideration zone. Except one person at Sl. No. 6 all of them secured more marks than the applicant. The person who has secured ~~the~~ higher marks than the applicant has been recommended and given the appointment. Therefore, the case of the applicant has been rightly rejected due to the constraint of the vacancy position. Learned counsel for the applicant was also allowed to peruse the relevant records.



6. We are satisfied that the respondents have been fair enough to consider the case of the applicant and it is only the consideration of the appointment on compassionate grounds which could be said to be legal right of a person and not the right to appointment. The case of the applicant has been duly considered but did not find berth in the merit may be due to his lower position on the merit or for want of sufficient vacancies. Therefore, there is no illegality in the impugned order.

7. In the premises, the result is rather very unfortunate but we are left with no option except to dismiss this Original Application, which we direct accordingly. No costs.

R R Bhandari
(R R BHANDARI)
ADMINISTRATIVE MEMBER

J K Kaushik
(J K KAUSHIK)
JUDICIAL MEMBER

Kumawat