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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 16/2007

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Date of order : 17th July, 2008.

CORAM :

**HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER**

.....

Hem Raj S/o Late Shri Ram Chandra by caste Sargara aged about 29 years, resident of Plot No. 123, Jawahar Colony, Near Sardar Club, Residency Road, Jodhpur. Father's service Address : posted as Mazdoor under the Commandant Office, Health Station Organisation, SHO (Army), Jodhpur.

.....Applicant.

By Mr. Bharat Shrimali, Advocate, counsel for applicant.

VERSUS



- 1-. Union of India through Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
- 2-. Director General of Medical Services (Army), Adjutant General Branch, Army Headquarter, "L" Block, New Delhi.
- 3-. Southern Commandant (Medical), Headquarter, Pune (Maharashtra).
- 4-. Commandant Officer, Health Station Organisation, HO (Army), Jodhpur.

Mr. K.D.S. Charan, Advocate,Respondents.
For Mr. Kuldeep Mathur, Advocate, for the respondents.

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ORDER

[PER M.L. CHAUHAN, MEMBER (J)]

The applicant has filed this O.A. thereby praying for the following reliefs :-

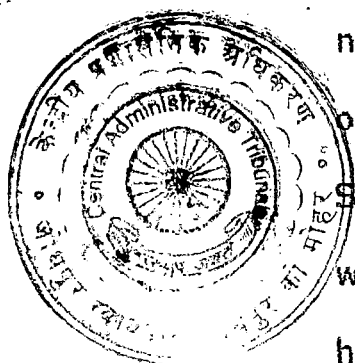
"In view of the facts and grounds mentioned in the memo of Original Application, it is, therefore, most humbly prayed that this Original Application may kindly be allowed with cost and the impugned order/letter dated 25.08.2004 (Annex.A-1) dated 25.07.2006 (Annex.A-2) and letter dated 06.09.2005 (Annex.A-3) may kindly be quashed and set aside and the respondents may kindly be directed to give

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the appointment to the Applicant on compassionate ground immediately on the post on which he found suitable as per his qualification.

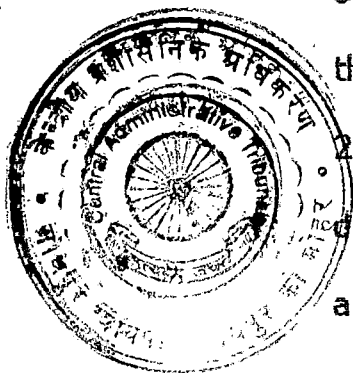
The respondents may also be directed to produce the comparative list of the candidates in this they have given the marks to the applicant and other and same may kindly be quashed and set aside."

2- Briefly stated facts of the case are that the father of the applicant died on 24.1.2003. After death of the father of the applicant, application dated 31.12.2003 was made for grant of compassionate appointment. The case of the applicant was considered by a duly constituted Selection Board along with 80 similarly situated candidates. After taking into consideration various factors viz., terminal benefits received by the family of the deceased, movable / im-movable property, monthly income of the dependant of the deceased including members leaving separately, number of dependants, number of un-married daughter(s), number of minor children and the left-over service of the deceased, the Selection Board made a comparative merit list of the candidates wherein, the name of the applicant is mentioned at Sl. No. 66 having obtained 40 points. Since there were only 8 posts available, the appointment(s) on compassionate ground were given to most deserving cases. The case of the applicant was again considered on second occasion along with 79 other similarly placed persons in February 2005 and thereafter, a comparative merit list was prepared in which, the name of the applicant ~~was~~ figured at Sl. No. 67 having obtained 40 points. Since there were 9 vacancies, compassionate appointment was given to 9 deserving candidates as per the merit prepared by the Board. Feeling aggrieved by these orders, the applicant filed O.A. No. 29 of 2005 in this Tribunal. The said O.A. was disposed of vide order dated 26.10.2005 (Annex.A-



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6) as the only contention which was raised before the Bench was that his case for compassionate appointment has been considered twice; whereas, it should have been considered thrice. Accordingly this Tribunal directed the respondents to consider the case of the applicant again. The respondents, vide letter dated 27.7.2006 (Annex.A/2) informed that case of the applicant had already been considered on three occasions by the Board in its meeting on 6.9.2005 and this aspect could not be brought to the notice of the Hon'ble Tribunal while disposing of the O.A. No. 29/2005 on 26.10.2005. As such, his case for compassionate appointment cannot be placed before the next Board for consideration. The respondents have also annexed a copy of letter dated 6.9.2005 on record as Annex. A/3 which was addressed to the applicant and this letter was within the knowledge of the applicant on 26.10.2005 when this Tribunal disposed of the earlier O.A. without disclosing the fact regarding consideration of the case of the applicant by the Board on three occasions and rejecting the case of the applicant. As can be seen from the letter dated 6.9.2005 (Annex.A-3), the selection board considered the case of all the 84 persons who were similarly placed as that of the applicants and the selection board prepared a comparative merit list wherein, the name of the applicant appeared at Sl. No. 74 and there were only 8 vacancies and the appointment on compassionate grounds were to be given to the deserving candidates as per merit list. It is further recorded in this letter that the case of the applicant has been considered thrice, as such, his case cannot be considered by the Headquarters again for compassionate appointment. It is this order of the respondents which is under challenge before this Tribunal.



3. Notice of this Application was given to the respondents. Respondents have filed their reply stating that the family of the deceased consists of only two members i.e. his wife and the applicant. The sister of the applicant is married and do not fall in the definition of family. It is further stated that the ^{widow} ~~applicant~~ has received Rs. 2,89,487/- as Terminal Benefits. The Widow has also been sanctioned a basic Family Pension of Rs. 1,865/- w.e.f. January 2003. According to respondents, after taking into consideration relevant factors, the applicant cannot be given compassionate appointment as he was not a deserving candidate and despite that, his case was considered by the Board three times, hence, applicant is not entitled to any relief.



4. We have heard the learned counsel for the parties and gone through the material placed on record.

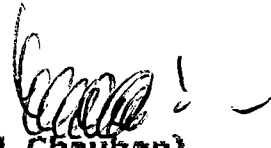
5. We are of the view that the present application is wholly mis-conceived and the applicant is not entitled to any relief. At the out-set, it may be pointed-out that it cannot be said to be a case where the deceased has left his family in penury and without any means of livelihood. The family consists of Widow and a major Son i.e. applicant, who at the time of death of his father, was about 25 years of age and according to us, major Son, cannot be said to be a 'dependant' rather, he could contribute to the Income of the family. Even, a major son, who has attained the age of 25 years, is not entitled to family pension. The Widow is getting Family Pension of Rs. 1865/- which, according to us, is sufficient to maintain the family, even if, the retrial benefits to the tune of Rs.

2,89,487/- are ignored, which amount, according to us, has to be

taken into consideration for the purpose of assessing the penury condition of the family. Thus, according to us, the case of the applicant, ought to have been rejected at the threshold; still the respondents considered the case of applicant on three occasions firstly, against 8 available posts while considering the claim of 80 persons. The position of the applicant as per comparative merit list was at Sl. No. 66, thus, the applicant could not have been given appointment on compassionate ground(s). On second occasion, there were 9 posts against which 79 persons were considered. The position of the applicant was at Sl. No. 67; much below than the vacancies available for compassionate appointments. Similarly, on the third occasion when petitioner's case was considered, there were 8 vacancies and 84 persons were to be considered. As per the comparative merit list prepared by the Board, the name of the applicant was at Sl. No. 74, as such, he could not have been given appointment on compassionate ground ignoring the claim of the most deserving candidates. Thus, we see no infirmity in the action of the respondents. Accordingly, the O.A. is ^{bereft} ~~deprived~~ of any merit and is liable to be rejected in view of the settled law of the Apex Court that compassionate appointment is intended to enable the family of the deceased employee to tie-over sudden crises resulting due to death of the bread-winner, who left the family in penury without any means of livelihood. This is not a case of such nature. With these observations, the O.A. is disposed of with no order as to costs.




(B.L. Khatri)
Member (A)


(M.L. Chauhan)
Member (J)

Part II and III destroyed
in my presence on 15/11/04
under the supervision of
section officer () as per
order dated 19/8/2004
[Signature]
Section officer (Record)

Copy received
[Signature] (Bharat Sharma)
28/7/08

Copy Received

[Signature]
KULDEEP MATHUR
29/07/08