

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 370/2010

Date of order: 18.07.2011

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Pawan Kumar S/o Late Shri Krishan Lal Suthar, by caste Suthar, aged about 22 years, R/o Village Mirjewala, Tehsil & District Srigananagar. (Father of the applicant was working as Mason under the Garrison Engineer, MES, Srigananagar).

...Applicant.
Mr. S.S. Gaur, counsel for applicant.

VERSUS

1. Union of India through the Secretary to the Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, MES Bathinda Zone, Bathinda Military Station (Punjab).
3. The Commander Works Engineer, MES, Srigananagar.
4. The Garrison Engineer, MES, Srigananagar (Raj.).

... Respondents.
Mr. Niranjan Mathur, proxy counsel for
Mr. Kuldeep Mathur, counsel for respondents.

**ORDER
(Per Dr. K.B. Suresh, Judicial Member)**

We have heard the learned counsels for both the sides. The matter relates to compassionate appointment, where the concerned authorities appear to have considered 8 candidates even though there was no vacancy for compassionate appointment, and the Hon'ble Apex Court had clearly directed that on direct recruitment quota 5% of such vacancy can be made available to compassionate appointment. Therefore, the trite law is that there may be years in which there will not be any vacancies, and consideration during these years will not be proper as it will be an empty exercise of no purpose. The purpose of three years is to be read as three opportunities to be granted

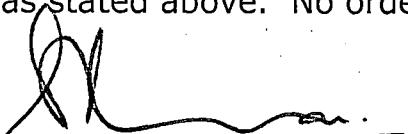


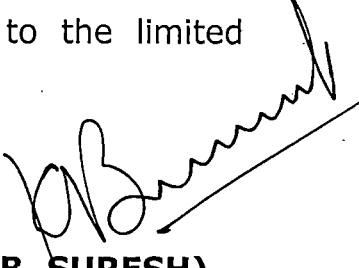
after vacancies are marshaled and a comparative analysis is to be made of the competing indigence of the applicant before us, along with others. No purpose will be served by holding the consideration when there are no vacancies. Therefore, the following points are declared:

- (a). A minor is entitled to have his minority excluded before the time starts to run for the matter of his consideration for compassionate appointment.
- (b). Vacancies shall be marshaled and on an adequacy of ~~Q.~~ vacancies alone, consideration shall be made.
- (c). Consideration shall be on a transparent and open matrix by allotting positive and negative points.
- (d). All such candidates are entitled to three opportunities of consideration.

2. Therefore, the impugned order dated 08th May, 2010 (Annex. A/1) is hereby quashed. The respondents are directed to consider the case of the applicant once again for three opportunities as aforesaid.

3. The Original Application is, thus, allowed to the limited extent as stated above. No order as to costs.


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(DR. K.B. SURESH)
JUDICIAL MEMBER