

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.70/2011

Date of decision:22.11.2011

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER,
HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.**

Pukh Raj Joshi S/o Late Shri Shree Ram Joshi, aged about 24, years, R/o Salam Nath Ka Dhora, Behind Water Tanki, Gangasahar, Bikaner (Raj.) S/O Ex. Engine Fitter in the office of G.E., (A.F.) Nal, Bikaner (Rajasthan).

: Applicant

Mr. S.K. Malik, counsel for applicant.

Versus

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Engineer in Chief's Branch HQ, Ministry of Defence (Army), Kashmir House Rajaji Marg, New Delhi-11.
3. The Chief Engineer, Air Force, Head Quarter WAC, Palam, Delhi Cantt.-10.
4. The Commander Works Engineer, Air Force, Bikaner.
5. The Garrison Engineer, Air Force, Nal, Bikaner.

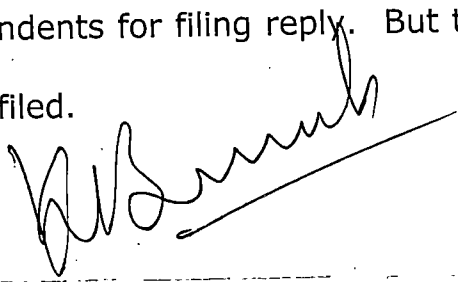
: Respondents

**Mr. M. Prajapat, proxy counsel for
Mr. Ravi Bhansali, counsel for respondents.**

ORDER (ORAL)

Per Dr. K.B. Suresh, Judicial Member

We have heard both the counsels in great detail and examined the pleadings. The matter relates to compassionate appointment. Notices were issued on 16.03.2011 seeking reply from the respondents. On 20.07.2011 further time was granted to the respondents and on 09.09.2011 also, further time was granted to the respondents for filing reply. But till today no reply seems to have been filed.



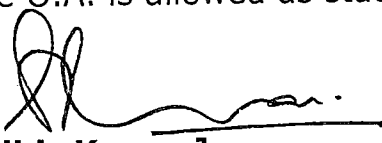
2. Since the matter relates to compassionate appointment, and some years after the death of the deceased government servant ~~have~~ ^{Re.} already ~~been~~ elapsed, therefore, we have taken benefit from ^{Re.} documentations issued by the respondents. In Annexure-A/1, it is found that the deceased employee had left behind one son and three daughters, and they own no property and they have no other income. The part of the terminal benefits received by the deceased family had been invested for meeting the expenses of unmarried daughter etc., as found by the respondents. The deceased government servant's daughter (s) are not married off and these liabilities are still on the shoulder of the applicant.

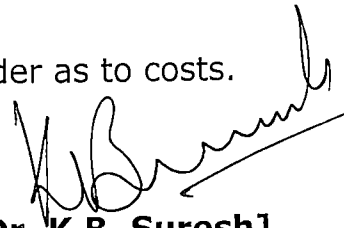
^{Re.} Having found all the facts, the respondents rejected the case of the applicant for compassionate appointment as there is lack of sufficient vacancies within the 5% quota. But apparently vide letter No.B/78001/Jt DG (Pers)/RTI/977 dated 03.12.2010, ^{Re.} intimated ^{to} the applicant under his application for Right to Information Act, 2005, that 932 vacancies of LDCs, 5961 vacancies of Chowkidars, and 793 vacancies of Peons were in existence as ^{Re.} on that date, even though, it is stipulated that in implementation of ADRP, these vacancies are likely to be reduced. Vide Annexure-A/5, a certificate of willingness was required and obtained from the applicant showing his willingness ^{for him} to be posted ~~him~~ anywhere ^{Re.} in India. Therefore, geographical constraints of the vacancies ^{Re.} cannot visit the applicant, as he has shown his willingness to be posted at any place in India, which the respondents themselves had required. But even if such consideration could not result into fructified result, because of non availability of vacancies in the 5% quota, ^{Re.} the second and third chance of consideration is also

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equally available to the applicant. Therefore, we allow this O.A. and direct the respondent to consider the case of the applicant for second and third consideration. They should keep in mind that three years' consideration does not mean the chronological consideration within a time frame of three years alone, but effective consideration of three opportunities must be made after vacancies are marshalled. Therefore, they shall consider the case of the applicant for two further opportunities of such effective consideration, and pass thereafter a speaking order, which shall be served to the applicant.

3. The O.A. is allowed as stated above. No order as to costs.


[Sudhir Kumar]
Administrative Member


[Dr. K.B. Suresh]
Judicial Member