

**ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW****(Court No. 2)****Transferred Application No. 7 of 2013**Tuesday, the 3<sup>rd</sup> day of November, 2015**“Hon’ble Mr. Justice Abdul Mateen, Member (J)  
Hon’ble Lt. Gen. A.M. Verma, Member (A)”**Narendra Singh, son of late Madho Singh, resident of village  
Chaunda, P.O. Tharali, District Chamoli.

..... Applicant

By Shri D.C.Lohumi, learned counsel for the applicant.

Versus

1. Union of India through its Secretary Defence, New Delhi.
2. Commandant 505 Sena Base Workshop (505 Army Base Workshop) Delhi Cantt/Establishment Officer, EMEO (CIV).
- 3, Senior Record Officer (Officer Incharge Record), Defence Security Corps, Record Mill Road, Cannanore, Kerala.

.....Respondents

By Col. J.G.Manhas and Capt Soma John, Departmental  
Representatives.**ORDER**

1. Civil Writ Petition No. 1947 of 2005 (S/S) was received by this Tribunal from Hon’ble High Court of Uttarakhand, Nainital and was renumbered as above.
2. We have heard Shri D.C.Lohumi, learned counsel for the

applicant and Col. J.G.Manhas and Capt Soma John, Departmental Representatives appearing for the respondents.

3. By means of this T.A, the applicant has prayed for quashing the impugned order dated 8.2.2003, by means of which the respondents had rejected the claim of the applicant for compassionate appointment on the ground of non-availability of vacancy. He has further prayed for a direction to the respondents to give compassionate appointment to the applicant in the department.

4. The applicant being the son of late Madho Singh, who was working on the post of Naik in 505 Sena Base Workshop and had died while in service of the Army on 6.5.1999, had applied for compassionate appointment under the provisions of Dying-in-Harness Rules. His prayer for such appointment was refused by the respondents vide their order dated 8.2.2003 while holding that the candidature of the applicant was considered by the Board of Officers thrice but was rejected finally due to non-availability of vacancy.

5. The submission of learned counsel for the applicant is that on 8.2.2003 even if there was no vacancy existing in the office of respondents to give appointment to the applicant on compassionate ground as per his qualification, his candidature could have been considered subsequently not only against the vacancies available in the Defence but also in other departments of the Central Government. He has further submitted that the applicant, who is only Class VIII pass, could be given

appointment as such an appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment in terms of RA-1 and RA-2 annexed with the Rejoinder Affidavit 2.5.2013.

6. We have considered the matter. Since the case in hand relates to appointment sought for under the provisions of Dying-in-Harness Rules and no doubt an army personnel should be given priority while considering such cases of compassionate appointment to enable the family of the deceased to survive, in our considered view, it was incumbent upon the respondents to have reconsidered the case of the applicant later even if his case was rejected earlier due to non-availability of vacancy.

7. We, therefore, quash the impugned order dated 8.2.2003, contained in Annexure 5 to the TA) and direct the respondents to consider the case of the applicant again for compassionate appointment against the vacancies available in the Defence or any other departments of the Central Government as per his qualification and age, within a period of three months from the date of receipt of a certified copy of this order.

8. With the aforesaid direction, this T.A stands allowed. No order as to costs.

**(Lt. Gen A.M. Verma)**  
**Member (A)**

**(Justice Abdul Mateen)**  
**Member (J)**

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