

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00927/2018

Tuesday, this the 28th day of January, 2020

C O R A M :

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

Renjith.P.R.,
S/o.late P.K.Radhakrishnan,
T.S.(O), Padathuparambil House,
Kedamangalam, North Parur – 683 513.Applicant

(By Advocate M/s.Dandapani Associates)

v e r s u s

1. Bharath Sanchar Nigam Ltd.,
represented by the Chairman-cum-Managing Director,
Telecom, New Delhi – 110 001.
2. The Assistant Director General,
Bharath Sanchar Nigam Ltd., Telecom,
New Delhi – 110 001.
3. Assistant General Manager (Admin.),
Office of the Principal General Manager,
Telecom, Bharath Sanchar Nigam Ltd.,
Telecom, Ernakulam, Kochi – 682 016.
4. Deputy General Manager (HR),
Office of Chief General Manager, Telecom,
BSNL, Kerala Circle, Thiruvananthapuram – 33.Respondents

(By Advocate Mrs.Girija.K.Gopal)

This application having been heard on 28th January 2020, the Tribunal on the same day delivered the following :

O R D E R (O R A L)

The applicant is the son of late Shri.P.K.Radhakrishnan, TS (O) who died in harness on 11.9.2010 at the age of 58 years due to renal failure while serving with the respondents. At the time of death, the deceased employee

had two years of service left for his superannuation. He had left behind two children. The family had been pushed to penurious situation because of the untimely death of the deceased employee and they are financially unable to meet their day to day needs. After the death, the applicant had applied for compassionate appointment on 16.5.2012.

2. It is submitted that the Chairman, National Commission for Schedule Tribes advised standard guidelines for eligibility for appointment on compassionate grounds and as per letter dated 26.12.2006 BSNL Board's decision was communicated for offering compassionate appointment subject to the policy guidelines to be given by the Corporate Office. It is further submitted that as per Annexure A-1 five points per dependents has to be allocated. At the time of submitting application the applicant's mother was not alive, but there were other dependents for which he claims that 25 points are to be given. He alleged that his case had not been properly considered and since he had been granted only 22 weightage points, the competent authority did not find his case justified for appointment on compassionate ground basis. Feeling aggrieved by this the applicant has approached this Tribunal relying on the Hon'ble Supreme Court judgment in the case of **Canara Bank & Anr. v. M.Mahesh Kumar (2015) 7 SCC 412** wherein it has been held that the terminal benefits payments could not be taken as a ground for rejecting the employment under the dying in harness scheme. Thus the applicant states that the fact that his family received an amount of Rs.1,35,6119/- is an irrelevant consideration and the actual amount received is only Rs.7,42,825/- after all the deductions.

.3.

3. Notices were issued and the respondents have put appearance through their counsel Smt.Girija.K.Gopal. The respondents have filed detailed reply statement. Learned counsel has drawn my attention to paragraph 11 of the reply statement wherein it is stated that as per the scheme, the amount received as GPF, LIC, Postal LIC and CGE Insurance for which the contribution was made by the deceased employee while he was in service should be included under 'Terminal Benefits'. The scheme does not take into consideration the financial liabilities left behind by the official for calculating the weightage points. In the matter of Compassionate Ground Appointment, BSNL has to adhere to the term 'Terminal Benefits' as stated in the scheme only. In the case in hand, the family of the deceased employee was in receipt of an amount of Rs.825361/- towards DCRG, Rs.93594/- towards GPF, Rs.64400/- towards LIC/Postal Policy, Rs.104860/- CGEI/GSLIS and an amount of Rs.267904/- towards leave encashment ie. a total amount of Rs.1356119/- towards terminal benefits. Since the total terminal benefits is above rupees ten lakhs, weightage point entitled by the applicant is zero as per the scheme. The weightage points allotted to the applicant as envisaged in BSNL Corporate Office Order dated 27.6.2007 are as follows :

Sl. No.	Item	Points received	Remarks
1	Dependant's weightage	20	As per status of the dependants
2	Basic family pension (pre-revised)	0	Rs.4250/- & above - zero
3	Left out service	2	2 years - 2
4	Applicant's weightage	0	Widow is not the applicant - zero
5	Terminal benefits	0	> 10 lakhs - zero
6	Accommodation	10	Rented accommodation - 10

7	Monthly income (negative points)	-10	Additional income > 1500 Saudi Riyal, income of the elder son.
8	Belated requests (negative points)	0	Request not belated - zero
	Total points	22	< 55 points INELIGIBLE

4. Learned counsel explained each and every head under which the applicant was granted points in terms of the policy decision taken by the respondents and also relied on the decisions of the Hon'ble Apex Court in the case of **Auditor General of India & Ors. v. G.Ananta Rajeswara Rao (1994) 1 SCC 192, Umesh Kumar Nagpal v. State of Haryana & Ors. (JT) 1994 (3) SC 525, Life Insurance Corporation of India v. Mrs.Asha Ramachandra Amberkar & Ors. (JT) 1994 (2) SC 183, State of J&K & Ors. v. Sajad Ahmed Mir and Union Bank of India & Ors. v. M.T.Latheesh (2006) 7 SCC 350.**

5. Lastly, learned counsel for the respondents has also relied upon judgment rendered by Hon'ble Supreme Court in **State of Himachal Pradesh & anr. vs. Shashi Kumar** (Civil Appeal No.988 of 2019) wherein the Apex Court has referred to all those decisions in Govind Prakash, Canara Bank etc., and observed that the decision in Govind Prakash Verma has duly been considered but the Court observed that it did not appear that the earlier binding precedent of the Court had been taken note of in that case. As regards **Umesh Kumar Nagpal vs. State of Haryana and others (JT 1994 (3) SC 525)**, “*the Apex Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate*

.5.

assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependent in seeking compassionate appointment". The Apex Court has laid down the principle that "the direction issued by the High Court to the appellants to desist from taking into account the family pension and other terminal benefits is unsustainable in law and is accordingly set aside". It is also held that "while we confirm the decision of the State Government to fix income limits in order to satisfy the terms of eligibility for compassionate appointment, we expect that the State Government shall, in compliance with the policy, revisit the income limits at intervals of three years or earlier and consider whether a revision is warranted having regard to the cost of living, inflation and other relevant facts and circumstances".

6. Ultimately the Hon'ble Apex Court has held that the terminal benefits and house property should be taken into account while granting compassionate ground appointment.

7. In view of the settled position, I find that the present O.A lacks merit. Accordingly the same is dismissed. There shall be no order as to costs.

(Dated this the 28th day of January 2020)

**ASHISH KALIA
JUDICIAL MEMBER**

asp

List of Annexures in O.A.No.180/00927/2018

- 1. Annexure A-1** – A copy of the Policy Guidelines No.273-18/2005-Pers.IV dated 27.6.2007 for compassionate appointment with Annexure indicating point system.
- 2. Annexure A-2** – A copy of the impugned order No.R&E/ENK-60/LMP/22 dated 18.4.2016.
- 3. Annexure A-3** – A copy of the appeal memo submitted before the 1st respondent dated 7.8.2016.
- 4. Annexure A-4** – A copy of the representation submitted by the applicant dated 5.4.2017.
- 5. Annexure A-5** – A copy of the order in O.A.No.176/2018 dated 15.2.2018 of this Hon'ble Tribunal.
- 6. Annexure A-6** – A copy of the order No.ES/9-33/2013/17 dated 26.6.2018 passed by the 4th respondent.
- 7. Annexure R-1(a)** – A copy of the instructions issued by the DOP & T under letter No.14014/6/94-Estt.(D) dated 9th October 1998.
- 8. Annexure R-1(b)** – A copy of the letter No.273-18/2005-Pers.IV dated 27.6.2007.
- 9. Annexure R-1(c)** – A copy of the letter No.268-79/2002-Pers.IV dated 27.12.2006.
- 10. Annexure R-1(d)** – A copy of the Pension Payment Order dated 25.10.2011.
- 11. Annexure R-1(e)** – A copy of the Pension Book.
- 12. Annexure R-1(f)** – A copy of the income certificate issued by Tahsildar on 18.1.2012.
