

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00989/2018

Tuesday, this the 28th day of January, 2020.

CORAM

Hon'ble Mr.Ashish Kalia, Judicial Member

P.R.Vinu Krishnan, aged 28 years,
S/o Late Radhakrishnan,
Pulinthanath House, Eravinalloor P.O.,
Puthuppally,
Kottayam District.

Applicant

(Advocate: Mr. C.P.Peethambaran)

versus

1. The General Manager
Bharat Sanchar Nigam Limited
Kerala Cirlce, Trivandrum-695 033.
2. The Assistant General Manager (R&E)
Bharat Sanchar Nigam Limited
Kerala Circle, Trivandrum-695 033.
3. The General Manager, GMTD,
Bharat Sanchar Nigam Limited,
Kottayam.

Respondents

(Advocate: Smt.Girija K.Gopal)

The OA having been heard on 28th January, 2020, this Tribunal delivered the following order on the same day:

O R D E R (oral)

Brief facts of the case are that the applicant's father K.P.Radhakrishnan was a Telecom Mechanic. While in service, he suffered from cancer and had undergone prolonged treatment and finally on 8.4.2014, he died. He had served the department for more than 30 years and his left over service was 5 years.

Late Sri Radhakrishnan is survived by his wife Lathamani and two children by name, Anu Krishnan P.R., and Vinu Krishnan P.R, as per succession certificate issued by Tahsildar, Kottayam (Annexure A2). It is submitted that the family of the deceased is indigent. They have no house of their own. The entire earnings of the deceased were expended for his treatment and finally left nothing. The house in which the applicant and other legal heirs are residing belongs to the grand father of the applicant by name, Krishnan Nair. Copy of the property tax receipt is annexed. It is further submitted that the applicant received terminal benefits to the tune of Rs.9,92,787 from the department, as evidenced by the Annexue A4 passbook of State Bank of Tranvancore. The applicant who is B.Sc. Graduate and now appearing for M.Sc., being the second son of the deceased, sought employment under compassionate ground, after his father died in harness. The application for compassionate appointment was examined by the Circle High Power Committee and the Committee assessed the weightage at 24 points only and rejected the application on the ground that the applicant is ineligible. The applicant disputes the weightage point stating that it has been fixed at a lower level than what actually he is entitled to.

2. Respondents have put in appearance through Smt.Girija K.Gopal who filed a detailed reply statement. It is submitted that the applicant's case was duly considered in terms of the guidelines issued by the Department on the basis of various parameters including the weightage point system. The applicant had secured only 24 points and hence the family of the deceased cannot be considered to be living under indigent condition. Under the weightage point system, those who secure 55 or more weightage points are entitled to be

appointed under the compassionate scheme, subject to the availability of vacancies. The respondents have also disputed the claim of the applicant that the property belongs to his grand father. A Welfare Officer was deputed for inspecting the living condition of the family of the deceased employee. He reported that the family possessed two houses, one in the name of Sri Krishnan Nair, grandfather and the other in the name of Smt. P.K.Lathamani, wife of the deceased employee (mother of the applicant). Further, as per the documents/service records, the family has been staying at Pulinthanath, Eravinalloor P.O., Puthuppally, Kottayam. As per the weightage point system, only if the family is having a liability towards rent, weightage points can be granted under accommodation factor. In the instant case, the widow owns the house and resides in her own house. The respondents are following weightage point system to bring uniformity in assessing indigent condition of the family for offering compassionate ground appointment. As per the said policy, the applicant is not entitled to the benefit as he has been awarded only 24 points under the weightage system. The weightage points awarded to the applicant are detailed in a table as below:-

S.No	Item	Points received	Remarks
1	Dependent's weightage	15	As per status of the dependents
2	Basic family pension (Pre-revised)	4	Rs.3751-4000->4
3	Left out service	5	5 years >5
4	Applicant's weightage	0	Son is the applicant->Nil
5	Terminal benefits	0	>Rs.10 lakhs->Nil
6	Accommodation	0	Own house/No liability of paying rent->0
7	Monthly income (negative points)	0	Additional income upto 4000 p.m.->0
8	Belated requests (negative points)	0	0 to <_ 5 years->0
	Total points	24	<55 points Ineligible

The above table, according to the respondents, shows that the department had considered the case of the applicant and rejected the same.

3. Heard learned counsel for the parties at length. During the course of arguments, the applicant has relied upon a judgment passed by the Hon'ble High Court of Kerala, reported in 2019 (3) KLJ 775-**Amla R vs. Union of India & Anr.**, which held that “terminal benefits cannot be taken into consideration for assessing the claim for compassionate appointment”. He also relied upon the Apex Court judgment in **Govind Prakash Verma vs. Life Insurance Corporation of India and others**, reported in (2005) 10 SCC 219; and **Canara Bank and another vs. M. Mahesh Kumar** (2015) 7 SCC 412. The learned counsel thus forcefully tried to convince the Tribunal that the applicant is entitled to more weightage points.

4. On the contrary, learned counsel for the respondents has 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 (Supra) 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 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*”.

5. The Hon'ble Supreme Court has clearly laid down the parameters that the terminal benefits as well as family pension should be taken into account for all practical purposes in deciding the matter of compassionate appointment.

6. In view of what is discussed above, this Tribunal finds that present OA lacks merit and is liable to be dismissed. Accordingly, the OA is dismissed. No order as to costs.

**(Ashish Kalia)
Judicial Member**

aa.

Annexures filed by the applicant:

Annexure A1: Copy of the Death Certificate of Mr.K.P.Radhakrishnan issued from Amrita Institute of medical Science and Research Centre, Ernakulam.

Annexure A2: Copy of the Certificate dated 17.9.2014 issued by the Tahsildar, Kottayam.

Annexure A3: Copy of the property tax receipt dated 6.6.2017 issued by the Puthuppally Grama Panchayath.

Annexure A4: Copy of the relevant pages of pass book of State Bank of Travancore, Puthuppally Branch.

Annexure A5: Copy of the application dated 29.6.2015 submitted by the applicant before the 4th respondent.

Annexure A6: Copy of the order No.ES/9-15/2016/6 dated 22.7.2017 issued by the 3rd respondent.

Annexures filed by the respondents:

Annexure R1(a): Copy of the instructions issued by the Ministry of Personnel, Public Grievances & Pension, Department of Personnel and Training, Govt of India under letter No.14014/6/94-Estt (D) dated 9th October, 1998.

Annexure R1(b): Copy of the letter No.273-18/2005-Pers.IV dated 27.6.2007.

Annexure R1(c): Copy of letter No.268-79/2002-Pers.IV dated 27.12.2006.

Annexure R1(d): Copy of the income certificate issued by the Tahsildar.

Annexure R1(e): Copy of the clarification vide letter No.268-Gen.Corr/2010-Pers.IV dated 13.2.2014.