

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**Original Application No.21/358/2018**

**Hyderabad, this the 26<sup>th</sup> day of February, 2020**



***Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

DVS Prasad Rao, S/o. D. Jesudas,  
Aged about 75 years, Occ: Telegraph Master (O) Retd.  
(BSNL, Hyderabad),  
R/o. H. No. 9-2-341, Langar House, Pensionpura,  
Hyderabad – 500 008.

... Applicant

(By Advocate: Mr. V. Venkateswara Rao)

Vs.

1. The Principal General Manager,  
Bharat Sanchar Nigam Ltd,  
BSNL Bhavan, Adarsh Nagar,  
Near GHMC Office,  
Hyderabad – 500 004.
2. The General Manager,  
Telecom (South),  
Bharat Sanchar Nigam Ltd,  
Mahaoob Mansion, Malakpet,  
Hyderabad – 500 036.
3. The Accounts Officer,  
Telecom (South),  
Bharat Sanchar Nigam Ltd,  
Mahaoob Mansion, Malakpet,  
Hyderabad – 500 036.

... Respondents

(By Advocate: Mrs. C. Vijaya Lakshmi, Proxy Counsel for  
Mrs. B. Geetha, SC for BSNL)

**ORDER (ORAL)**  
**{As per B.V. Sudhakar, Member (Admn.)}**

2. OA is filed seeking a direction to the respondents to change the names of nominees for the purpose of family pension.



3. Applicant while working in the respondents organisation as Telegraph Master got married to Mrs. Mary Vergenia in 1975 and got separated in 1978 with no children born through the said wedlock. Applicant thereafter married Smt. Pathala Kumari and was blessed with a girl child D. Mary Grace. The second marriage was registered by the concerned church on 25.10.2000. After the 2<sup>nd</sup> marriage, applicant represented on 5.09.2003 before his retirement on 29.2.2004 to include the name of his wife, daughter and unmarried sister as lawful nominees. In response, he was directed to submit the relevant documents, which was duly complied with on 17.02.2004 and subsequently on 15.09.2017 along with a representation explaining his plight of poor health and family responsibilities. Thereon, as the respondents have not showered their bureaucratic grace with a positive response, the OA has been filed.

4. The contentions of the applicant are that he has separated from his 1<sup>st</sup> wife in 1978 and hence, she is not entitled for family pension. Rule 54 of CCS (Pension) Rules permits the applicant to change the nomination. Wife, daughter and unmarried sister, who are dependent on him, are eligible for nomination under the relevant rules. Advancing age and deteriorating

health calls for an early decision in the matter so as to safeguard the future of his 2<sup>nd</sup> wife and other family members.



5. Respondents oppose the contentions of the applicant by stating that he is taking different stands in regard to the 1<sup>st</sup> wife by informing that she is dead and no death certificate is available but claiming in the OA that he took divorce from her by enclosing a letter purported to be issued by the 1<sup>st</sup> wife. Respondents have not been kept informed of the marriage with the 2<sup>nd</sup> wife though the 1<sup>st</sup> marriage subsisted. Due to non submission of documents like death certificate of the 1<sup>st</sup> wife, birth certificate of the daughter, marriage certificate with the 2<sup>nd</sup> wife as directed vide letter dtd. 18.2.2004, only pension was granted to the applicant without the corollary of family pension. Further, applicant has not submitted names of family members in Form 3 prior to his retirement on 19.02.2004. Besides, the dispute about nomination has been raised after 14 years and hence, barred by limitation.

6. Heard both the counsel and perused the pleadings.

7. I) Applicant retired from the respondents organisation on 29.02.2004. It is true that the applicant has not indicated the names of any family members in Form 3 submitted on 19.02.2004 prior to his retirement (Annexure R-1). Besides, respondents affirm that due to non submission of required documents, applicant was therefore granted pension without any reference to family pension. However, the counter claim of the applicant is



that he did submit a representation on 05.09.2003 before his retirement to include the new nominees. The very fact that the respondents have admitted that the applicant has not provided the requisite documents to make the changes vide their letter dated 18.02.2004 confirms that the applicant did approach the respondents for change of nomination. Hence the contention of the respondents that the family details were not given in Form 3 is not of much material to reject the request of the applicant. Now coming to the second marriage, applicant has submitted a letter from the 1<sup>st</sup> wife that she has no objection for the 2<sup>nd</sup> marriage and that they have separated. Further, the 1<sup>st</sup> wife did state in the signoria referred to that she has remarried and is having a 20 year son too. Respondents state that they could not verify the same. Learned Counsel for the respondents argued that it is the responsibility of the applicant to submit proper documents to seek the relief sought and not that of the respondents. This is a strange argument in the sense that the applicant, who is a diseased pensioner in advance age with the little strength and resources he has finally mustered to submit documents which he could to prove that he is separated. In particular, the letter given by the 1<sup>st</sup> wife in respect of separation duly witnessed by a few could have been verified for its genuineness and if found to be genuine, examine as to whether such separation was as per customs and could be accepted as per law. Such verification was incumbent on part of the respondents to satisfy themselves in order to resolve the grievance flagged. Such an attempt was not evidently made as is required of them. It is not out of place to assert that the respondents being a model employer have a large army of men to attend to grievances and particularly of pensioners, given the Govt. policy to take care of them in the evening of their life. Besides,

the applicant has enclosed the Aadhaar card details wherein Smt. Pathala Kumari was shown as the 2<sup>nd</sup> wife and Mary Grace as his daughter. Marriage certificate certifying the marriage with the 2<sup>nd</sup> wife issued by the concerned church has also been enclosed as well as the birth certificate of the daughter are documents appended to the OA to seek the relief sought.



All these documents are verifiable to decide the request for change of nominations. Therefore, it is not the case of the respondents that applicant has not produced documents. He did and thereby, shifting the onus of responsibility to verify them on to the respondents. Hence, the averment made by the learned counsel for the respondents in this regard lacks legal substance.

II) It is pertinent to adduce that substantive justice prevails over technical justice as observed by the Hon'ble Apex Court in *State, Rep By Inspector of Police, Central Bureau of Investigation vs. M Subrahmanyam*, in Criminal Appeal NO(s). 853 of 2019 (arising out of SLP (Crl.) No(s). 2133 of 2019). The purpose of the rules is to ensure that genuine claims are entertained and not rejected on technical grounds. For doing so, a purposive investigation ought to have been done, which is woefully lacking in the instant case. Rules provide for nominating eligible family members while in service or on retirement. Superficial rejections are liable for challenge and therefore the issue before us. Besides, the advanced age of the applicant and his poor health coupled with his social responsibility to safeguard his family members as is permitted under relevant law, call for an early decision.

III) Therefore keeping the above in view the respondents are directed to verify the documents submitted and after due examination of the grounds raised in his representation dated 12.09.2017 in accordance with rules and law, issue a speaking and well reasoned order in regard to the relief sought by the applicant within a period of 8 weeks from the date of receipt of this order.



IV) With the above direction, the OA is disposed of. There shall be no order as to costs.

**(B.V. SUDHAKAR )**  
**MEMBER (ADMN.)**

/evr/