

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/01696/2015

Date of order: 2.3.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Biswajit Das,
Son of Late Banamali Das (Ex. TM),
Residing at Village Chhoto Khelna,
Post Office – Maligram,
Police Station Pingla,
District – Paschim Medinipore,
Pin – 721 140.

... Applicant

- V E R S U S -

1. Union of India,
Service through the Secretary,
Ministry of Communication & Information
Technology, Government of India,
Department of Telecommunication,
Office of Sanchar Bhavan,
29, Ashoke Road,
New Delhi -1;
2. The Chief General Manager,
Bharat Sanchar Nigam Limited
(A Government of India Enterprise),
West Bengal Telecom Circle,
Office at 1, Council House Street (2nd Floor),
Kolkata – 700 001;
3. The Assistant Director Telecom (Staff – II),
Office of the Chief General Manager,
Bharat Sanchar Nigam Limited
(A Government of India Enterprise),
West Bengal Telecom Circle,
Office at 1, Council House Street (2nd Floor),
Kolkata – 700 001.
4. The General Manager Telecom,
Kharagpur Telecom District,
Office at India,
Post Office – Kharagpur,
Police Station – Kharagpur (Town),

hwb



District - Paschim Medinipur,
Pin - 721 305.

... Respondents

For the Applicant : Sk. S. Arefin, Counsel
Mr. H.S. Chakraborty, Counsel

For the Respondents : Mr. R. Mukherjee, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-



- "(a) A direction do issue upon the respondent authorities specifically, the General Manager, Telecom, Kharagpur Telecom District, Kharagpur, Office at Inda, P.O. Kharagpur, P.S. Kharagpur (Town), District - Paschim Medinipur, Pin - 721 305 to consider the representation submitted by the applicant through the Learned Advocate dated 21.9.2015 for appointment on Compassionate Ground in die-in-harness category due to death of father of the applicant while in service;
- (b) A direction do issue upon the respondent authorities to expedite the process of appointment on Compassionate Ground in Die-in-harness category due to death of father of the applicant while in service;
- (c) A direction do issue upon the respondent authorities to take immediate effective steps and/or steps to consider the report made by the Joint Investigation Team of 3 Members of the respondent authority dated 12.8.2009 and provide appointment to the applicant on compassionate ground in die-in-harness category due to death of father of the applicant while in service on the basis of re-assessment of weightage marks as an expeditious way.
- (d) A direction do issue upon the respondent authority to transmit all records pertaining to the instant case so that a consionable justice may be administered;
- (e) And pass such other or further order and/or orders as your Lordship may deem fit and proper."

2. Heard both Ld. Counsel, examined pleadings and documents on record.

3. The submissions of the applicant, as articulated through his Ld. Counsel is that his father, an ex-employee with the respondent authorities, had expired while in service on 5.1.2005, and, that, an application was made for appointment of the applicant on compassionate

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grounds on 9.12.2005. Presently, the applicant is a B.Sc. as well as B.P.Ed. from Vidyasagar University.

That, in response, the respondent authorities vide their communication dated 24.3.2008 (Annexure A-7 to the O.A.) rejected his prayer after treating him as a non-indigent. Reportedly the applicant had been given 48 points which was below the qualifying score of 55 and he was not given any points on "accommodation" on the grounds that the family was living in their own house. The applicant would allege that the score which he should have received was undervalued by ignoring his actual status with respect to accommodation.

The applicant's widowed mother, thereafter, prayed to the respondent authorities that they do not own any house of their own and that they are residing in a rental accommodation. An investigation was conducted thereafter and the investigation team, on 12.8.2009, (Annexure A-11 to the O.A.) reported as follows:-

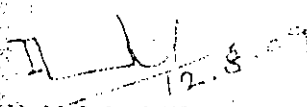
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INVESTIGATION REPORT IN RESPECT OF BISWAJIT DAS
S/O LATE BANAMALI DAS EX TM.

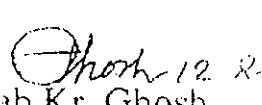
W.R.to the letter no.E-6/VOL-1/Compassionate Appointment/09-10/150 Dated at Kharagpur the 16-06-2009,

We the following officers made an enquiry on dtd.12-08-09 at vill. Chotta Khelna ,P.O. Maligram Dist. Paschim Medinipur to the residence of Late Banamali Das Ex TM and observed that :

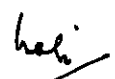
1. Smt. Bani Das ,widow of late Banamali Das Ex. TM .resides in a house of Sri Prabir Kumar Das ,brother of Late Banamali Das with her sons Sri Biswajit Das and Sri Sujit Das . The said house is nothing but a hut ,consisting of one room and a small kitchen and varandah with asbestos shed and the temporary wall made by pieces of bamboo and earth.The said plot was amicably distributed between Bani Das w/o Late Banamali Das and Sri Madhugudan Das & Sri Prabir Das both the brother of Late Banamali Das.
- 2 The said house was constructed by Sri Prabir Das son of Late Bholanath Das & Brother of Late Banamali Das in his portion.Hence Smt Bani Das w/o Late Banamali Das have no residential house except only four decimals of vacate land.
2. Smt. Bani Das w/o late Banamali Das some how living with family pension of Rs. 3200.00 per month and there is no other source of income. Also she maintain the educational expenditures of her two sons from her family pension.
3. The poor family is in need of honest source of income through Sri Biswajit Das ans as Sri Sujit Das is minor .
4. Smt Bani Das is denied for getting the service due to her illness (Medical Certificate is enclosed) and she appeal to give the job to her son Sri Biswajit Das .


 R.K.MANDAL
 D.E.(Admin.)


 S.K.GHOSH
 SDOT/KGP


 Pranab Kr. Ghosh
 A.O.(IT)/KGP

The said team found that the house in which the said family reside belongs to the paternal uncle of the applicant.



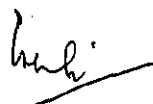
The team also found that the family lived in a hut comprising one room, a kitchen and a verandah with asbestos shed. The walls were made of earth and bamboo. Despite the fact that directions were issued to the concerned respondent authority to depute a reasonable officer to meet the members of the family of the deceased employee (Annexure A-12 to the O.A.) there was no further response from the end of the respondents and the applicant thereafter sent a lawyers notice at Annexure A-13 to the O.A. which remains pending for consideration.

Prima facie, the applicant would aver that the allotment of marks as 'nil' against accommodation was an erroneous entry and he should have been given 10 marks on the grounds that the family did not own any accommodation and that their rented accommodation was not a pucca structure.

4. The respondents, on the other hand, have submitted their written statement of defence in which they have elaborated the process of evaluation of the weightage system in determining the incidence of penury to consider eligibility of candidates to compassionate appointment.

The respondents have controverted the claim that the family is living in a rented house as because as per R-5 to their reply it appears that a fresh enquiry was conducted on 28.1.2016 wherefrom it was revealed that the ex-employee and his brother had jointly owned the plot on which a house was built by the brother of the ex-employee. It further transpired that the family did not occupy the house on rental basis.

5. While acknowledging the claim of the respondents that it was a property held on co-ownership basis by the members of the family with their uncle/cousin brothers and was not essentially a rented accommodation, it is noted that the revised enquiry did not contradict



the fact that the family was living in a "kutchha" accommodation. The Socio Economic Caste Census (SECC) 2011 categorizes those living in "Kucha" accommodation as "below poverty line" households. This fact was apparently overlooked by the respondent authorities in not awarding any marks to the applicant against accommodation.

In *Sushma Gosain v. Union of India & ors.* 1984 (4) SLR 327, and in *Umesh Kr. Nagpal v. State of Haryana* 1994 (2) SLR 677 the Hon'ble Apex Court ruled that the purpose of providing appointment on compassionate grounds is to mitigate the hardship caused on account of the death of the breadwinner of the family, and, hence, the public authority has to examine the financial condition of the family of the deceased.

6. We, therefore, grant liberty to the applicant to file a comprehensive representation describing the actual nature of his accommodation within a period of four weeks from the date of receipt of a copy of this order. Once so received, the respondent authorities will take steps to once again refer the prayer of the applicant to the committee entrusted to decide on compassionate appointments. The said committee will recommend, in accordance with law, the score that should be accorded to the applicant based on extant guidelines in the Scheme for compassionate appointment. The applicant should be kept informed of such decision within four weeks thereafter.

7. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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