

(18)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.574 OF 2005

ALLAHABAD THIS THE 30TH DAY OF MAY 2008

HON'BLE MR. N. D. DAYAL, MEMBER-A

Pushpa aged about 30 years, D/o Late Luxmi Devi,
Sweeper (Safai Karmchari) of Central Telegraph
Office, Allahabad.
R/o 27 Elgin Road, Civil Lines, Allahabad.

.....Applicant

By Advocate : Sri R. P. Singh

Versus

1. Union of India through the Secretary,
Ministry of Telecommunications,
Sanchar Bhawan, New Delhi.
2. Director of Telecommunication,
Sanchar Bhawan, New Delhi.
3. Chief General Manager,
Department of Telecommunication,
Lucknow.
4. General Manager,
Department of Telecommunication,
C.T.O. Compound, Allahabad.

.....Respondents

By Advocate : Shri D. S. Shukla

O R D E R

Learned counsel for the applicant has submitted
that this is a matter where the applicant is seeking
appointment on compassionate grounds. Her mother was
an employee with the department and expired on
29.09.2000 when she was an employee of ⁵Dept of
telecommunication and not of the BSNL. The applicant
is the eldest child and she has ⁷their brothers and
sisters as well. Her mother made ~~him~~ ^{her} the sole heir in
her will. It is stated that the applicant is married

(19)

and makes the claim for appointment on compassionate grounds. In view of the fact that her request has been turned down by a cryptic order besides upon which her case was rejected.

2. Learned counsel for the respondents submits that the applicant has other brother and sisters who could have applied but have not done so and the applicant being married cannot be taken to be part of the family of the deceased government employee. Besides certain amount of terminal benefits were also released to the applicant because of which her condition was not considered to be indigent. Learned counsel for the applicant submits that the applicant has been deprived of the opportunity to contest the rejection of her case because no reasons have been given in the order by which her case was turned down and as such in the interest of justice the impugned order cannot be sustained. Learned counsel for the respondents relies upon the judgment of Umesh Kumar Nagpal Vs. State of Haryana and Others reported in (1994) 4 SCC 138 where opportunity for appointment on compassionate grounds is suggested to be extended only to him to tide over the sudden financial crisis due to the death of the sole bread earner and cannot be extended over a long period of time. Besides the entire details of the family circumstances to be taken into account such as size of the family and their financial position etc without which a justification for such appointment on compassionate grounds would not arise. Learned

(20)

counsel for the applicant relies upon a judgment of the Hon'ble High Court of Allahabad in the case of Smt. Urmila Devi Vs. U.P. Power Corporation, Lucknow and others reported in 2003 (2) SAC 460. In this case the son of the deceased employee had died and daughter-in-law was claiming appointment on compassionate grounds. It was held that the word 'family' contained in U.P. State Electricity Board ^a Dying-in-Harness Rules, 1975 ^{Although} does not mention daughter-in-law but this definition is inclusive in nature, therefore, in the facts and circumstances of this case daughter-in-law, who is the heir of the deceased comes within the definition, she is entitled for appointment on compassionate ground. No doubt the judgment in the case of Umesh Kumar Nagpal (Supra) governs most of the cases for appointment on compassionate grounds it is not an authority for the plea that the applicant has been denied the benefit of a reasoned order of rejection whereby ^{she} is unable to tell as to why ~~his~~ case has been turned down. Reasons ^{7 are important} it is well accepted without which the order stands ^A vitiated. The Judgment of the Hon'ble High Court of Allahabad relates to the U.P. State Electricity Board Rules 1975, which are separate and distinct rules although the heir of the deceased has been considered as part of the family.

3. Keeping in view the above submissions ~~in view~~ it cannot be denied that the order by which the case of the applicant was rejected is a non-speaking and un-

7

(21)

reasoned order because of which the applicant has been
~~1/ prejudiced~~ approached in contesting her case. The respondents
are, therefore, directed to consider the prayer of the
applicant and inform her by a reasoned order ^{7 of} and their
decision with regard to her appointment on
compassionate grounds keeping in view the above two
judgments brought to the notice by the learned counsels
and inform the applicant within a period of three
months from the date of receipt of a copy of this
order. It is made clear that no observations have
been made on the merits of the case.

4. The OA is disposed of ~~with the~~ above.

No Costs.


Member-A

/ns/