

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE
ORIGINAL APPLICATION NO.170/00496/2020**

ORDER RESERVED ON 07.07.2021

DATE OF ORDER: 07.09.2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

(On video conference from Central Administrative Tribunal, Chandigarh Bench, Chandigarh)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

Sri K.M.Anil Kumar
S/o Late K.M.Panchakshari
8th Ward, Uppinmalli Comp Behind
Anjinaya Temple, Gangavathi
Koppal District
Karnataka.

....Applicant

(By Advocate Shri M.Rajakumar – through video conference)

Vs.

1. Department of Telecommunications
O/o Controller of Communication Accounts
II Floor, Amenity Block
Bengaluru-560 001.
2. Chairman and Managing Director
Bharat Sanchar Nigam Limited
(A Government of India Enterprises)
Corporate Office, 102-B, Stateman House
New Delhi – 110 001.
3. Chief General Manager, Telecom
Karnataka Circle
No.1, S.V.Road
Halasuru, Bengaluru-560 008.
4. Assistant General Manager (Admn)
Office of the General Manager
Telecom District
BSNL, Raichur-584 102.

.....Respondents

(By Advocate Shri Vishnu Bhat – through video conference)

ORDER**PER: RAKESH KUMAR GUPTA, MEMBER (A)**

1. The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:
 - i. Issue directions quashing the order dated 11.03.2020 no.Q-790/II/CGA/Anilkumar/RCR/2019-20 Raichur issued by the Respondent No.4 (Annexure-A16).
 - ii. Issue a writ of Mandamus directing the respondents to appoint the applicant on compassionate grounds on any post suitable to his qualifications.
2. The facts of the case as pleaded by the applicant are as follows:
 - a) The father of the applicant Late K.M.Panchakshari was working as Telephone Mechanic in Raichur SSA at Pagadanni Camp, Sindhanur Taluk, Raichur District. Unfortunately, he expired on 18.12.2011 while he was in service leaving behind his mother, wife and three children.
 - b) The applicant submits that his grandmother, mother, brother, sister and himself were entirely depending on the income of Late K.M.Panchakshari. Except family pension, the applicant's family members are not having any other source of income. All other members of the family have no objection for appointment of applicant on compassionate grounds.
 - c) The applicant submitted application with all necessary documents for appointment on compassionate grounds on 05.03.2013(Annexure-A7).
 - d) Thereafter, on 09.11.2015, respondent No.4 rejected the application stating that the family is living in own house and having three dependent sons. It

also appears that the weightage points earned by the applicant is below 55 and hence rejected the request for appointment on compassionate grounds as per the order dated 09.11.2015 issued by respondent No.4(Annexure-A8).

- e) Subsequently, applicant gave a representation to respondent No.3 on 25.12.2015(Annexure-A11) to correct the order dated 09.11.2015 as the family is living in a rented house with rental agreement(Annexure-A9) and the list of family members and among them sister of the applicant Kum.K.M.Anitha is psychologically and mentally handicapped and found by welfare office with 76% of disability. In this regard Tehsildar has issued Sanction Order(Annexure-A10).
- f) The respondent No.4 vide corrigendum dtd.03.03.2016(Annexure-A13) has only changed content of the order relating to the fact that the applicant's family is living in rented house. However, he did not take into consideration the second changed point mentioned in the application that one of the family members of the applicant is psychologically mentally handicapped. Other contents of the letter were not changed by respondent No.4 and the application was again rejected.
- g) The applicant then filed OA.No.460/2017 before this Tribunal. This Tribunal, after hearing both sides, allowed the Original Application on 31.05.2018, holding that the applicant is eligible to be considered along with others and directed to issue an appropriate order in the light of clause 5 of circular dated 01.10.2014. The applicant once again requested the 4th respondent to consider his claim as special case under clause 5 of circular

dated 01.10.2014 since the 4th respondent had failed to consider his claim and again issued the same endorsement without touching clause 5 of circular dated 01.10.2014.

- h) The 4th respondent issued another order dated 11.03.2020 after a lapse of nearly two years. In this order, it mentioned as follows:

“As per the scheme of the Weightage Point System for CGA under the Item “Dependent’s Weightage Point” maximum 30 weightage points can be provided and points can be provided for spouse and dependent children only and it does not include points for any other family member including grandmother. Moreover, maximum 30 points under Dependent Category has already been provided in this case. The CHPC is of the opinion that since additional Weightage Points cannot be added, total WPs remains 47 which is less than minimum eligibility of 55 and the applicant Shri K M Anil Kumar is not eligible for CGA.”

3. The respondents in their reply statement have averred as follows:

- a. The applicant, Sri K M Anil Kumar is the son of Late K M Panchakshariah, who was working as Telephone Mechanic in Gangavathi Taluk, BSNL Raichur SSA. The father of the applicant expired on 08.12.2011 at the age of 56 years and 11 months, after serving the department for about 30 years with left out service of about 3 years leaving behind the following members who were dependent on him:

Sl. No.	Name	Age	Relationship with the deceased	Marital Status	Employment status: Yes/No
1	K.M.Gowramma	74	Mother	NA	No
2	Sharada	47	Wife	widow	Housewife
3	K M Anilkumar	29	1 st Son	Not Married	

4	K M Veeresh	26	2 nd Son	Not Married	Student
5	K M Anitha	28	Daughter (Physically challenged 70%)	Not Married	Household

- b. It is submitted that the dependent family members of Late Sri K M Panchakshariah received the following terminal benefits:

In Rupees	
DCRG	8,17,339
GPF	6,024
LIC	1,44,729
CGEIS/GSLI	1,06,954
Encashment of leave	1,98,305
Total	12,73,351

- c. It is submitted that, with a view to bring in more uniformity in assessment of the indigent condition of the family of deceased employee for offering appointment on compassionate grounds, a uniform Weightage Point System(WPS) was introduced by the BSNL in the year 2007 and change of procedure vide BSNL C.O.ND L.No.273-18/2013/CGA/P-IV dtd.01.10.2014. The uniform Weightage Point System was introduced as per the advice of the Hon'ble Chairman, National Commission for Scheduled Tribes to provide standard guidelines for eligibility for appointment on compassionate grounds, and further as per the decision of the BSNL Board.

d. Under the weightage point system, it was decided that the assessment criteria for recommendation of the indigent condition of the family by the Circle High Power Committee shall be:

(a) Cases acquiring 55 or more net points shall be treated prima facie as eligible for consideration by the Corporate Office High-Power Committee for appointment on compassionate grounds

(b) Cases with net points below 55 (i.e. 54 or less) shall be treated as non-indigent and rejected at the Circle level by the Circle High Power Committee (CHPC).

e. Further, the said CGA application of Shri K M Anil Kumar along with other cases had been taken up by the Circle High Power Committee (CHPC) of Karnataka Telecom Circle in its meeting held from 20.05.2015 to 29.05.2015 as per existing CGA guidelines. This is the authority to consider each individual case, as per the merit, for Compassionate Ground Appointment (CGA) at Circle level on the basis of Weightage Point System(WPS). It is pertinent to mention that the cases having Weightage Points less than 55 points are not considered as family in indigent condition and cases with more than 55 shall further be assessed by the HPC to assess the indigent conditions of the family deserving immediate assistance for relief from financial destitution as per the rules and procedure in vogue at that point of time.

f. The said Circle High Power Committee (CHPC) found that the net points of the applicant are less than 55. The different parameters considered as per the CGA guidelines and the points earned by the applicant thereon were

assessed. It was found that the applicant secured only 47 Weightage Points. Thus, in overall assessment, the family of the ex-employee was not found to be in indigent condition and accordingly, the Circle High Power Committee did not recommend CGA to the applicant. The rejection of his case for CGA by the competent authority was duly communicated to the applicant by the office of the General Manager, Raichur SSA letter dated 09.11.2015.

- g. Based on the Physical Verification Report (PVR) submitted by the concerned officer, 10 weightage points were allotted under the Head “Accommodation”, wherein it has been clearly mentioned that the family is living in rented house (Annexure-R1), whereas in the letter of rejection dated 09.11.2015, it has been inadvertently mentioned that *‘the family is living in own house’*. Hence, it is an error which has occurred during communication of the rejection letter.
- h. As per the directions of this Tribunal vide order dated 31.05.2018, the respondents considered the case of the applicant in the Special HPC meeting held in February 2019 in accordance with the new guidelines/procedure of BSNL Corporate Office to consider the CGA cases. The maximum weightage points of 30 under the item ‘Dependents Weightage’ was given. It is submitted that the Circle High Power Committee (CHPC) thoroughly verified the case and found that the Net Weightage points scored by the applicant remained 47(Annexure-R2).
- i. Further, as per Clause 5, the draft speaking order was sent to BSNL Corporate Office BSNL Corporate Office for further necessary action vide letter dated 25.01.2020(Annexure-R3). In response to the same, letter dated

13.02.2020 was received from BSNL Corporate Office (Annexure-r4) with the following observations:

“As per the Scheme of Weightage Point System for CGA under the Item “Dependent’s weightage point” maximum 30 weightage points can be provided and points can be provided for spouse and dependent children only and it does not include points for any other family member including grandmother. Moreover, maximum 30 points under Dependent Category has already been provided in this case.”

- j. The decision of the CHPC was communicated to the applicant vide letter dated 11.03.2020(Annexure-A16 of OA) as follows:

“Pursuant to the above cited order of the Hon’ble CAT Bangalore, the competent authority reconsidered the case in the Special HPC Meeting held in February-2019 to comply with the said Hon’ble CAT Bangalore order dated 31.05.2018 in OA No.170/00466/2017 in accordance with the new guidelines/procedure to consider the CGA cases issued by BSNL corporate office vide circular No.273/18/2013/CGA/P-IV dtd.01.10.2014. As per the scheme of Weightage Point System for CGA under the item “Dependents’ Weightage Points” maximum 30 weightage points can be provided and points can be provided for spouse and dependent children only and it does not include points for any other family member including grandmother. Moreover 30 points under Dependents Category has already been provided in this case. The CGPC is of the opinion that since additional Weightage Points cannot be added, total WPs remains 47 which is less than minimum eligibility of 55 and the applicant Shri K M AnilKumar is not eligible for CGA.”

- k. Hence, it is submitted that the said Circle High Power Committee duly considered the case of the applicant based on the said weightage point system mentioned above and found that the weightage points earned by the CGA applicant is 47, i.e. less than 55. Thus, the CHPC found that the family is not living in indigent condition as per BSNL CGA policy and accordingly, CGA to the applicant was not granted by CHPC and the competent

authority. Hence, the non-granting of the compassionate ground appointment to the applicant is fully in order.

4. Heard the learned counsels for the parties.
5. The Department of Personnel, Government of India had issued consolidated Instructions on compassionate appointment vide OM No: 14014/02/2012--Estt. (D) dated 16th January, 2013. In these guidelines it has been clearly stated that *“the object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency”*.
6. The facts of the case, as revealed from the pleadings submitted by both the applicant as well as the respondents, indicate that the applicant's father expired on 18.12.2011 while he was in service, leaving behind his mother, wife and three children. His age at the time of his death was 56 years and 11 months. He had served the department for about 30 years. He had a left-over service of about 3 years. The applicant, who is the son of the deceased, has requested for providing compassionate appointment for himself. The family was paid the full terminal benefits due to the deceased employee amounting to Rs.12,73,351. All the sons and daughters are grown up and there is apparently no liability on account of educational expenses of any child.
7. There is a weightage point system in BSNL in order to assess the financial indigence or otherwise of the family of a deceased employee. Under this assessment system, only families having points above 55 points are considered to

be financially indigent and eligible for consideration for compassionate appointment. This system has apparently been devised to introduce objectivity in assessment of the families and arrive at a logical conclusion.

8. The family of the deceased in this case was awarded 47 points by the Committee and hence not recommended for compassionate appointment. The applicant in the earlier OA No.170/00466/2017 had prayed for reconsideration of his case since he felt that the committee had wrongly presumed him to be staying in his own house whereas he was living in a rented house. Moreover, the committee had supposedly not taken into account the fact that his younger sister was mentally and psychologically handicapped and that the grandmother of the applicant was also a dependent family member.
9. It has however been clarified by the respondents, in their reply, that the competent authority had reconsidered the case in the Special HPC Meeting held in February-2019 to comply with this Tribunal's order dated 31.05.2018 in OA No: 170/00466/2017 in accordance with the new guidelines/procedure to consider the CGA cases issued by BSNL corporate office vide circular No.273/18/2013/CGA/P-IV dtd.01.10.2014. As per the scheme of Weightage Point System for CGA under the item "Dependents' Weightage Points" maximum 30 weightage points can be provided and points can be provided for spouse and dependent children only and it does not include points for any other family member including grandmother.
10. The maximum possible 30 points under "Dependents Category" have already been provided in this case. Since the maximum points have already been granted, hence

additional Weightage Points cannot be added. The total WPs remain 47 which is less than the minimum eligibility point of 55.

11. It has also been clarified by the respondents that the fact that the applicant was living in a rented house had been accounted for. Hence, 10 weightage points were allotted under the Head “Accommodation”, since in the physical verification report, it has been clearly mentioned that the family is living in rented house (Annexure-R1). However, in the letter of rejection dated 09.11.2015, it has been inadvertently mentioned that ‘*the family is living in own house*’. Since this fact has been accounted for while counting the points, hence the total points for the applicant’s case still remain 47 points only and are below the cut off of 55 points.

12. Hon’ble Supreme Court of India in **Umesh Kumar Nagpal vs State Of Haryana**

{(1994) 4 SCC 138} has observed as follows:

“The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if

it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the Change in the status and affairs, of the family engendered by the erstwhile employment, which are suddenly upturned.”

13. The Hon’ble Supreme Court of India, in the case of **State of Himachal Pradesh vs Shashi Kumar**{(2019) 3 SCC 653}, has, besides reiterating the principles laid down in the judgment in case of **Umesh Kumar Nagpal vs State Of Haryana** *supra*, has further observed that:

“In all the matters of compassionate appointment it must be noticed that it is basically a way out for the family which is financially in difficulties on account of the death of the breadearner. It is not an avenue for a regular employment as such. This is in fact an exception to the provisions under Article 16 of the Constitution. That being so, if an employer points out that the financial arrangement made for the family subsequent to the death of the employee is adequate, the members of the family cannot insist that one of them ought to be provided a comparable appointment.”

14. Hence, keeping all the above facts under consideration, the view taken by the Special High-Powered Committee in not considering the family as financially indigent on the basis of the weightage points awarded to it after accounting for all the facts as claimed by the applicant, appears to be reasonable. The respondents have, therefore, rightly not considered the applicant’s case as a fit case deserving compassionate appointment. Keeping the above in view, the OA, being devoid of any merit, is liable to be dismissed.

15.The OA is accordingly, dismissed.

16.However, there shall be no orders so as to costs.

(RAKESH KUMAR GUPTA)
MEMBER (ADMN)

(SURESH KUMAR MONGA)
MEMBER (JUDL)

/ps/