

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/00886/2018

Friday, this the 19th day of March, 2021.

CORAM:

**HON'BLE Mr. P. MADHAVAN, JUDICIAL MEMBER
HON'BLE Mr. K.V. EAPEN, ADMINISTRATIVE MEMBER**

1. Elizebath N.L, 54 years,
W/o. N.A John,
Nelliserry House, Njarakkal Post,
Vypeen, Kochi – 682 505.
2. Sherin, 24 years,
D/o. N.A. John,
Nelliserry House, Njarakkal Post,
Vypeen, Kochi – 682 505. - Applicants

[By Advocate : Mr. R. Sreeraj]

Versus

1. Bharat Sanchar Nigam Limited,
Bharat Sanchar Bhavan, Harish Chandra Mathur Lane,
Janpath, New Delhi – 110 001.
Represented by its General Manager.
2. Assistant General Manager (R&E),
O/o. CGMT, BSNL, Kerala Circle,
Thiruvananthapuram – 33. - Respondents

[By Advocate : Mr. V. Santharam]

The application having been heard on 16.03.2021, the Tribunal on 19.03.2021 delivered the following:

ORDER

Per: Mr. P. Madhavan, Judicial Member

The applicant filed this O.A seeking the following relief:-

“i. To direct the respondents to consider Annexure A-4 application for compassionate appointment of 2nd applicant, after affording an opportunity of being heard to the applicants and to make appointment of this 2nd applicant with the respondents' without delay.”

2. In short, the case of the applicants is that the first applicant's husband, N.A John, who was a Telephone Mechanic had died while in service on 03.07.2009. The first applicant is a widow and there are three children for him.

Out of these children, the 2nd applicant is the younger one and qualified. She has passed B.Sc (Electronics) Degree. The Death Certificate of her husband and legal heirship certificate, etc., were produced along with the O.A. According to the first applicant, she had given an application for compassionate appointment on 18.09.2010. But this application was rejected by the 2nd respondent as per letter dated 22.02.2013. On enquiry, she was informed that the High Power Committee did not agree to offer compassionate appointment to the first applicant without any reason. The respondents' office had also informed that her application was rejected as she was advanced in age. On the advice of the 2nd respondent, the 2nd applicant filed an application for compassionate appointment along with various certificates on 04.08.2015. The said application was taken for processing in the month of November, 2015. But there was no reply. The first applicant is suffering from various diseases and there is no other way for the bereaved family of the deceased for any income. The applicants were made to run from pillar to post, but the application was kept pending without any decision. The 2nd applicant's father had four years of service left when he died. According to the applicant, the 2nd applicant is entitled for compassionate appointment as per request made by her. The respondents failed to understand that the applicants are living in a indigent circumstances and inordinate delay in considering her application is highly unjustifiable.

3. The Hon'ble Supreme Court in ***Smt Sushma Gosain and Others v. Union of India and Others*** had held that “*beyond shadows of doubt that the very purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the breadwinner in the family.*” Such appointment should therefore, be made immediately to redeem the family distress. So, the

applicant prays for a direction to the respondents to consider Annexure A-4 application for compassionate appointment of 2nd applicant, after affording an opportunity of being heard.

4. The respondents appeared and filed a detailed reply statement denying the claim raised by the applicants. According to them, the applicants have no statutory right or constitutional rights for getting compassionate appointment. The Scheme of “Compassionate ground Appointment” was approved from the year 1958 and it is governed by a set of rules and regulations framed from time to time by the Ministry of Personnel, Public Grievances & Pension, Government of India. The Scheme is prepared to grant appointment on compassionate grounds to a dependent family of a Government servant dying in harness. Only 5% vacancies falling under Direct Recruitment quota in any Group C or Group D posts is reserved for compassionate appointment. The BSNL had formulated a Weightage Point System to bring uniformity in assessing indigent condition of the family. The respondents has produced the same as Annexure R-1(b). The Corporate Office is the authority competent to take decision as per the provisions of Compassionate Appointment Scheme of the BSNL. A minimum of 55 points has to be achieved by the applicant for consideration by the Circle High Power Committee for compassionate appointment. The first applicant had submitted an application on 18.09.2010 for compassionate appointment and the Circle High Power Committee has forwarded the application for consideration to the High Power Committee in the BSNL Corporate Office. The weightage point system is based on the assets and liabilities of the family of the deceased employee, long term commitments / responsibility and overall assessment of the condition of the family. After taking into consideration of the family circumstances, the High

Power Committee did not agree to offer compassionate appointment to the 1st applicant. The same was communicated to the 1st applicant on 31.10.2012. It is not true to say that the old age of the applicant was the reason for rejection of her candidature in the year 2014. The BSNL has decided to re-open all the rejected cases based on the clarification issued and to re-consider the cases already rejected. Accordingly, the Welfare Officer was directed to obtain a report of the family of the deceased in this case. As the Welfare Officer's report, the first applicant was then employed as Attender in Public Health Centre at Ernakulam. Then the first applicant approached the authorities stating her willingness to offer compassionate appointment to her daughter. Accordingly, the application submitted by the 2nd applicant was considered by the Circle High Power Committee and it was found that the applicant got only 5 points in his favour. She could not attain 55 points required for consideration of compassionate appointment. It was found that the applicant has 15 cents of land and house and the first applicant is working as Hospital Attendant Grade-II in the pay scale of Rs. 8500-13210. A true copy of the salary certificate of the first applicant is produced as Annexure R-1(I). The Scheme is applicable only to the dependents of an employee dying in harness leaving his family in penury and without any means of livelihood. The application of the 2nd applicant was duly considered by the Circle High Power Committee and found no grounds to consider that the family of the deceased employee is living in indigent condition. There is no merit in the O.A and it is liable to be dismissed.

5. Heard Advocate Mr. R. Sreeraj, learned counsel appearing for the applicant and Advocate Mr. V. Santharam, learned counsel for the respondents.

6. We have gone through the pleadings and documents produced as Annexures in this case. The counsel for the applicant would submit that the respondents ought to have been given appointment to the applicant as her father was a BSNL employee and died leaving the family in penury. But, on the other hand, learned counsel for the respondents submitted that the first applicant in this case has sought only the consideration of Annexure A-4 application and the BSNL had considered the application of the 2nd applicant and has rejected the claim as she could not get sufficient points. According to the respondents, there is no cause of action for the applicant. We have carefully gone through the pleadings and found that the relief sought by the applicant in this case is for a direction to the respondents to consider Annexure A-4 application for compassionate appointment of 2nd applicant in this case without delay. On perusal of pleadings, it has come up that the representation of the applicant at Annexure A-4 was considered by the respondents and since she could not get the requisite number of points, his application could not be processed and it was rejected by the respondents. Applicant in this case has no objection regarding the points awarded to her by the Committee. No further steps were taken in support of the contention of the applicant. In view of the above situation, we find that there is no cause of action available at this stage for the applicant. Respondents had considered Annexure A-4 and ordered rejecting the same. O.A itself has become infructuous and there is nothing further to consider in this case. **Thus, the O.A lacks merit, in the result, the O.A will stand dismissed. No order as to costs.**

(Dated, 19th March, 2021.)

(K.V. EAPEN)
ADMINISTRATIVE MEMBER

(P. MADHAVAN)
JUDICIAL MEMBER

Applicant's Annexures

- Annexure A-1 - True photocopy of the Death Certificate of this 1st applicant's husband N.A. John.
- Annexure A-2 - True photocopy of the Legal Heirship Certificate of this 1st applicant's husband.
- Annexure A-3 - True photocopy of the letter of rejection issued from the office of the 2nd respondent dated 22.02.2013.
- Annexure A-4 - True photocopy of the application for compassionate appointment preferred by the 2nd applicant.

Annexures of Respondents

- Annexure R-1(a) - True copy of the instructions issued by the Ministry of Personnel, Public Grievances & Pension, Department of Personnel and Training, Government of India under letter No. 14014/6/94-Estt. (D) dated 09.10.1998.
- Annexure R-1(b) - True copy of the letter No. 273-18/2005-Pers. IV dated 27.06.2007.
- Annexure R-1(c) - True copy of the letter No. 268-79/2002-Pers. IV dated 27.12.2006.
- Annexure R-1(d) - True copy of the order dated 31.10.2012.
- Annexure R-1(e) - True copy of the communication dated 23.11.2012.
- Annexure R-1(f) - True copy of the BSNL Corporate Office letter dated 22.10.2013.
- Annexure R-1(g) - True copy of letter dated 15.02.2014.
- Annexure R-1(h) - True copy of letter dated 04.11.2014.
- Annexure R-1(i) - True copy of the Welfare Officer Report dated 09.12.2014.
- Annexure R-1(j) - True copy of letter dated 09.12.2014.
- Annexure R-1(k) - True copy of the salary certificate.
- Annexure R-1(l) - True copy of the income certificate.
- Annexure R-1(m) - True copy of letter dated 22.07.2017.
- Annexure R-1(n) - True copy of the order No. 273-18/2013/CGA/Estt-IV dated 08.01.2015 issued by BSNL Corporate Office, New Delhi.
