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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.901 OF 2011
Cuttack this the 18th day of December, 2013

CORAM
HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

Paresh Kumar Mallick
Aged about 27 years
S/o. late Dinabandhu Mallick
At/PO-Parbatipur
Via-Balikuda
PS-Simulia
Dist-Balasore
Odisha
PIN-756 166

...Applicant

By the Advocate(s)-Mr.P.K.Padhi

-VERSUS-

Bharat Sanchar Nigam Limited represented through

1. The Chief Managing Director
Corporate Office
102-B, Stateman House
New Delhi-110 001
2. The General Manager, Telecom
Bharat Sanchar Nigam Limited
At/Post-Bhubaneswar,
Dist-Khurda
Odisha
PIN-751 001
3. The Dy.General Manager, Microwave Project
Bhubaneswar
Dist-Khurda
Odisha
PIN-751007

...Respondents

By the Advocate(s)-Mr.J.K.Panda



ORDERA.K.PATNAIK, MEMBER(J)

In this Original Application under Section 19 of the A.T.Act, 1985, applicant has prayed for direction to be issued to Respondent-BSNL to consider his case afresh in the old scheme and provide him with compassionate.

2. Aggrieved with non-consideration of his case for compassionate appointment, the applicant earlier had moved this Tribunal in O.A.No.14 of 2010. This Tribunal, vide order dated 15.3.2010 disposed of the said O.A. on the understanding that the applicant's request for compassionate appointment would be considered within three months in the next C.H.P.C. meeting. In the above background, Respondent-BSNL considered the case of the applicant for compassionate appointment and regretted the same vide communication dated 12.5.2011(Annexure-A/14) which is impugned herein and called in question.

3. It is the case of the applicant that while his father ^{was} working as LI(O) under the Respondent-BSNL passed away with effect from 3.10.2001 leaving the family in distressed condition and therefore, the circumstances under which his request for compassionate appointment has been rejected needs a further consideration inasmuch as the rules governing compassionate appointment at the time of the death of his father have not been applied while considering his case.

4. For the sake of clarity, the relevant portion of the communication dated 12.5.2011 is extracted hereunder.

[Signature]

"The matter has been got examined. The case for appointment of Shri Paresh Kumar Mallick on Compassionate Ground was considered by Circle High Power Committee as per BSNL CGTA Policy. The High Power Committee examined the case in detail on all aspects and the case was rejected as points scored were less than the minimum required 55 points. As the numbers of vacancies for Compassionate Ground Appointment are limited and are offered to candidates found more needy, it is regretted that it is not possible to consider this case again".

5. Respondent-BSNL have filed their counter opposing the prayer of the applicant. The main thrust of the counter as it appears that the case of the applicant having already been considered under the new system of evaluation of indigency on 24.03.2010, the same cannot be considered once again as per old obsolete system which is not in force.


6. I have heard Shri P.K.Padhi, learned counsel for the applicant and Shri ~~JK~~ Panda, learned counsel appearing on behalf of Respondent-BSNL and perused the pleadings.

7. In so far as application of rules governing compassionate appointment, this Bench has consistently been taking a view that the rules in force at the time of the death of the employee shall be the determining factor for considering the compassionate appointment. Since it is apparent that the Respondent-BSNL have not applied the rules governing compassionate appointment as on 3.10.2001 when the father of the applicant passed away, in my considered view, the prayer of the



applicant for compassionate ought to be considered again. In effect, the impugned communication dated 12.5.2011 (Annexure-A/14) is liable to be quashed and accordingly the same is quashed. Accordingly, Respondent-BSNL are directed to reconsider the case of the applicant having regard to rules governing compassionate appointment at the time of the death of his father and pass a reasoned and speaking order in that behalf. Ordered accordingly.

In the result, the O.A. is allowed to the extent indicated above. No costs.


(A.K.PATNAIK)
MEMBER(J)

BKS