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CENTRL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O.A.No.260/00122 of 2015**

Cuttack this the 29<sup>th</sup> day of April, 2016

Surendra Prasad...Applicant

-VERSUS-

Union of India & Ors. ...Respondents

*FOR INSTRUCTIONS*

1. Whether it be referred to reporters or not ? *yes*
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? *yes*

  
**(R.C.MISRA)**  
**MEMBER(A)**

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CENTRL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O.A.No.260/00122 of 2015**

Cuttack this the 29<sup>th</sup> day of April, 2016

CORAM:

*HON'BLE SHRI R.C.MISRA, MEMBER(A)*

Surendra Prasad  
Aged about 34 years  
S/o. late Shyam Bihari Prasad  
At-Ainthapalli  
PO-Budharaja  
Dist-Sambalpur

...Applicant

By the Advocate(s)-M/s.S.Behera

M.S.Swarup

-VERSUS-

Union of India represented through:

1. The Secretary  
Government of India  
Ministry of Communication & Information Technology  
Department of telecommunication  
42, Sanchar Bhawan  
20, Ashoka Road  
New Delhi-110 001
2. The Managing Director  
Bharat Sanchara Nigam Limited  
Corporate Office  
102-B  
Statesman House  
New Delhi-110 001
3. The Chief General Manager  
B.S.N.L.,  
B & E Cell  
Room No.325 (3<sup>rd</sup> Floor)  
Orissa Circle  
Bhubaneswar-751 001  
District-Khurda
4. General Manager  
Telecom Department, B.S.N.L.  
Sambalpur



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At/PO/District-Sambalpur

5. Executive Engineer(Civil)  
BSNL Civil Division  
D.T.O. Building  
4<sup>th</sup> Floor  
Kachari Road  
Sambalpur-768 001

...Respondents

By the Advocate(s)-Mr.K.C.Kanungo

**ORDER****R.C.MISRA, MEMBER(A)**

Applicant is the son of a deceased employee of the BSNL who was working as Store Chowkidar in the office of the Assistant Engineer (Civil) Sub-division No.1, Sambalpur, and has filed this Original Application challenging the order dated 19.11.2012 passed by Respondent No.5 in this O.A., i.e., Executive Engineer (Civil), BSNL, Civil Division, Sambalpur, rejecting the prayer of the applicant for appointment on compassionate ground. Applicant has approached the Tribunal making a prayer that order of rejection dated 19.11.2012 as at Annexure-A/9 of the O.A. be quashed, and the case of the applicant may be reconsidered for appointment on compassionate ground.

2. The brief facts of the case are that the applicant's father while in service expired on 13.04.20<sup>0</sup><sub>11</sub> leaving behind his widow, one married daughter, one unmarried daughter and two sons. Applicant being the elder son submitted an application within six months from the death of his father

29 praying for appointment on compassionate ground. He also submitted no-objection of other members of the family. This application was forwarded by the Respondent No.5 to Respondent No.3 vide letter dated 28.3.2002 for consideration. Thereafter, respondent no.3 directed respondent no.4 to cause an inquiry into the indigent condition of the applicant by deputing an officer. Thereafter, no action was taken by the respondents with regard to the case of the applicant for compassionate appointment. In the meantime, the respondent no.2 issued policy guidelines regarding compassionate appointment vide letter dated 27.6.2007 addressed to Heads of Telecom Circle introducing the weightage point system for assessment of indigent condition. Respondent no.3 issued direction to respondent no.4 to furnish information as per the C.G.A. policy decision and to prepare the weightage point policy system and forward the same within a fortnight. This letter was issued on 20.9.2007. There was a further gap of 5 years after this development and respondent no.5 vide letter dated 19.11.2012 communicated an order of rejection with regard to the prayer for compassionate appointment made by the applicant. It was mentioned in the letter that taking into account the assets and liabilities of the family of the deceased official, the case was not considered fit for compassionate appointment. This order is the subject matter of challenge by the applicant in this O.A.



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3. The respondents have filed a counter-affidavit in which they submit that applicant's father expired on 14.3.2001, and the applicant's request for compassionate appointment was submitted on 30.7.2003. This along with other 152 applications were placed before the Circle High Power Committee on 24.3.2010, admittedly after a gap of seven years after submission of the application. The recommendation of CHPC was submitted to BSNL headquarters. The High Power Committee of BSNL Corporate Office rejected the application for compassionate appointment, on the basis of consideration of relevant factors. The fact of rejection was communicated to the applicant by the impugned order dated 19.11.2012. The criteria adopted by the Committee are primarily based upon DOP&T guidelines dated 9.10.1998, read with weightage point system introduced by letter dated 27.6.2007 of the Corporate Office of BSNL. The respondents further submit that the applicant has approached the tribunal in march, 2015, challenging an order issued in the year 2012, after the limitation period. Even though applicant has filed an M.A. praying for condonation of delay, the same is devoid of cogent reasons and explanations. The respondents, therefore, argue that the O.A. is liable to be dismissed, being barred by limitation.

4. The respondents further submit that the death and terminal benefits, as well as family pension were provided to



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the family immediately. Inquiry also reveals that the family owns a residential house, as well as 22.5 decimals of irrigated land, and 6 decimals of homestead land. The respondents have also defended the weightage point system introduced by letter dated 27.6.2007 since it has brought in uniformity and objectivity in the assessment of indigent conditions of applicants for compassionate appointment. The number of vacancies earmarked for CGA quota is limited. The applicant's case was considered on the basis of all parameters, along with other cases, and was finally rejected.

5. It is further submitted that BSNL since 1.10.2000 has been following the guidelines dated 9.10.1998 in respect of compassionate appointments. The BSNL guidelines dated 27.6.2007 introduce a weightage point system within the guidelines of DOP&T. There is no difference between the two guidelines, except for the fact that a specific procedure for assessment of indigent conditions has now been introduced in the guidelines of the year 2007. The Ahmedabad Bench of the Tribunal in O.A.No.277 of 2008 has made the following observations.

"Therefore, going by above proposition which now stands finally established we do not think that it would be appropriate to interfere in the matter especially since the weightage point system has proved itself to be valid and will eliminate the element of corruption and nepotism, which were the base of challenge in the Court of Law by the non-selected persons claiming appointment on compassionate ground. Hence, weightage point



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system is appropriate to judge the indigent condition of the applicants”

6. In the counter-affidavit, the respondents have gone on describing the aim and object of the compassionate appointment scheme, how it is not a matter of right for the applicant, and the various parameters of the scheme of the Department of Personnel & Training as defined in the order dated 9.10.1998. As per the evaluation made under the weightage point system, the applicant got 73 points in the score - card, but was not found fit by the HPC of the BSNL Corporate Office. A number of decisions of the Hon'ble Apex Court have been cited by the respondents on the subject of compassionate appointment. These are Life Insurance Corporation of India vs. Mrs. Asha Ramachandra Ambedkar & Ors. (JT 1994 (2) SC 183), Union of India & Ors. vs. Shasank Goswami & another (AIR 2012 SC 2294), State Bank of India vs. Raj Kumar (2010) 11 SCC 661, and MGB Gramin Bank vs. Chakraborti Singh. The ratio of all these judgments is that the scheme for compassionate appointment has the objective of helping the family of the deceased employee who is facing acute and sudden distress. The applicant for compassionate appointment has no vested right to get employment. All applications for compassionate appointment have to be considered in accordance with the scheme formulated by the employer. Strictly speaking, the scheme of compassionate appointment is not in conformity with Articles 14 and 16 of the Constitution. In the case of MGB

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Gramin Bank vs. Chakrabarti Singh (C.A.No.6348 of 2013) the Hon'ble Apex Court in their judgment dated 7.8.2013 has held the view that "in case the Scheme does not create any legal right, a candidate cannot claim that his case is to be considered as per the Scheme existing on the date a cause of action has arisen, death of the incumbent in the post". It was further held that in State Bank of India & anr. (supra), this Court held that in such a situation, the case under the new scheme has to be considered. Viewed against this, rejection of request of the applicant for compassionate appointment is just and proper, without any iota of arbitrariness.

7. In the counter-affidavit, the respondents have submitted that <sup>2</sup> in O.A.No.946 of 2013(Bishok Kumar Prusty vs. UOI & Ors.), this Bench of the Tribunal in its orders dated 15.6.2015 has held that the contention of the applicant in objecting to retrospective application of the weightage point system guidelines of 2007 is unsustainable in view of the law laid down by the Hon'ble Apex Court in C.A.No.6348 of 2013 in MGB Gramin Bank vs. Chakrawarti Singh & SBI vs. Raj Kumar (2010) 11 SC 661. The final submission of the respondents in the counter-affidavit is that the present O.A. is not only barred by limitation, but also misconceived and devoid of merit.

8. The applicant has filed a rejoinder, in which he has averred that terminal benefits cannot be taken into account while considering cases for compassionate appointment as has



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been held by the Hon'ble Apex Court in the case of Canara Bank and another vs. M.Mahesh Kumar in C.A.No.260/2008 disposed of on 15<sup>th</sup> May, 2015. Further, the weightage point system dated 27.6.2007 cannot be retrospectively applied to applicant's case. The decision cited by the respondents in the counter cannot hold good in view of the recent decision of the Hon'ble Apex Court in the case of M.Mahesh Kumar. At the time of submission of application for compassionate appointment, the weightage point system was not there, and basing on DOP&T guidelines compassionate appointment was being considered. It is alleged by the applicant that after a lapse of seven years from the submission of application, the Circle High Power Committee sat and rejected the case solely on the basis of weightage point system. The submission made in the counter that on the basis of DOP&T guidelines and weightage point system, the applicant's case was rejected is contested, on the argument that both guidelines are different from each other. If the applicant's case would have been considered according to DOP&T guidelines, the case of the applicant would have been approved. In the rejoinder, the applicant has relied upon the judgment of Hon'ble Apex Court in the case of Canara Bank and another vs. M.Mahesh Kumar in which it was held that grant of family pension and payment of terminal benefits cannot be treated as a substitute for providing employment assistance. It was also held that claim of compassionate appointment under a



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scheme of a particular year cannot be decided, based on subsequent scheme that came into force much after the claim. Thus, the attempt of the applicant in the rejoinder is to stress upon the point that the case of the applicant should be reconsidered as per the scheme which was in force at the time when application for compassionate appointment was made.

9. Having perused the records, I have heard both the learned counsels, and also gone through the written notes of submission. I have given my anxious consideration to the issues which have been agitated by both sides.

10. Before embarking upon an analysis of the merit of the case, I have to first take a view about the prayer for condonation of delay made by the applicant in M.A.No.312 of 2015. The impugned order dated 19.11.2012 rejecting the prayer for compassionate appointment has been challenged by the applicant by filing this Original application on 02.03.2015. The A.T.Act, 1985, in Section 21 provides for a period of limitation. The provision is quoted below.

21(1)-A Tribunal shall not admit an application

- (a) In a case where a final order such as is mentioned in clause(a) of sub-section (2) of Section 20 has been mentioned in connection with the grievance unless the application is made within one year from the date on which such final order has been made.
- (b) In a case where an appeal or representation such as is mentioned in clause(b) of sub-section(2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.



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Further Section 21(3) provides as follows:

(3)Notwithstanding anything contained in sub-section(1) a sub-section(2), an application may be admitted after the period of one year specified in clause(a) or clause(b) sub-section(i), or, as the case may be, the period of six months specified in sub-section(2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

The mandate given under Section(21) cannot be ignored by the Tribunal. In the case of D.C.S.Negi vs. Union of India & Ors. decided on 7.3.2011, the Hon'ble Apex Court observed as follows.

"Since Section 21( C ) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21(3)"

11. In the present O.A., it is first of all clear that the application has been filed beyond the period of limitation. The matter for consideration is whether the petition for condonation of delay will be allowed under the provision of Section 21(3). The learned counsel for the applicant has argued his case by stating that the applicant belongs to rural areas of Sambalpur and is continuing in distressed condition for which he could not contact any advocate in 2013 and 2014. Therefore, he pleads a for a lenient view. Further, he states that the purpose of compassionate appointment is to remove the distressed condition of the family, but in this case, respondents



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have slept over the matter from 2002 to 2012, and finally rejected the prayer in November, 2012. This is gross delay committed by respondents. The learned counsel for the applicant has cited the observations of the Punjab & Haryana High Court in the case of Dilbagh Singh vs. Collector, Land Acquisition disposed of on 15.3.2002, which are quoted below.

"Therefore, while considering the plea for condonation of delay, raised by a peasant or litigant coming from rural area, the Court has to adopt an extremely liberal approach, more so when the case involves depriving the applicant of his source of livelihood. If the old and antiquated rule that each day's delay should be satisfactorily explained is applied in such cases, then grave injustice would be done to a majority of population living in rural India and persons like the applicant would be deprived of their legitimate right to seek justice".

The learned counsel for respondents, i.e., BSNL has stiffly opposed the prayer of the applicant for condonation of delay in filing this application.

12. It is, therefore, the settled position of law that Tribunal must not ignore the issue of limitation. It is a serious issue, and unusual delay hits the principle of equality. At the same time, the Tribunal under the A.T.Act has been empowered to condone the delay, if it is satisfied that satisfactory reasons exist to explain why the applicant has approached the Tribunal beyond the period of limitation. One more duty cast upon the Tribunal



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is also to see that substantial justice is not betrayed or defeated on the ground that a person is seeking justice after a period of delay. The overall circumstances of the case are also required to be considered. In this case, which is a prayer for compassionate appointment, the respondents' organization did not take a view about the matter, and practically for a decade, i.e., from 2002 to 2012 put the matter in cold storage. It is a well-known fact that prayer for compassionate appointment is an urgent prayer, because the basic purpose is to help the family in an immediate situation of distress. In such a matter, a long period of delay in taking an administrative decision, whether in the positive or in a negative way, is a very discouraging situation. An organization is more powerful than an individual and an employer is in a stronger position than an employee. Therefore, the respondents' organization has a duty to look into the grievances of its employees, and in case of untimely death of the employee, the members of the family, in so far as the legal entitlements are concerned. Viewed in this context, I find that the delay in consideration of the case is unconscionable. In this regard the observations made by the Hon'ble Apex Court in the case of S.S.Rathore vs. State of Madhya Pradesh (AIR 1990 SC 10) are worth noting. The Hon'ble Apex Court said as follows.

"Redressal of grievances in the hands of departmental authorities takes an unduly long time. That is so on account of the fact that no attention is ordinarily bestowed over these matters and they are not considered to be governmental business of substance. This approach has to be



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deprecated and authorities on whom power is vested to dispose of appeals and revisions under Service Rules must dispose of such matters as expeditiously as possible".

The above observations are no doubt in the context of disposal of various appeals and petitions under Service Rules. But the spirit of the same applies to disposal of every grievance, in this case, specifically to disposal of an application for appointment on compassionate grounds. Delay leads to defeat of reasonable expectations, and also distrust between the petitioner and the authorities. If an application for compassionate appointment is decided and rejected after a decade, then the urgency of the matter that was prevailing at the relevant point of time is totally lost on the authorities. After an unreasonable period of delay, the authorities in fact are tempted to take resort to summary disposal of the case, and application of mind to each and every case becomes a casualty. The respondents would always cite several administrative reasons for not disposing of the matters in time, be it procedural or substantial. But that will not explain away the harassment caused to a petitioner who is waiting to be given a benefit that he considers to be reasonably within his expectation. Every prayer cannot be granted, but an expeditious decision needs to be conveyed to an applicant or petitioner within a reasonable period, and this is the right of every citizen in a democratic polity that is accountable to people.



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13. In view of the foregoing, the consideration of the prayer for condonation of delay has to be done against the context of the facts of the case. The applicant has no doubt challenged the order of rejection passed by the respondents after some delay. But the application for condonation of delay cannot be rejected in a robotic or mechanical fashion. In this case, the scenario indicates that rejection of the M.A. filed for condonation of delay will defeat the course of substantial justice. In view of the delay and lack of promptitude on the part of the respondents' organization, I take a lenient view of the delay of the applicant in filing the O.A. I, therefore, allow the M.A.No.312 of 2015 filed for condonation of delay.

14. The issue of significance that has now to be decided is whether the case of the applicant should have been decided as per the weightage point system of 2007 introduced by the BSNL, as has been done by the High Power Committee. The accompanying question is whether the case should have been considered in the light of DOP&T guidelines of 1998 which were adopted by the BSNL when the applicant's father died, and the application for compassionate appointment was submitted by the applicant. The relevant question of law that automatically crops up for resolution is whether the guidelines existing at the time of consideration would be retrospectively applicable, or the guidelines that were<sup>e</sup> in force at the time of



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occurrence of cause of action, i.e., submission of application would be attracted.

15. The learned counsel for the applicant has relied upon the decision of the Hon'ble Apex Court in Canara Bank & another vs. M.Mahesh Kumar reported in (1015) 2 SCC(L&S) 539 to argue his case that the old scheme that existed at the time of death of applicant's father and submission of application for compassionate appointment should be made applicable to the case. On the other hand, the learned counsel for respondents has relied upon several decisions, and particularly, the case of MGB Gramin Bank vs. Chakrawarti Singh to argue that the case has to be considered under the new scheme of 2007 prevailing at the time of consideration of the case. It is his further contention that this Tribunal in O.A.No.946 of 2013 has already decided that new scheme will be applicable, based upon the ratio of Supreme Court decision in the case of M.G.B.Gramin Bank vs. Chakrawarti Singh.

16. The facts of O.A.No.946 of 2013 disposed of on 15.6.2015 are no doubt similar to the facts of the present case. In O.A.No.946 of 2013, the prayer of the applicant was dismissed, because based upon the M.G.B.Gramin Bank case, the Tribunal decided that consideration of the case of the applicant as per the weightage point system of 2007 is justified and needs no interference. I have again gone through the judgment of the Hon'ble Apex Court in the matter of MGB Gramin Bank vs.



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Chakrawarti Singh (C.A.No.6348 of 2013) decided on 7.8.2013. The circumstance<sup>3</sup> of this case are that father of the respondent who was working as a Class-III employee with the appellant Bank died on 19.4.2006 while in harness. The respondent applied for compassionate appointment on 12.5.2006. During the pendency of the application filed by the respondent, a new scheme dated 12.6.2006 came into force with effect from 10.10.2006. Clause 14 thereof provided that all applications pending on the date of commencement of the Scheme shall be considered for grant of ex-gratia payment to the family instead of compassionate appointment. As the appointment on compassionate ground was denied to the respondent, he preferred the writ petition before the Hon'ble High Court, and the learned Single Judge took the view that as the cause of action had arisen prior to the commencement of the new scheme, therefore, the case was to be considered as per the then existing scheme, i.e., the 1983 scheme which provided for compassionate appointment and not for grant of ex-gratia payment. The Court directed the appellant not only to consider the case of appointment of the respondent on compassionate grounds but rather directed the appellant to appoint him. Aggrieved, the appellant challenged the said order by filing the Special Appeal which was dismissed, and therefore, appeal was filed before the Hon'ble Supreme Court. The Hon'ble Supreme Court by disposing of the appeal on 7.8.2013 observed that the



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reasoning given by the learned Single Judge as well as by Division Bench is not sustainable in the eyes of law. The appeal was allowed, and the Hon'ble Apex Court directed that respondent may apply for consideration of his case <sup>under</sup> ~~under~~ the new scheme and the appellant shall consider his case strictly in accordance with Clause-14 of the said new scheme within a period of three months from the date of receiving of application.

17. The learned counsel for the applicant has relied upon the judgment of the Hon'ble Apex Court dated 15.5.2015 (which is after the decision in MGB Gramin Bank case disposed of on 7.8.2013) in the case of Canara Bank and another vs. M. Mahesh Kumar (C.A.No.260 of 2008) decided along with C.A.No.266 of 2008 and C.A.No.267 of 2008. The facts of this case are similar to the facts involved in the M.G.B. Gramin Bank case. As per a new scheme that the Indian Banks Association formulated, ex-gratia payment in lieu of compassionate appointment was introduced by issue of H.O. Circular No.35 of 2005 dated 14.2.2005. The contention of the Bank was that as on the date of consideration of the application for compassionate appointment, there was no policy to provide compassionate appointment under "Dying in Harness Scheme". The main question falling for consideration was whether the scheme passed in 2005 providing for ex-gratia payment or the scheme then in vogue in 1993 providing for compassionate



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 appointment is applicable to the respondent. The Hon'ble Apex Court after considering the matter came to the following final conclusion.

"Para-22. Considering the scope of the scheme "Dying in Harness Scheme, 1993", then in force and the facts and circumstances of the case, the High Court rightly directed the appellant Bank to reconsider the claim of the respondent for compassionate appointment in accordance with law and as per the scheme(1993) then in existence. We do not find any reason warranting interference".

"Para-24. In the result, all the appeals preferred by the appellant Bank are dismissed, and the appellant Bank is directed to consider the case of the respondent for compassionate appointment as per the scheme which was in vogue at the time of death of the employee concerned. In the facts and circumstances of the case, we make no order as to costs".

18. The argument placed by the learned counsel for respondents is that the Hon'ble Apex Court Judgment in C.A.No.250 of 2008 (MD, Canara Bank & Ors. vs.M.Mahesh Kumar, cited by the applicant stands distinguished from the present case in terms of the facts. The issue was about compassionate appointment as per the 1993 scheme as against the new scheme of ex-gratia payment of 2005. However, as already elucidated, in the MGB Gramin Bank case also, the facts were similar. Clause 14 of the new scheme effect<sup>ive</sup> from 2006 provided that all applications pending on the date of commencement of scheme shall be considered for appointment of ex-gratia instead of compassionate appointment. The Hon'ble Apex Court directed that the case should be considered strictly

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according to Clause 14 of the new scheme. Therefore, facts of the case in MGB Gramin Bank case, and Canara Bank case decided on 7<sup>th</sup> August, 2013 and May, 15, 2015, are similar. In the first case, the Hon'ble Apex Court held the view that scheme as on the date of consideration should be made applicable, and in the second case the decision was that the scheme that was effective at the time when cause of action arose would be applicable. The judgment dated May, 15, 2015 in the Canara Bank case has come later, and in my view, would take precedence over the earlier case.

19. The facts involved in both the decisions of the Hon'ble Apex Court are similar. In the present O.A., of course, the issue is whether scheme of 2007 or the scheme that was effective on the date of submission of application for compassionate appointment would be applicable. Similar matter in O.A.No.946 of 2013 was disposed of on 15.6.2015. In that order, the Tribunal did not find anything wrong or irregular with the fact that 2007 guidelines were applied while considering the case of the applicant for compassionate appointment. Accordingly, the case was dismissed. However, this decision was arrived at basing upon the ratio of the MGB Gramin Bank case decided by the Hon'ble Apex Court. The decision of the Canara Bank case rendered by the Hon'ble Apex Court on a later date, was not within the knowledge of the Tribunal, and was not brought to its notice. In the present case, however, the learned counsel for



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applicant has placed that decision before the Tribunal, urging that this being the latest decision should be binding.

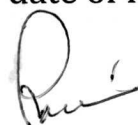
20. The learned counsel for respondents has urged that precedents cannot be relied upon in a mechanical manner, and that a little difference in facts can also make a material difference. He cited the decisions in Commissioner Income Tax vs. Sun Engineering Works, AIR 1993 SC 43, Bhawnagar University vs. Palitana Sugar Mill, AIR 2003 SC 511 and Union of India vs. Chajju Ram, AIR 2003 SC, 2339 in this regard. He has also pleaded that the Hon'ble Supreme Court <sup>13</sup> judgment in the CANARA Bank case stands distinguished, and the ratio of judgment of that case should not apply to present O.A. because of a different set of facts. There is no doubt a small difference, because the scheme of ex-gratia payment as against the scheme of compassionate appointment is not the issue in this case. The issue is regarding the scheme of compassionate appointment at the time of cause of action and the scheme of compassionate appointment of 2007 in which BSNL adopted the weightage point system. But the facts in the MGB Bank case decided in 2013 and those in the Canara Bank case decided by the Hon'ble Apex Court <sup>in 2015</sup> are similar. I have to come to the ratio of decision of the Hon'ble Apex Court in the later case which is that the case of an applicant for compassionate appointment has to be considered under the scheme which was prevalent at the time of submission of the application for compassionate



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appointment, and not under the scheme that was existing at the time of consideration. The ratio decided in the Canara Bank case by the Hon'ble Apex Court is that the relevant scheme to be applicable is the one that was effective at the time of the cause of action. If there is a change in the scheme, or there is a different scheme at a later point of time, when actual consideration of the applicant is made, such consideration has to be made as per the scheme that was effective when cause of action arose. The decision of the Hon'ble Apex Court in May, 15, 2015 in the case of Canara Bank vs. Mahesh Kumar having been brought to the notice of the Tribunal now, the same cannot be ignored, and would now be taken as binding upon the Tribunal, despite the fact that in O.A.No.946 of 2013, involving similar facts a different <sup>view</sup> was taken based upon the ratio of decision of the Hon'ble Apex Court in MGB Gramin Bank case.

21. In view of the discussions made above, I am of the opinion that there is merit in the prayer of the applicant that his case should be considered as per the scheme of compassionate appointment that was existing at the time of the cause of action in the year 2002 when the applicant submitted the application for compassionate appointment. The respondents are accordingly directed to reconsider the case of the applicant as per the scheme prevailing earlier in 2002 and communicate their decision with a reasoned and speaking order to the applicant within a period of 120 days from the date of receipt of



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2 this order. The impugned order dated 19.11.2012 is quashed and the case is remanded.

22. The O.A. is disposed of with the above observation and direction, with no order as to costs.

  
**(R.C.MISRA)**  
**MEMBER(A)**

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