

1
13

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 67/2009

Date of order: 04.05.2010

CORAM:

HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER

Bajrang Lal Mochi S/o Late Shri Loona Ram (Ex-STOA (G), office of G.M.T.D., Bikaner), aged 22 years, by caste Mochi, resident of Sadar Bazar, Deshnok, District Bikaner.

...Applicant.

Mr. Kan Singh Oad, proxy counsel for
Mr. Ajitabh Acharya, counsel for applicant.

VERSUS

1. The Union of India through the Secretary, Ministry of Communication, Department of Telecommunications, Government of India, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecommunication, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur - 302 008.
3. Assistant General Manager (Recruitment & Establishment, B.S.N.L., O/o CGMT, Rajasthan Circle, Jaipur.
4. The Assistant Director (CR & CGA), Bharat Sanchar Nigam Ltd., Jaipur.
5. The General Manager Telecommunication District, Bikaner.

... Respondents.

Mr. Kuldeep Mathur, counsel for respondents.

ORDER

Per Hon'ble Mr. Justice S.M.M. Alam, Judicial Member

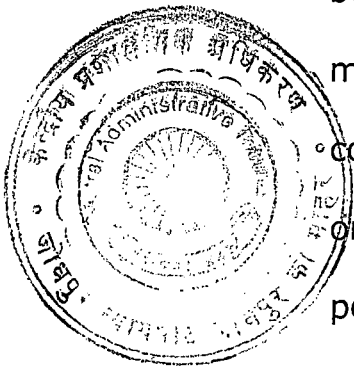
S.M.A

This Original Application has been filed by one Bajrang Lal Mochi S/o Late Shri Loona Ram, Ex-STOA (G), office of G.M.T.D., Bikaner claiming relief for grant of compassionate appointment in place of his deceased father who died in service.

14

2. The brief facts of case are as follows:

The father of the applicant Late Shri Loona Ram was serving in the respondent-department as Sr. TOA (G) in the office of GMTD, Bikaner. He died on 22.02.2006 while in service of respondent-department. After the death of his father, the applicant being the elder and major son applied for appointment on compassionate ground in place of his father. Copy of the application has been annexed as Annexure A/3 in this O.A. The applicant vide communication dated 03.04.2008 was informed that his application for appointment on compassionate ground had been placed before the Circle High Power Committee meeting held on 18.03.2008 and the committee after consideration of his case in detail, rejected the application on the ground that the applicant could obtain only 41 points as net weightage against 55 points making any candidate entitled for compassionate appointment. The committee also found that the family of the applicant is not living in indigent condition. The said communication dated 03.04.2008, which is Annexure A/1, is under challenge. Thereafter, the applicant filed a review application before the Assistant General Manager (Recruitment & Establishment), BSNL, Jaipur challenging the validity of newly introduced weightage system in the department and stating that the applicant's claim for compassionate appointment cannot be governed by the said letter as the applicant's father died on 22.02.2006 before issuance of the letter. It was also stated that the



Smt

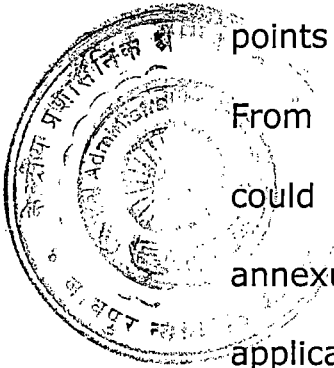
weightage system cannot be made effective retrospectively. The said review application is Annexure A/4. However, the said review application was also rejected vide communication dated 01.07.2008 (Annex. A/6). Thereafter this O.A. was filed. The prayer has been made in the Original Application that by appropriate order or direction, the impugned communication dated 03.04.2008 (Annex. A/1) and communication dated 01.07.2008 (Annex. A/6) be quashed and set aside and the respondents may be directed to consider the case of the applicant for appointment on compassionate ground with all consequential benefits.



3. On filing of the Original Application, notices were issued to the respondents and in compliance of the notices; the respondents made appearance through their lawyer and filed reply of the Original Application. In reply, the respondents have defended their action for rejecting the application of the applicant for appointment on compassionate ground on the ground that the net weightage points scored by the applicant was 41 only which was less than 55 points, the minimum points required for making any dependent of the deceased employee entitled for appointment on compassionate ground as per weightage point system introduced in B.S.N.L. The respondents have also taken plea that the financial condition of the applicant's family is not indigent.

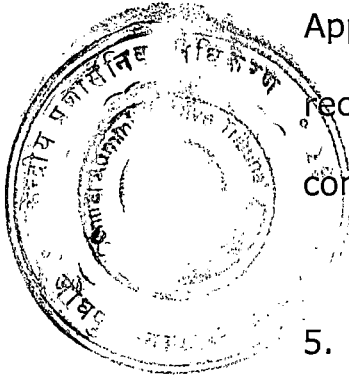
16

4. Heard the learned advocate of the applicant as well as the learned advocate of the respondents in detail and also perused annexure A/1 as well as annexure A/6 and relevant documents. From the perusal of the annexure A/1 read with annexure A/5, it appears that the department of B.S.N.L. vide notification dated 27.06.2007 introduced weightage point system and as per the newly introduced system, the assessment criteria for recommendation of the indigent condition of the family by the Circle High Power Committee shall be - (a) cases with 55 or more net points shall be prima-facie treated as eligible for consideration by Corporate Office High Power Committee for compassionate ground appointment and (b) cases with net points below 55 shall be treated as non-indigent and rejected. From perusal of annexure A/1, it appears that the applicant could not obtain 55 net points as per instructions contained in annexure A/5. He could only get 41 net points and so his application was rejected. It further transpires from perusal of annexure A/1 that the authorities have not separately shown as to how the points were calculated and on what basis the applicant could get only 41 net points. The details are lacking and, therefore, I am of the view that the order under challenge i.e. Annexure A/1 is a non-speaking order and likewise annexure A/6 also does not disclose as to how the points were awarded to the applicant and under which head the points were given so annexure A/6 is also a non-speaking order in the eye of law. Moreover, the claim of the respondents that the financial condition of the family of the deceased employee is not indigent does not appear to be acceptable in view of the fact that it is



Smt A

mentioned in the order itself that the family of the deceased consists of his widow and three sons; out of them two are still minors. The only source of income is family pension amounting to Rs. 4913+IDA per month, which is being paid to the widow of the deceased employee. If anything happens to the widow of the deceased then family of the deceased will come on road. There is nothing to show that the family has got any landed property and so except family pension there is no other source of livelihood to the family of the deceased, thus, I am of the view that the finding of the respondents that financial condition of the family of the deceased is not indigent, is not correct. In such view of the matter, I am of the opinion that this Original Application should be allowed and the respondents be directed to reconsider the application of the applicant for appointment on compassionate ground.



5. In the result, this Original Application is allowed. The communication dated 03.04.2008 (Annexure A/1) and communication dated 01.07.2008 (Annexure A/6) are quashed and set aside. The respondents are directed to reconsider the application of the applicant for appointment on compassionate ground and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of this order. There is no order as to costs.


(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

दिनांक 17/12/15 के आदेशानुसार
मेरी व्यक्तित्व में दिनांक 10-2-16
को भाग-II व/III नष्ट किए गए ।

अनुमान अधिकारी
केन्द्रीय प्रसारितिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर

Copy received
Ailata
4/5/2010
(Judgment dated)

R/C
11/05/10