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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A.132/2009

Dated this the 8th day of December, 2010.

CORAM

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

**Madhu Ram S/o Late Shri Mishri Lal,
Aged about 34 years, Resident of Village
Balesar Satta, Tehsil-Shergarh, Dist. Jodhpur,
Rajasthan.**Applicant

(By Advocate Mr. K.D.S.Charan (proxy for Mr.Kuldeep Mathur)

Vs.

**1. The Bharat Sanchar Nigam Limited
(Government of India Enterprises)
through its Chief Managing Director,
BSNL, New Delhi.**

**2. The General Manager,
Telecom District, BSNL, 2nd,
C-Extension, Kamla Nehru Nagar,
Jodhpur.**

**3. The Sub Divisional Engineer, BSNL,
Tehsil Balesar,
District Jodhpur.** ..Respondents

(By Advocate Mr.Vinay Bishnoi)

**This application having been heard on 8.12.2010, the Tribunal on the
same day delivered the following:**

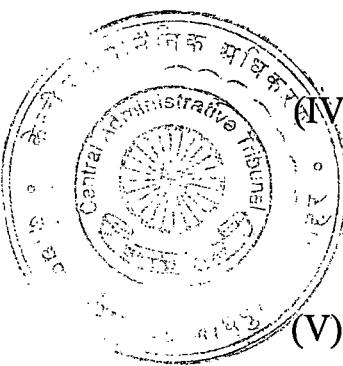
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ORDER

Applicant Madhu Ram S/o late Mishri Lal resident of Village Balesar Satta, Tehsil Shergarh, District Jodhpur has prayed in this application for the grant of following reliefs:

- (I) By an appropriate order or direction the letter dated 15.12.2008 (Annexure.A1) & letter darted 11.8.2004, issued by the respondent department may kindly be quashed and set aside.
- (II) By an appropriate order or direction the respondents may kindly be directed that the services of the applicant's mother to be deemed as regularized in (Group 'D' Non Test) post with effect from 1.4.2004 along with her counter parts with all consequential benefits.
- (III) By an appropriate order or direction the respondents may kindly be directed to consider the case of the applicant sympathetically and give appointment on compassionate grounds in place of her deceased mother.
- (IV) Any other appropriate order or direction this Hon'ble Court may deem just and proper in the facts and circumstances f the case may kindly be passed in favour of the applicant.
- (V) The Original application may kindly be allowed in favour of the applicant with costs in the interest of justice.

2. The case of the applicant in brief is that the mother of the applicant late Smt. Laduri Devi was appointed in the respondent department as a Part-Time Sweeper with effect from 20.4.1973. Vide letter dated 9.5.2001 the services of applicant's mother was converted from Part Time Casual Labour to Full Time Casual Labour with effect from 9.5.2001. On 18.4.2004 the Departmental Selection Committee recommended the name of applicant's mother for regularization of her services in Group D non-test post and the said fact was communicated vide letter dated 10.5.2004 but unfortunately



the applicant's mother suddenly died on 2.5.2004 due to cardiac arrest. It is stated that due to the death of the applicant's mother her services could not be regularized whereas the services of similarly situated persons were regularized with effect from 1.4.2004 vide order dated 12.5.2004. The applicant's case is that the applicant's mother had served the respondent department for a long period of 31 years with sincerity, honesty, loyalty, zeal and dedication and to the utmost satisfaction of her superiors and while she was in service she died due to cardiac arrest. Further case of the applicant is that since the applicant's mother had died in harness as such the applicant submitted an application to the respondent department for his appointment on compassionate grounds. But vide letter dated 9.9.2004 the Deputy Circle Engineer, Balesar intimated that as there was no provision to give compassionate appointment to the wards of casual employees, as such the application was not considered. Thereafter, the applicant filed several representations before the authorities concerned but of no avail. The applicant has also sent legal notice but no action was taken by the respondents and ultimately the applicant approached this Tribunal with this

OA.

3 On filing of the OA by the applicant, notices were issued to the respondents and in compliance of the notices the respondents appeared through lawyer and filed reply of the OA. The main contention of the respondents is that the mother of the applicant was working as a casual employee in the respondent department and although it was true that the Departmental Promotion Committee has found her fit for regularization on the post of regular Mazdoor as per proceedings dated 18.4.2004 but

unfortunately due to her sudden death her services could not be regularized and as there is no provision to appoint the wards of casual employees on compassionate ground, whose services were not regularized as such the applicant's request for compassionate appointment was not considered.

4 During the course of the arguments, the learned Advocate of the applicant submitted that this case is fully covered by the decision dated 11.12.2003 of the Hon'ble Allahabad High Court given in the case of Smt, Rita Devi Vs. State of U.P. and others (copy of the judgment obtained from website has been filed). He has submitted that in the case of Smt.Rita Devi (supra) similar issue was involved as to whether the defendant of an employee whose services were not regularized was eligible to get appointment on compassionate grounds in case the said employee died in harness. He has submitted that while deciding the point the Hon'ble Single Judge has also placed reliance upon the decision in the case of *Santhosh Kamar Mishra V. State of UP and others* 2001(4) ESC (All) and in the case of *Saroj Devi (Smt) V. State of UP and others*, 1999(3) AWC 2443: (2000) 1 UPLBEC (Sum) 15 and in the case of *Smt, Maya Devi V.,State of UP and others*, 1998(79) FLR 608 and after considering the above mentioned cases the Court allowed the application of the Petitioner Smt.Rita Devi for compassionate appointment.

5. The submission of the learned advocate of the respondents is that since the mother of the applicant was not a regular employee of the respondents and as there is no provision to give compassionate appointment

to dependants of casual employees ⁵ who died in harness, as such the applicant's case for compassionate appointment was not considered.

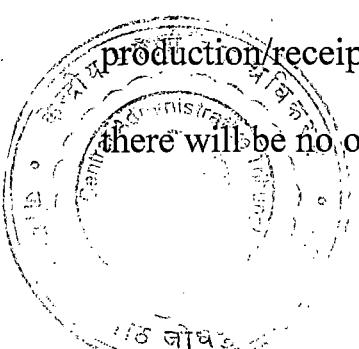
6. I have perused the judgment passed in the case of Smt. Rita Devi (supra) and I have come to the conclusion that the instant case is covered by the said judgment as the judgment passed in the case of Smt. Rita Devi shows that the services of Shri Vikram Singh, the husband of Smt. Rita Devi, was also not regularized due to his death (although similarly situated employees were regularized) but even then the court found the applicant fit for ~~grant~~ of compassionate appointment. In the instant case also the mother of the applicant who was an employee of the respondent department and had served the respondent department for about 31 years was not regularized in service due to her sudden death although similarly situated employees were regularized in service with effect from 1.4.2004 ie., prior to the date of death of the applicant's mother. So it can be easily inferred that if the applicant's mother would have been alive she would have been regularized in the service as her case for regularization of her service was recommended by the Departmental Selection Committee. I am, therefore, of the view that the instant case is fully covered by the judgment given in the case of Smt. Rita Devi (supra) and it is desirable that the respondents may be directed to reconsider the case of the applicant for compassionate appointment in the light of the judgment passed in the case of Smt. Rita Devi.

7. In the result, this application is allowed and Annexure A1 along with letter dated 11.8.2004 is hereby set aside and the respondents are directed to reconsider the case of the applicant for compassionate appointment in the

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light of the decision given in the case of Smt. Rita Devi (supra) and pass a reasoned order on merits within a period of three months from the date of production/receipt of a copy of this order. In the circumstances of the case, there will be no order as to costs.

Dated this the 8th day of December, 2010


S.M.M. Alam
(Justice S.M.M. Alam)
Member (Judicial)

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दिनांक ११/११/१८ वर्ष के अद्देश्यानुसार
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को अमेरिका के लिए जाना गया।
अमेरिका नाविकारणी
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जोधपुर न्यायपीठ, जोधपुर