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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

O.A. No. 67/2011

Jodhpur this the 04th day of July, 2013.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Anop Singh S/o Late Shri Nihal Singh by caste Rawat about 22 years, resident of 75, Surya Colony, In-from of Telephone Office, Naya Gaon, Pali, Rajasthan. Father was working as a Driver under Respondent No. 5.

.....Applicant

(Through Advocate Mr Nishant Boda and Ms Sushma Dhara)

Versus

1. Union of India – Through the Secretary, Ministry of Communication and Information Technology, Department of Telecommunication, New Delhi.
2. Bharat Sanchar Nigam Limited – (A Government of India Enterprises), Through Chairman and Managing Director, Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, Harish Chander Mathur Lane, Janpath, New Delhi – 110001.
3. Assistant General Manager (Personnel-IV), Corporate Office, Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, 5th Floor, Janpath, New Delhi.
4. Assistant General Manager (Recruitment) Bharat Sanchar Nigam Limited, O/o Chief General Manager, Telecom Circle Rajasthan, Sardar Patel Marg, C-Scheme, Jaipur.
5. General Manager, Telecom District, Bharat Sanchar Nigam Limited, Pali, Rajasthan.

(Through Advocate Mr Lalit Vyas)

.....Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

By way of this application, the applicant has challenged the legality of rejection of his case for compassionate appointment vide communication Annex. A/1.

2. The short facts of the case as averred by the applicant are that the applicant's father Nihal Singh was working in the office of the respondent-department and he died on 20.07.2005 in an accident while he was coming from Jaipur to Jodhpur on duty. The applicant applied for appointment on compassionate grounds along with documents and affidavit but he was advised to apply afresh. In Feb., 2006 the applicant applied afresh for appointment on compassionate grounds. In the year 2008, the AGM, (Pers IV), BSNL, New Delhi sent a letter to the BSNL, Rajasthan informing that the case of the applicant was put before the High Power Committee and certain clarifications were sought from the applicant and his mother. The BSNL Office, Pali informed applicant to send the desired information and after getting the relevant information applicant and his mother filed the affidavit and the relevant documents. The BSNL Head Office, New Delhi issued a letter to the Chief General Manager, Rajasthan Circle, BSNL Jaipur regarding the appointment to the applicant on compassionate grounds. The Assistant General Manager (Recruitment) in the office of Chief General Manager, Rajasthan

Circle, BSNL, Jaipur sent a letter to the General Manager, BSNL, Pali whereby appointment on compassionate grounds to the applicant has been denied. The applicant by way of this application has sought following relief (s):

- “(i) The order dated 21.08.10 (Annex. A/1) passed by the Assistant General Manager (Recruitment), O/o the Chief General Manager, BSNL, Rajasthan Circle, Jaipur by which the applicant has been denied appointment on compassionate grounds may be quashed and set aside.
- (ii) The order/letter dated 22.07.210 passed by the Assistant General Manager (Pers.IV), BSNL, Corporate Office, New Delhi may kindly be quashed and set aside.
- (iii) The respondent may be directed to give appointment to the applicant on compassionate grounds in Bharat Sanchar Nigam Limited.
- (iv) Any other appropriate order or direction, which may be deemed just and proper in the facts and circumstances of the case, may kindly be passed in favour of the applicant.”

3. By way of reply, the respondents denied the right of the applicant to get the appointment on compassionate grounds. It has been averred in the reply that the case of the applicant was considered on the basis of weightage point system and the applicant got more than 55 marks, therefore, his case was forwarded to the High Power Committee and the High Power Committee after considering all the facts and circumstances of the case rejected the claim of the applicant for compassionate appointment. It has been averred in the reply that merely by getting 55 marks, the applicant does not get a right to get appointment on compassionate grounds but as per the scheme after getting 55 marks the applicant acquires the right of consideration

only and the High Power Committee of the department considered the case of the applicant as per the scheme for compassionate appointment issued by the DoPT. The order passed by the competent authority Annex. A/1 cannot be said to be illegal or against the provisions of law because the High Power Committee considered all the relevant facts and circumstances which are needed to be considered for appointment on compassionate grounds.

4. Heard both the parties. The counsel for the applicant contended that Annex. A/1 is vague in nature and it does not contain the relevant facts necessarily required to be considered because the father of the applicant left only 1 Bigha agriculture land and annual income from this land is Rs 1500/- per year as per Patwari, Palra, Ajmer and Annex. A/1 refers that the deceased employee left some agriculture land. He further contended that how the case of the applicant was less meritorious vis a vis other candidates whose candidature was considered for the same year has also not been disclosed, therefore, order Annex. A/1 is illegal, vague and requires to be quashed.

5. Per contra counsel for the respondents contended that the applicant in this OA has averred that only on the ground of securing more than 55 weightage point, he is entitled to get the appointment on compassionate grounds whereas no such right

accrues in his favour on this ground and he further contended that deceased wife did not apply immediately for appointment on compassionate grounds and she waited till her elder son attain the age of majority. Thus, it is clear from these circumstances that the family of the deceased was not living in penury or in indigent condition and the heirs of the deceased Government servant got Rs 4,24,994/- as terminal benefits. He contended that Hon'ble Supreme Court in two judgments held that when the deceased employee left his family in penury and without any means of livelihood then only the appointment can be offered whereas terminal benefits received and other movable and immovable property possessed, by the family of the deceased employee show that it financial condition was not penurious. He relied upon the following judgments.

- (i) General Manager (D&PB) & Ors Vs Kunti Tiwary and Another reported in (2004) 7 SCC page 271
- (ii) State Bank of India & Ors Vs Jaspal Kaur reported in (2007) 9 SCC page 571

6. Per contra counsel for the applicant contended that deceased employee died while he was on duty and it cannot be expected from an illiterate lady and other family members to apply so quickly and he applied within 5 or 6 months from the date of the death of the deceased Govt. servant. Therefore, it cannot be

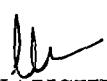
presumed that family of the deceased was not in penurious condition and further he contended that Annex. A/1 does not refer any such fact that his application was rejected on the ground of delay in filing the application.

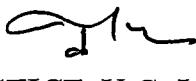
7. We have considered rival contentions raised by both the counsels and also perused the judgments of the Hon'ble Apex Court. The Hon'ble Apex Court in both the judgments has held that when the condition of family of the deceased Govt. servant is not penurious, compassionate appointment cannot be offered on such ground. But in this case, in our considered view Annex. A/1 order is vague in nature and it does not contain the fact that how the case of the applicant was considered in comparison to other candidates and whether the delay in filing the application for compassionate appointment in itself was considered by the High Power Committee and whether the annual income from the agriculture land was considered by the High Power Committee.

8. Accordingly, we are proposing to dispose off this OA with certain directions to the respondent-department while quashing Annex. A/1. The respondent-department is directed to reconsider the case of the applicant in the light of observations made above in the order and further inform the applicant about the consideration of his candidature vis-à-vis other candidates for the same year and

comparative chart be provided to the applicant within 4 months from the date of the receipt of this order.

9. With above direction the OA is disposed off. There shall be no order as to costs.


(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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