

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 193/2013

Jodhpur this the 08th day of December, 2014

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Judl. Member

Naveen Gehlot S/o late Shri Ghanshyam Gehlot, aged about 25 years, resident of Moti Chowk, Khapta, Malion ki Gali, Jodhpur, his late father was last employed on the post of Telephone Mechanic, BSNL, Manji Ka Hatta, Paota, Jodhpur.

.....Applicant

(By Advocate: Mr J.K. Mishra)

Versus

1. Bharat Sanchar Nigam Limited, through its Chairman & Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi-110011.
2. The Assistant Director (Pers. IV), BSNL, Corporate Office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi.
3. The Chief General Manager Telecommunication, Bharat Sanchar Nigam Ltd., (A Govt. of India Enterprises), Rajasthan Circle, Sardar Patel Marg, Jaipur-08.

.....Respondents

(By Advocate : Mr. Kamal Dave assisted by Dhirendra Pandey)

ORDER (Oral)

By way of this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 26.04.2013 (Ann.A/1) by which the respondent-department did not find his case justified for appointment on compassionate grounds.

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2. Brief facts of the case, as stated by the applicant, are that the applicant is the eldest son of late Shri Ghanshyam Gehlot, who was employed on the post of Telephone Mechanic in the respondent-department and died on 07.02.2007 while in service. Late Shri Ghanshyam Gehlot was survived by his widow, two sons, one daughter and dependent mother. According to the applicant, the family was left in indigent condition having no source of income except meager amount of family pension and has lot of liabilities e.g. education of children, marriage of children especially of daughter. The family resides in a small ancestral swelling house and has been paid terminal benefits as per entitlements. The mother of the applicant being illiterate not in a position of undertake any employment due to her physical and educational constraints. The applicant possessing the qualification of Secondary pass submitted application for consideration of his appointment on compassionate grounds which was turned down vide letter dated 17.07.2009 in pursuance of respondent No. 2 letter dated 05.06.2009 (Annex. A/3) wherein it was stated that the Committee was of the view that applicant can sustain in view of his age and education, however, the widow of the deceased Govt. servant may apply afresh, if she so desires for her own appointment. The applicant submitted another detailed representation on 27.07.2009 alongwith relevant documents including the medical certificate of his mother stating that she is suffering from depression and cannot take up the employment. Further, the applicant also visited the office of respondent No. 2 & 3 and explained his plight but his case was not considered in the meeting scheduled on 30.09.2004. Therefore, the applicant filed OA No. 402/2012 before this Tribunal for seeking direction to the respondents to reconsider his case afresh for appointment on compassionate grounds in accordance with the rules and

instructions in force and allow consequential benefits, amongst other reliefs. This Tribunal vide order dated 10.10.2012 allowed the OA and while quashing the impugned order dated 17.07.2009 directed the respondents to consider the case of the applicant afresh as per provisions of the scheme and the guidelines on the subject. Thereafter, the Welfare Officer visited the house of the applicant and made inquiries regarding his assets and liabilities and calculated 56 points for various items against 55 or more net points required for treating eligible for consideration by the Corporate Office, High Power Committee for appointment on compassionate grounds, but the case of the applicant has again been turned down vide order dated 26.04.2013 (Annex. A/1) on the ground that the family is not found living in indigent condition and the values of non-cultivable land and house has been shown as of Rs 45 lacs, although the family has got an ancestral house which was in the name of applicant's grandfather and the same is divided between the family of deceased and one uncle of the applicant. Therefore, the applicant has filed this OA seeking following relief(s) :

- (i) That impugned order dated 26.04.2013 (Annex. A/1) may be declared illegal and the same may be quashed. The respondents may be directed to reconsider the case afresh of applicant in accordance with the rules and guidelines in force and allow consequential benefits.
- (ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iii) That the costs of this application may be awarded.

3. The respondents have filed reply to the OA submitting that the case of the applicant was considered by the High Power Committee of BSNL Corporate Office where the Committee recommended for rejection of the applicant's case observing that the widow was receiving family pensions of Rs 3185/- + IDA and other terminal benefit to the tune of Rs. 3,93,703/-

were paid and family is living in its own house. The applicant is elder son and the Committee was of the view that the applicant can self-sustain in view of his age/education. Therefore, the Committee also recommended that the widow, if so desires, may apply fresh for her own compassionate ground appointment as only the widow can look after the whole family in a better way and she is also the first preference with respect to the provisions of the scheme for the purpose in accordance with instructions of DOPT laid down in OM dated 09.10.1998. The respondents have further submitted that the order passed in earlier OA was considered by the respondent-department in its letter & spirit and the case of the applicant was reconsidered by the High Power Committee on 25.03.2013 but the same was not found justified for appointment on compassionate grounds and accordingly the applicant was informed vide speaking order dated 24.06.2013. The rejection was communicated after consideration, keeping in view the parameters made strictly applicable in respect of all the cases of consideration. Further, the basic family pension after second PRC resulted in increased to Rs. 6990/- + IDA w.e.f. 08.02.2007. The weightage point treated as nil. It is further submitted that the wife of the deceased employee has been issued medical card for four members on 10.07.2010 and subsequently name of the applicant was removed from the medical card on 13.03.2013. The referred dependent i.e. the mother of the deceased employee is not found place in the medical card. Further, the BSNL Corporate Office High Power Committee considered the case and after overall assessment, the same was rejected. Thus, the respondents have prayed to dismiss the OA.

4. By way of rejoinder, the applicant while reiterating the facts as averred in the OA, has further averred that they have been told by the

Welfare Officer of the respondent-department that they have got the requisite marks of above 55 and the case was fit to be considered for appointment on compassionate grounds.

5. Heard both the parties. Counsel for the applicant contended that the applicant has been denied appointment on compassionate grounds vide Annex. A/1 on the ground that the family was not found as living in indigent condition. The applicant's family has got an ancestral house which is in the name of applicant's grandfather and the same is divided between the family of deceased and one uncle of the applicant. Counsel for the applicant further contended that the valuation is wrong, the property is non-productive and has no bearing on the indigence of the family as per the points prescribed. The case of the applicant is otherwise covered even by the specific guidelines issued by the department and he obtained the requisite net points of more than 55 and fell in the category of indigent, but still the respondents are adamant and are denying the due consideration on one pretext or the other. Counsel for the applicant further contended that Annex. A/1 is not a speaking order and it does not reveal that where the applicant fall short of requisite criteria after securing more than 55 weightage points for consideration of his case, therefore, Annex. A/1 is ex-facie illegal and may be set aside and respondents may be directed to provide appointment to the applicant on compassionate ground as per law.

6. Per contra, counsel for the respondents vehemently contended that the BSNL Corporate Office High Power Committee considered the case and after overall assessment, the case of the applicant was rejected and he was informed accordingly by speaking order Annex. A/1. Therefore, order Annex. A/1 is legal and OA filed by the applicant deserves to be dismissed.

7. Considered the rival contentions of both the parties and also perused the record. From perusal of the averments made in the reply it is clear that the applicant has not been informed about the points secured by the applicant on each count in detail and also the fact as to how his candidature has been considered by the HPC. Since the applicant has not been informed about the points secured by him on each count in detail, therefore, Annex. A/1 is quashed and the respondents are directed to consider the case of the applicant as per relevant DoPT's circulars and other relevant rules and pass a fresh order informing the applicant about the points secured by him on each count. The respondents are directed to consider the case of the applicant within 4 months from the date of receipt of this order. There shall be no order as to costs.

8. In terms of above direction, OA stands disposed of with no order as to costs.


(JUSTICE K.C.JOSHI)
Judicial Member

Ss

R/C
12/12/14

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