

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O A No. 50 of 2011

This the 31st day of July, 2012

CORAM :

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

K.K.Gireesh, S/o late K.A.Kesavan,
R/o Karmel House, Kumaranalloor P.O, Thrissur.

Applicant.

(By Advocate Mr. P.A. Kumaran)

Vs

1. Bharat Sanchar Nigam Ltd represented by Chairman,
and Managing Director, Sanchar Bhavan, New Delhi.
2. Chief General Manager, Bharat Sanchar Nigam Ltd
Kerala Circle, Thiruvananthapuram-695033.
3. Deputy General Manager (Admn), BSNL
O/o Chief General Manager, Kerala Circle,
Thiruvananthapuram - 695033.
4. Principal General Manager Telecom,
BSNL, Thrissur SSA, Thrissur

Respondents

(By Advocate Mr.V.Santharam)

This Original Application having been heard on 23.7.2012, this Tribunal delivered the following :

O R D E R

HON'BLE Mrs. K NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by the order rejecting his request for a job under compassionate appointment scheme on the ground that he could not obtain the required points, under weightage point system for assessment of indigent condition.

- 2 Brief facts of the case as stated by the applicant are that the

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applicant is the 2nd son of K.A Kesavan who died in harness on 6.4.2005 while working as Telecom Mechanic. The applicant preferred an application for compassionate appointment on 1.12.2005 to the 2nd respondent. A report in this regard was submitted by the Sub Divisional Engineer, BSNL, Vadakkanchery. In the report it was certified that none of the family members of the deceased was in employment and were dependent on him. The financial condition of the family is not sound and there is no other income except the family pension. It is alleged that his application was considered only in 2008 and rejected by Annx.A1. On gathering information he came to know that a High Power Committee Meeting was held on 4th October, 2006, 5.2.2008 and 13.10.2008. It is also alleged that an application dated 22.9.2006 for compassionate appointment was considered within a short span on 4.10.2006 in the case of one deceased Krishnan, Sr.TOA, Kannur whereas his case was not considered by that Committee though it was filed earlier. Subsequently, the respondents had revised the scheme on 6th July, 2007, as per which the minimum point to be scored for grant of compassionate appointment is specified as 55 worked out under various parameters, such as size of the family, number of unmarried daughters, terminal benefits received etc., The respondents had considered the case of the applicant on the basis of the revised norms and having found that the applicant could not secure the requisite 55 points, had rejected the claim.

4. Respondents contested the OA by filing reply. In the reply it is submitted that though the applicant filed his request for compassionate appointment on 1.12.2005 the same was incomplete. The connected documents could have been submitted by the applicant earlier. The complete duly filled form was sent to the Circle Office by the SSA on 22.12.2006. In the meanwhile the Corporate Office by letter dated 27.12.2006 withdrawn the powers vested with the High Power Committee of Telecom Circles to approve compassionate appointment cases. They were restrained from convening any meeting for considering such cases or to take any follow

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up action, if any such meeting is in process. In the case of late Krishnan who died on 24.10.2005 the case forwarded by the SSA on 18.9.2006 was received on 22.9.2006. All the applications received before convening the High Power Committee meeting on 4.10.2006 were considered. According to the respondents the later scheme would be applicable to the case of the applicant.

5 The applicant filed rejoinder to the reply reiterating the facts as stated in the O.A.

6 The respondents filed Additional reply controverting the contentions of the applicant in the rejoinder. They further submitted that the Division Bench of Hon'ble High Court of Kerala in OP (CAT) No.458/2010 disagreed with the reasoning and the statement of law by judgment dated 17.2.2012 and referred it to Full Bench.

7 The case of the applicant is that the respondents cannot have considered the application of the applicant under the revised guidelines, which came into force only on 6th July, 2007.

8 Heard the learned counsel for the parties and perused the record.

9 It is true that the coordinate Bench of this Tribunal had considered a similar issue in TA No.128/2008 and by order dated 22.9.2009 the respondents were directed to reconsider the case of the applicant for compassionate appointment on the same norms and parameters with which earlier 79 cases were considered on 4.10.2006. The respondents filed WPC No.36025 of 2009 before the Hon'ble High Court of Kerala. The WPC was dismissed by order dated 8th January 2010.

10 Recently the Hon'ble High Court of Kerala in OP (CAT) No.458/2010 had an occasion to consider the order of this Tribunal in appeal OA 458/2010. In this case the Hon'ble High Court disagreed with the reasoning and the statement of law and referred it to Full Bench.

11 It is true that the duly filled and completed form of the applicant was sent to the Circle Office by the SSA on 22.12.2006. In the meanwhile the Corporate Office had withdrawn the powers vested with the High Power



Committee of Telecom Circles to take decision for compassionate appointment by letter dated 27.12.2006. They were restrained to convene any meeting for considering such cases or to take any follow up action, if any such meeting is in process. The respondents have devised a yardstick to measure the comparative indigence of every family so that economic assistance by way of job can be extended to the most deserving family. Thus all the parameters as contained in the DoPT Scheme for compassionate appointment were translated into points both positive and negative. The High Power Committee, under the Chairmanship of CGM is instructed to forward only those cases, when the approval could secure 55 points to BSNL Headquarters, as applicant can be given only for 5% of the vacancies under direct recruitment quota. So ultimately there is no deviation from the DoPT Scheme. Respondent No.1 has put in place, a managerial tool to assess the economic hardship of each family. In this case the sons were aged 26, 24 and 23 years in 2005, at the time of expiry of the late employee. It may be true that the sons did not have proper jobs. It is seen that the applicant is not a Matriculate. As per VI Central Pay Commission recommendation, there should be no further recruitment to Group-D cadre as the initial cadre is only Group-C. Lack of essential educational qualification is a disqualification for consideration under the scheme of compassionate appointment.

In view of the foregoing, I am of the opinion that the O.A devoid of any merit is liable to be dismissed. I, therefore, dismiss this O.A. No order as to costs.

(Dated 31st July, 2012)


(K.NOORJEHAN)

ADMINISTRATIVE MEMBER

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