

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 551/2010

Dated this the 9th day of February, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

1 Vidya Vijay
 D/o. Late S. Usha
 T.C. 24/1962/1, Minchin Road
 Thycaud (P.O), Thiruvananthapuram - 14 Applicant

(By Advocate Mr. V. Philip Mathews & Mr. N.K. Thankachan)

Vs

1 The Principal General Manager
 BSNL, Thiruvananthapuram

2 The Assistant General Manager (Admn.)
 Office of the PGM, BSNL
 Uppalam Road, Thiruvananthapuram

3 The Secretary to Government of India
 Department of Telecommunications
 New Delhi Respondents

(By Advocate Mr. Johnson Gomez for R1 & 2)

The Application having been heard on 25.1.2011, the Tribunal delivered the following

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, married daughter of the deceased employee has filed this Application, aggrieved by the denial of appointment under the

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dying-in-harness scheme.

2 The applicant is the daughter of late S. Usha, who passed away on 1.5.2009 while working as CSS under the 1st respondent. The family of the deceased employee consisted of the husband and the applicant who are unemployed and depending on the income of the deceased employee. The applicant is married and her husband is unemployed. The applicant applied for appointment under the compassionate ground appointment scheme (A4) in proper form which was rejected on the ground that married daughter is not eligible for appointment under compassionate ground. Hence, she filed this Application to quash Annexure A-7 and to direct the respondents to give appointment to her under the scheme for compassionate employment.

3 The learned counsel for the respondents filed a statement opposing the O.A. The counsel stated that at the time of death of the employee the applicant was married and was not dependent on her mother. She has her own family. The counsel further stated that the deceased employee herself had given the name of her husband alone while submitting the details of members of her family (Annexure R-1). The learned counsel further stated that the dependency of daughter is there only till she gets married and that after marriage the daughter is not a dependent family member of her father/mother.

4 The applicant filed rejoinder stating that the respondents have not conducted any enquiry on the financial condition of the family of the deceased employee and that the entire terminal amount received were utilised for clearing the debts. The applicant has filed M.A. 598/2010

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to accept Annexure A-8, A-9 and A-10 documents. Annexures A-8 and A-9 are judgements by Hon'ble High Court of Kerala, holding a dependent married daughter of a State Government servant to be eligible for consideration for appointment under compassionate grounds, if she is otherwise eligible. In **2009(1) KLT SW 17**, the applicant's mother was a part time sweeper, who left behind three daughter and three sons including the applicant, who got married by the time, her turn for consideration came.

5 I have heard learned counsel for the parties and perused the documents.

6 The respondents by Annexure A-7 rejected the case of the applicant for appointment on compassionate ground on the plea that she being married, does not come under the purview of dependent family member. In the scheme for compassionate appointment under the Central Government envisaged by the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training under OM dated October 9, 1998, dependent Family Member is defined as follows:

- (a) spouse; or
- (b) son(including adopted son) or
- © daughter (including adopted daughter) or
- (d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred to in (A) or (B) of this para

who was wholly dependent on the government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be.



7 There is no dispute that at the time of death of the employee, the applicant was married and maintaining a family separate. However, there is no record to show that the applicant was dependent on the deceased employee even after her marriage. In the pension papers, the deceased employee has shown the husband alone as the dependent family member. The applicant has her own family with her husband as the head of the family. It may be true that neither she nor her husband is employed and that they may not have any regular income. However, in the facts and circumstances and in view of the definition of the family provided in the scheme for compassionate appointment, the contention of the applicant that she belonged to the family of her mother and that she was dependent of the deceased employee cannot be sustained. Therefore, she not being dependent family member, is not eligible for appointment on compassionate ground.

8 Applicant's case was examined on merits also. The respondents were directed to produce the minutes of the Circle High Power Committee, which met in 2009 to approve cases for appointment on compassionate ground scheme. 68 applications were perused. Because of the large number of applications, which are received and the limited number of vacancies under the 5% quota of Direct Recruitment, respondents have devised a scheme of awarding positive and negative points for arriving at the comparative indigence of the family of the ex-employee. Only those, who were scoring 55 points or above were treated as eligible for consideration by the High Power Committee. The committee rejected the cases of 34 wards as they have scored less than 55 points and they were informed accordingly. Therefore, detailed examination for approval, subject to vacancies was restricted to the

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remaining 34 wards, whose family's economic condition warranted timely assistance from the Government by way of providing employment to one member of the family. As far as the applicant is concerned, she has PG in Maths and B.Ed. Degree. She is very well equipped educationally to get a job on her own merit. The family size is very small as she is the only child of the ex-employee, her mother. Therefore, on both grounds, i.e., not being a dependent family member and not facing economic hardship, she cannot claim to be eligible under compassionate appointment ground.

9 The O.A is accordingly dismissed. No costs.

Dated 9th February, 2011


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER

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