

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.583/12

Tuesday this the 3rd day of September, 2013

C O R A M :

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

Sojan Paulose,
S/o.late K.A.Paulose,
Kachappilly House, Piraroor P.O.,
Kalady – 683 574.

Applicant

(By Advocate: M/s.Dandapani Associates)

Versus

1. The Bharath Sanchar Nigam Limited,
represented by the Chairman-cum-Managing Director,
Telecom, New Delhi – 110 001.
2. The Assistant Director General,
Bharat Sanchar Nigam Ltd.,
Telecom, New Delhi – 110 001.
3. The Assistant General Manager (Admn.),
Office of the Principal General Manager, Telecom,
Bharat Sanchar Nigam Ltd., Telecom,
Ernakulam, Kochi – 682 016.

Respondents

(By Advocate: Mr.Johnson Gomez)

This application having been heard on 3rd September, 2013, the Tribunal on the same day delivered the following order:-

ORDER

The case relates to grant of compassionate appointment. Applicant's father, while employed as Telecom Mechanic died on 21-04-2004 at the age of 42, leaving behind his wife and two sons. Both the sons were minor at the time of the demise of their father. Mother of the applicant had education only upto 4th Standard. The family had 7 cents of land on which during his life time the father of the applicant had erected a house with the help of certain borrowings which were liquidated with the help of

the terminal benefits. After the demise of the father, the mother did apply for compassionate appointment but as she had heart ailment, she had to withdraw the same. When the applicant became major, he had applied for the grant of compassionate appointment on 04-09-2008. He was found to be eligible as per the points system and the Circle High Power Committee recommended the matter to the Corporate Office of BSNL but since there was no response, the applicant moved the Tribunal with OA No. 951 of 2010. This was disposed of vide order dated 7th June, 2011 with a direction to the first respondent therein to consider the candidature of the applicant for appointment on compassionate ground within a period of three months. The respondents by communication dated 16-03-2012 vide Annexure A-4 informed the applicant that his application dated 04-09-2008 had been rejected as the High Power Committee of the BSNL Corporate Office had observed that the applicant's father died in 2004 and that the family had some terminal benefits and also granted family pension and that the mother need not have waited for the applicant to become major and then to apply for compassionate appointment. The fact that the family resides in their own house was a factor conceived against the applicant. The case of the applicant is that the annual income of the family is a meagre 60,000 which is nothing but the family pension, vide Annexure A-5. The applicant has thus filed this OA seeking the following reliefs:-

- a) Set aside Annexure A4 order issued by the 3rd respondent dated 16.03.2012 rejecting the application for compassionate ground appointment.*
- b) Declare that the applicant is fully eligible and entitled for compassionate ground appointment on the death of his father late K.A.Paulose on 21.4.2004 in the 1st respondent.*
- c) To direct the respondents to grant compassionate ground appointment to the applicant.*
- d) Grant such other appropriate order or direction as this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.*
- e) Award costs.*

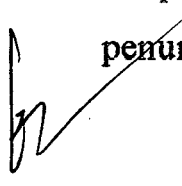
2. Respondents have contested the O.A. It has been admitted by the respondents that the applicant had secured 58 points as per the prescribed norms and that the case had been recommended to the Corporate Office. It was when his case was under consideration by the Corporate Office that the applicant moved OA No. 951 of 2010. They have contended that the family

cannot be said to be in penurious condition as the family received Rs. 1.27 lakh plus as terminal benefits, coupled with the fact that they reside in their own house. Again, the application was filed after almost five years of the demise of the applicant's father and the fact that the family was able to manage somehow all these years should be taken as a proof that the family had some dependable means of subsistence. The Circle Office, in spite of the above, recommended the case as the applicant had secured 58 points on the basis of the norms prescribed, but the Headquarters had rejected the case.

3. The applicant has filed his rejoinder stating that the respondents had not complied with the requirement as per Clause 12(a) of the Scheme vide Annexure R1 (a) and the delay had been caused only by them.

4. Counsel for the applicant argued almost in terms of the averments and the contentions raised in the OA. He has submitted that once the points have been worked out which is beyond 55, the minimum for consideration, the Corporate Office ought to have considered the case. The terminal benefits had been utilized in liquidating the loan taken for house building purpose and thus, the same cannot be included. There has been negative point for belated application and the points given by the respondents was only zero and not any negative point. Thus, delay cannot be the reason as there has been no delay.

5. Arguments were heard and documents perused. The question is when an applicant qualifies in the eligibility test (i.e. the points obtained being more than 55) and with the due recommendation of the Circle Relaxation Committee, the case is referred to the Corporate Office, can the Corporate Office reject the case on the ground that the family is not in penury. Should it not consider the case along with other cases and decide?



6. Para 4 of Annexure R-1(b) reads as under:-

"A Circle High Power Committee (CHPC) consisting of Circle Head and two other officers of SAG/JAG level, nominated by Circle Head, shall consider applications for appointment on compassionate grounds as per weightage point system. In the case with net points 55 or more, the minutes of the Circle HPC will be sent to BSNL Corporate Office along with supporting documents including the check-list, for consideration and decision by Corporate Office. In the case with net points below 55 (i.e. 54 or less) the family will be treated as not living in indigent condition and such compassionate ground appointment request will be rejected by the Circle. The applicant will be intimated about rejection of the request by the concerned circle through a speaking order"

7. The above provision does not give any scope for the Corporate authority to reject any case with 55 points and more, and duly recommended by the Circle High Power Committee without making the comparative assessment along with the other applicants. It is only with reference to applications with less than 55 points that could be rejected stating that the family is not in penury.

8. In the instant case, the points obtained by the applicant are 58. Thus, the Committee has to necessarily deal with the case and contrast the same with other applications and if deserving as per the merit, should consider the case of the applicant for compassionate appointment. No such drill seems to have been performed in this case. The impugned order does not reflect so.

9. In view of the above, the OA is disposed of with a direction to the Respondents that the case of the applicant shall be considered in the next meeting along with other cases and if found more deserving, the applicant shall be given the appointment.

10. This order shall be complied with, within a period of three months. No costs.


(Dr.K.B.S.RAJAN)
Member (J)