

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO.194/10

this, the **16th** day of April, 2010

CORAM:

**HON'BLE MR.JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE MR. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

**Chandrasekharan T,
Prakash Bhavan,
Chunakkara North P.O., Mavelikara,
Alappuzha- 690 534.**

.. Applicant

By Advocate :Sri George Varghese Perumpallikuttyil

vs.

1. **Union of India, rep by Secretary, Ministry of Communication,
Sanchar Bhavan, New Delhi.**
2. **The BSNL Corporate Office, rep. by its Chairman and Managing
Director, Mumbai.**
3. **The Chief General Manager, BSNL, Kerala Circle,
Thiruvananthapuram.**
4. **The General Manager, Telecom District, BSNL, Kollam.**
5. **The Sub Divisional Engineer(Phones), Vallikavu, Kollam District.
.. Respondents**

By Advocate: Sri Johnson Gomez

The Application having been heard on 08.04.2010, the Tribunal on

delivered the following:-

ORDER

HON'BLE MR.JUSTICE K THANKAPPAN, JUDICIAL MEMBER:

The applicant has filed this O.A., aggrieved by Annexure A1 order dated



20.2.2008/10.3.2008 of the Chief General Manager, Kerala Telecommunications, by which his claim for compassionate appointment has been rejected.

2. The applicant claims that he is the son of one V.Thankappan who died on 18.09.2006 while working as the Sectional Inspector in BSNL, Kollam. After the death of his father, the applicant has filed an application for getting the employment assistance under the Employment Assistance Scheme as per the application dated 26.6.2007. The applicant had filed this application for compassionate appointment with all the required documents. However, by the order dated 20.02.2008 his claim for compassionate appointment has been rejected on the ground that his case has been considered as per the guidelines of the scheme now existing in the Department and on the basis of the parameters prescribed in the present scheme, the applicant has been assessed not so indigent as comparing to other applicants and he has got only less than 55 points. The applicant has filed this O.A. challenging the above stand taken by the Department. This O.A. has been admitted by this Tribunal on 11.3.2010 and this Tribunal directed the respondents' counsel Mr.Johnson Gomez, appearing on receipt of a copy of the Original Application to produce the scheme now being implemented in the Department and also the earlier scheme and also to file a reply statement in the matter. Accordingly the reply statement has been filed by the counsel appearing for the respondents in which the stand taken is that since the case of the applicant has been considered on 26.6.2007 under the parameters contained in the new scheme or under the guidelines issued by the Department and finally found that the applicant is not entitled to the benefit of



the scheme.

3. We have heard the counsel appearing for the applicant Mr.George Varghese Perumpallikkuttyil and also Mr.Johnson Gomez, the counsel for the respondents. The main contention of the learned counsel appearing for the applicant is that the father of the applicant died on 18.09.2006 at a time when the earlier scheme was in force. If so, the scrutiny of the application filed by the applicant within the parameters now contained in the new scheme is not legal and is irregular and hence, the case of the applicant should have been considered as per the guidelines already existed at the time of death of the father of the applicant as the earlier scheme is not so stringent as that of the present one. The further case put forward by the counsel appearing for the applicant is that the financial position of the family of the applicant assessed by the Department with the yardsticks contained in the new scheme is not legally justifiable as the applicant has filed his application even prior to the commencement of the new scheme and the death occurred before the commencement of the new scheme. In addition to the above arguments, the counsel further relies on the recent decision of the Hon'ble High Court of Kerala on the same issue in which the Hon'ble High Court had categorically held that application of the old scheme is more beneficial to the applicant when a case for compassionate appointment was considered. The said contention of the counsel for the applicant has been resisted by the counsel appearing for the respondents holding that as the case of the applicant has been considered after the commencement of the new scheme, the decision taken by the Department is

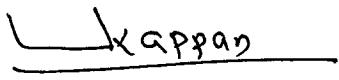


justifiable and the findings entered in the impugned order Annexure A1 are correct.

4. We have considered the factual position of the case and it is not disputed that the death of the father of the applicant occurred prior to the commencement of the new scheme, namely on 18.09.2006 and the applicant has filed his application prior to the commencement of the new scheme. If so, it is only proper for the Department to consider the case of the applicant applying the same principles or guidelines, as contained in the earlier scheme. In the above circumstances, we feel that the consideration of the application of the applicant under the new scheme is not rational as the new scheme is more stringent than the earlier one. Apart from that the earlier scheme is more beneficial to an applicant who files an application for compassionate appointment under the scheme. Accordingly, we set aside Annexure A1 and direct the respondents to reconsider the application of the applicant as per the guidelines existed prior to the commencement of the new scheme and pass appropriate orders thereon within a reasonable time, at any rate within 45 days from the date of receipt of a copy of this order. The O.A. is allowed, as indicated above, with no order as to costs.

Dated the 16 th April,2010


(K.GEORGE JOSEPH)
MEMBER(A)


(JUSTICE K.THANKAPPAN)
MEMBER(J)

/njj/