

Central Administrative Tribunal, Lucknow Bench, Lucknow.

Original Application No.166/2012

Reserved on 25.3.2015

Judgment pronounced on 30/3/15

Hon'ble Sri Navneet Kumar, Member (J)

Anand Gaud aged about 21 years son of late Sri Barkhu Ram resident of c/o Sri Vijay Gupta 553/148, Adarsh Nagar, Alambagh, Lucknow.

Applicant

By Advocate: Sri Praveen Kumar

Versus

1. The Chief Managing Director, Bharat Sanchar Nigam Limited, Statesman House, Barah Khamba Road, New Delhi.
2. The Chief General manager, U.P. (East) Telecom Circle, Bharat Sanchar Nigam Limited, Lucknow.
3. The Assistant General manager (Recruitment) Bharat Sanchar Nigam Limited Office of Chief General Manager, Telecom (East), U.P. Circle, Lucknow.
4. The Assistant General Manager (Administration), Bharat Sanchar Nigam Ltd. , Kanpur.

Respondents

By Advocate: Sri G.S. Srivastava

ORDER

By Hon'ble Sri Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under section 19 of the AT Act with the following reliefs:-

- i) to quash the impugned order dated 29.10.2011 as communication of rejection order dated 24.11.2011 contained as Annexure No. A-1 and A-2 to this O.A. with all consequential benefits.
- ii) To consider the case of the applicant for appointment on compassionate ground on any suitable post with all ancillary benefits.
- iii) Any other relief, which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.
- iv) Cost of the present case.

2. The brief facts of the case are that the applicant is son of late Sri Barkhu Ram who was working with respondents and died on

26.9.2002 after prolonged illness leaving behind his wife, two daughters and a son. The applicant applied for grant of compassionate appointment and the case of the applicant was kept pending for years, as such he approached the competent authority for taking early decision as family of deceased was at the verge of starvation. After keeping the case pending for more than 8 years, the respondents passed an order on 29.10.2011 taking into account the meeting held on 10.11.2009 and has indicated that since the ex-official expired on 26.9.2002 at the age of 41 years and his family is living in his own house and also getting family pension of Rs. 2660+ IDA and also received terminal benefits amounting to Rs. 281839/- as such, the committee did not consider the family to be living in penury and recommended for rejection of the request under the provision of scheme for grant of compassionate appointment. The applicant feeling aggrieved by the said order, preferred the present O.A.

3. The learned counsel for applicant has also indicated that respondents, though filed their counter reply but has not indicated the recommendations of the committee's meeting held on 10.11.2009.

4. On behalf of the respondents, the counter as well as Supple. Counter reply is filed and through which it is indicated that the impugned order dated 29.10.2011 as well as 24.11.2011 were rightly passed by the authorities because the family of the deceased employee is not living in penury and do not come within the ambit and scope of the guidelines of the BSNL regarding appointment on compassionate ground. Not only this, it is indicated that the Circle High Power Committee scrutinized the case of the applicant and did not find the case of the applicant as deserving case for recommending the same for appointment on compassionate ground as the family of the deceased employee is getting family pension and also living in his own house and has also received terminal benefits amounting to Rs. 2,81,839/-.

Accordingly, it is indicated that the family of the deceased employee is

not living in penury and did not come within the ambit and scope of guidelines of BSNL as well as DOP&T regarding appointment on compassionate ground.

5. On behalf of the applicant, Rejoinder Reply is filed and through rejoinder reply, mostly the averments made in the O.A. are reiterated and denied the contents of the counter reply.

6. Heard the learned counsel for parties and perused the records.

7. The applicant is the son of deceased employee who was working with the respondents organisation and died in harness on 26.9.2002 leaving behind his widow, two unmarried daughters and the applicant. It is also to be indicated that all the children of deceased employee were minor at the time of death of ex-employee. After death of his father, the applicant applied for grant of compassionate appointment and the said application was kept pending since the date of application and finally after a period of about seven years, the respondents processed the same and placed the case before the Circle High Power Committee in its meeting held on 10.11.2009. The committee's recommendation was forwarded to the BSNL corporate office for consideration and the committee made the following observations:-

“The Ex-official expired on 26.9.2002 at the age of 41 years survived by his wife and two daughters and a son. The family is living in own house. The family pension is Rs. 2600 + IDA and other terminal benefits were Rs. 281839/. The son has applied for Compassionate ground appointment.”

8. The BSNL High Power Committee considered the said recommendation and did not consider the family to be living in penury and recommended for rejecting the request of the applicant. Neither the respondents nor the applicant has brought to the notice of the Tribunal about the recommendations of the BSNL Headquarter High Power Committee that on which ground, it has been rejected.

The recommendations of the Circle High Power Committee neither recommended the case of the applicant nor observed for rejection. Only they mentioned the facts that family has received the terminal benefits and also getting family pension, as such it appears that same has been rejected as the family is not living in penury and they have also received various benefits.

9. In the case of **Rajendra Prasad Gaud Vs. Union of India reported in 2011 (1) UPLBEC 205**, it is observed that **“Compassionate appointment should not be rejected on the ground that the family of the deceased employee has received the benefit under various welfare scheme.”**

10. As observed by the Hon'ble Apex Court in the case of **Mukesh Kumar Vs. Union of India and Ors. reported in (2007) 8 SCC 398** that the claim of the applicant was rejected on the ground that the family was not in indigent condition is not correct. The Hon'ble Apex Court has been pleased to observe as under:

“There is no indication as to on what basis of which materials the conclusion was arrived at. It is also not clear as to what were the materials before the Circle Level Selection Committee to conclude that the family was not in financially indigent condition. To add to it, both CAT and the High Court proceeded on factually erroneous premises, as has been highlighted by the appellant and noted supra. Above being the position, the appeal deserves to be allowed, which we direct. The orders of the Central Administrative Tribunal and the High Court are set aside. The matter is remitted to the Central Administrative Tribunal, Chandigarh Bench for fresh hearing. Parties shall be permitted to place materials in support of their respective stand”

11. As per the observations made by the Hon'ble Apex Court and facts of the case, respondents have not furnished the reasons/ ground regarding rejection of claim of the applicant for grant of compassionate

appointment. As such, I deem it appropriate to issue a direction upon the respondents to reconsider the claim of the applicant and decide the case for grant of compassionate appointment in accordance with law within a period of three months and decision so taken be communicated to the applicant.

12. With the above observations, O.A. stands disposed of. No order as to costs.

Mr. Agarwal
(Navneet Kumar)
Member (J)

HLS/-