

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 11 day of October, 2010

TA No.03/2009 (CWP No.14001/2008)

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)

Mukesh Verma
s/o late Shri Laxmi Narain Balai,
r/o 1199/8, Uniyaron Ka Rasta,
Chandpole Bazar, Jaipur.

.. Applicant

(By Advocate: Shri Prahlad Singh)

Versus

1. Bharat Sanchar Nigam Limited
(a Government of India Enterprises)
through the Director General,
Corporate Office,
102-B, Statesman House,
New Delhi.
2. The Chief General Manager,
Telecommunication,
Rajasthan Telecom Circle,
Sardar Patel Marg,
'C' Scheme, Jaipur

.. Respondents

(By Advocate: Shri Neeraj Batra)

ORDER

The applicant is son of late Shri Laxmi Narain Balai who while working on the post of STOAP in the office of PGMTD, Jaipur expired on 24.3.2006. After death of father of the applicant, application for

compassionate appointment was moved on 16.1.2007 which was forwarded to the office of Chief General Manager, Jaipur vide letter dated 16.6.2007. Since the case was incomplete, the case was got completed through PGMTD, Jaipur and finally the case was received from PGMTD, Jaipur vide letter dated 5.12.2007. Copy of these letters have been placed on record by the respondents as Ann.R/1 and R/2. Since in the meanwhile letter dated 27.12.2006 was received from BSNL Corporate Office, New Delhi directing all the BSNL Circle Offices not to convene any meeting of the Circle High Power Committee for considering the cases for offering appointment or not to take any follow up action in case such meeting is in process till the guidelines are issued. Thus, the case of the applicant was deferred. The respondents have placed on record letter dated 27.12.2007 received from the Corporate Office as Ann.R/3. Subsequently, the case of the applicant was placed before High Power Committee in its meeting held on 18.3.2008. The matter was considered in the light of the policy decision dated 27.6.2007 which stipulates that cases of only those persons can be considered for compassionate appointment who have secured 55 net points. Since the applicant obtained only 40 points which are less than 55 points, as such, his case for compassionate appointment was rejected. At this stage, it will be useful to reproduce findings recorded by the High Power Committee in the case of the applicant, which thus reads:-

"The committee made the following observations in this case that the ex-employee expired on 24.3.2006 at the age of 56 years 8 months and 23 days with left out service 3 years 3

months and 8 days, survived his wife, four sons (all major and two married) and three daughters (two married and one unmarried). Shri Mukesh Verma (3rd Son) applied for CGA on 16.01.2007. Smt. Kamla Devi (widow) did not apply for CGA. Shri Lekhraj (1st Son) and Shri Parmeshwar (2nd Son) did not apply for CGA, both are married doing labour work and living together with deceased family. Shri Gulab Chand (5th Son) is married and living separate with him family and maintaining his family by doing labour work. As per report of the Visiting Officer, the family is residing in own house having three rooms at first floor and four rooms at 2nd floor at Jaipur. The amount of terminal benefits paid to the deceased family was Rs. 100573/- only and family pension is being paid Rs. 4150+DA P.M.

In view of the above facts, net weightage points scored in the case are 40 only which is less than 55. Therefore, in overall assessment, the family of the ex-employee has not been found to be living in indigent condition and the committee did not consider the case fit for giving the appointment to Shri Mukesh Verma and hence case is rejected."

3. The main contention raised by the applicant in this case is that father of the applicant expired before issuance of the guidelines dated 27.6.2007, as such, the case of the applicant was required to be considered in the light of the earlier policy and not in the light of the subsequent policy dated 27.6.2007. According to the applicant, it was not proper for the respondents to defer his case till the new guidelines were framed.

4. Notice of this application was given to the respondents. The respondents have justified their action on the basis of the guidelines issued by the BSNL Corporate Office and submitted that family of the ex-employee was not found to be living in indigent condition by the High Power Committee, as such, case of the applicant for compassionate appointment was rightly rejected by the competent authority. It is further stated that applicant's father

expired on 24.3.2006 but the applicant applied for compassionate appointment on 16.1.2007 to his controlling office which case was forwarded on 16.6.2007. Since the case was incomplete and the complete case was received vide letter dated 5.12.2007. (Ann.R/2) and meanwhile the office has received letter dated 27.12.2006 from the BSNL Corporate Office, New Delhi, thus, according to the respondents, the case of the applicant was rightly considered in the light of the policy guidelines dated 26.7.2007.

5. The applicant has filed rejoinder thereby reiterating the pleadings made in the OA.

6. I have heard the learned counsel for the parties and gone through the material placed on record. Though the submission made by the applicant to the effect that father of the applicant expired on 24.3.2006 whereas guidelines prescribing weightage system issued on 27.6.2007 cannot be made applicable in the case of the applicant is attractive but deserve outright rejection for more than one reason. No doubt, it is true that cause of action arose when father of the applicant died but it cannot be lost sight of the fact that right to consider case for compassionate appointment arose only when complete application for that purpose is made by the heirs of the deceased. As already stated by the respondents in the reply that complete case of the applicant was received on 5.12.2007 (Ann.R/2) when the guidelines issued by the Corporate Office dated 27.6.2007 (Ann.R/4) came into force. Thus, I see no

infirmity if the case of the applicant has been considered in the light of the guidelines dated 27.6.2007.

7. That apart, the applicant has not pleaded that the criteria adopted for determination of indigent condition of the family as stipulated in the policy decision dated 27.6.2007 was different to the procedure which was adopted by the respondents earlier. As such, bald assertion of the applicant that his case should have been considered in the light of the earlier guidelines cannot be accepted. As can be seen from the policy guidelines Ann.R/4, the decision was taken to frame the guidelines for compassionate appointment- keeping in view the guidelines issued by the Government of India by introducing weightage point system so as to bring uniformity in assessing the indigent condition of the family. It may also be relevant to state here that as per the guidelines issued by the Govt. of India vide OM dated October, 9, 1998 in para 16(c) dealing with balance and objective assessment of the financial condition while considering compassionate appointment, following provision has been made:-

"The scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and

objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family etc." (emphasis supplied).

As can be seen from the policy guidelines Ann.R/4, while introducing weightage point system for assessing indigent condition, the aforesaid factor has been taken into account. Thus, according to me, the procedure of weightage point system so adopted by the respondents in assessing the case of the applicant based upon the DoPT instructions is more transparent and cannot be said to be arbitrary. As already stated above, it is not the case of the applicant that the weightage point system which has been made applicable in assessing the indigent circumstances of the family of the deceased is totally different from the criteria which was in vogue at the time of death of the deceased employee. As such, no interference is required. It was for the applicant to establish his case that the criteria for assessing indigent condition of the family at the time of death of father of the applicant was different than the criteria/weightage system prescribed as per policy decision dated 27.6.2007 in order to get relief from this court.

8. Yet for another reason, the applicant is not entitled to any relief. As per policy decision Ann.R/4, cases of only those persons can be considered for compassionate appointment who has secured 55 or more points. The applicant has neither challenged

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validity of the said policy being discriminatory or arbitrary to the constitutional or statutory provisions nor the criteria for awarding points viz. (i) number of dependent family members of ex-employee including special weightage to handicap, minor dependent and unmarried daughter (ii) basic family pension, (iii) left out service (iv) special weightage of widow if apply for compassionate appointment, (v) terminal benefits, and (vi) accommodation (rented or own house) vis-à-vis presence of monthly income of the family from other sources and belated request, has been challenged. Similarly, the applicant has also not made any grievance regarding awarding of points on the basis of criteria laid down in the policy decision. In the absence of challenge to the policy decision Ann.R/4 and the criteria evolved by the respondents to award points in different heads as mentioned above, no relief can be granted to the applicant.

9. Viewing the matter from any angle, I am of the view that the applicant is not entitled to any relief. Accordingly, the TA stands dismissed with no order as to costs.



(M.L.CHAUHAN)
Judl. Member

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