

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur this the 23rd day of September 2010

T.A. No. 05/2009
(SB CWP No.7001/2006)

CORAM:

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

Manoj Kumar
s/o Late Shri Hanuman Lal
r/o Village and P.O. Dhod,
District Sikar,
Rajasthan.

.. Applicant

(By Advocate: Shri Surendra Singh)

Versus

1. Chairman cum Managing Director,
Bharat Sanchar Nigam Limited
New Delhi.
2. The Chief General Manager,
Telecommunication
Rajasthan Circle,
Sardar Patel Marg,
C-Scheme,
Jaipur

.. Respondents

(By Advocate: Shri Neeraj Batra)

ORDER (ORAL)

The applicant has filed SB CWP No.7001/2006 before the Hon'ble High Court thereby praying that the order dated 6.6.2002 (Annexure-2) may be quashed and set-aside and direction may be given to the respondents to consider case of the applicant for compassionate appointment.

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2. Briefly stated, facts of the case are that father of the applicant late Shri Hunuman Lal, ex-LIO, Office of Telecom District Manager, Sikar expired on 21.9.1999 leaving behind the following family members:-

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|----|-----------------|---|-----------------|
| 1. | Smt. Maina Devi | - | widow |
| 2. | Sh. Bhawar Lal | - | Son |
| 3. | Sh. Manoj Kumar | - | Son (applicant) |
| 4. | Sh. Ram Kumar | - | Son (minor) |
| 5. | Km. Vidya | - | Daughter |

It may be stated here that even as per the assertion made by the applicant in the OA Shri Bhanwar Lal, eldest son of the deceased employee is living separately. Further, Smt. Vidya, daughter of the deceased is also married and living with her family as is apparent from the stand taken by the respondents in the reply. Thus, virtually the family consists of widow, applicant and one Shri Ram Kumar who are dependent on the family. The case of the applicant for compassionate appointment was placed before the High Power Committee (HPC) which considered the case of the applicant in its meeting held on 27.11.2001 and keeping in view the financial status of the family, case for compassionate appointment was rejected. The decision so arrived was conveyed to the applicant vide endorsement dated 6.6.2002 (Ann.A/2). It is this order which is under challenge before this Tribunal.

It may be stated that earlier, the applicant has filed OA No.387/2003 before this Tribunal challenging the aforesaid order. However, the said OA was disposed of by the Tribunal vide order

dated 15.4.2004 on the ground that this Tribunal has got no jurisdiction to entertain service matters of the employees of the Bharat Sanchar Nigam Limited (BSNL). It was under these circumstances, that Writ Petition was filed before the Hon'ble High Court. It may be stated that the applicant did not immediately filed Writ Petition before the Hon'ble High Court, although the earlier OA was disposed of vide order dated 15.4.2004. However, the Writ Petition was filed in the year 2006 and notice was issued by the Hon'ble High Court on 13.9.2006 (after a lapse of 2 years of the disposal of the earlier OA). Now, consequent upon conferment of jurisdiction to the Tribunal for entertaining service disputed regarding BSNL employees, the Writ Petition has been transferred to this Tribunal vide order dated 15.1.2009. As can be seen from the impugned order Ann.A/2, the case of the applicant was rejected by the Committee on the ground that approx. Rs. 2.87 lacs was paid in cash to the deceased family after death of the ex-employee and Rs. 3114/- plus DA per month, is being paid to the family as pension. It is further mentioned that as per report of the visiting officer of the SSA the family of the applicant has residential plot of size 35x30 & 70 x 35 sq.ft. with 4 rooms set and 1 room. The financial status of the family is normal (not poor). The eldest son Shri Bhanwar Lal is living separately with his family in 2 rooms set and he is getting Rs. 1500/- to 2000/- per month by a shop of tyre repairing.

3. The respondents in the reply have justified their action on the basis of the finding recorded by the High Power Committee. It has been stated that case of the applicant was considered by the High

Power Committee more than twice. Thus, according to the respondents, the applicant is not entitled to any relief. The respondents in the reply have further stated that as per own averment of the applicant he is qualified only upto 5th standard and this does not confer any right and/or entitles him to seek employment/appointment on compassionate grounds. It is further stated that the compassionate appointments are considered and decided by the High Power Committee in the light of the guidelines/rules in vogue and the decision taken by the HPC in accordance with guidelines/rules is final. Thus, according to the respondents, the applicant is not entitled to any relief.

4. The applicant has not filed any rejoinder.

5. I have heard the learned counsel for the parties and gone through the material placed on record.

6. From the facts as stated above, it is evident that there are only three members - widow, applicant and one minor son who are dependent on the income of the family as admittedly, the eldest son of the deceased employee, Shri Bhanwar Lal is living separately and is not dependent upon the income of the family. Further, Smt. Vidya, daughter of the deceased is also married and thus is not dependent upon the family. As per the findings recorded by the HPC, the family has received Rs. 2.87 lacks in cash and widow is getting family pension of Rs. 3114 per month plus DA and has residential plot 35x30 & 70x35 sq. ft. with four rooms set and 1 room. Thus, under these circumstances, it cannot be said that findings so

arrived by the HPC that family is not in indigent circumstances is arbitrary.

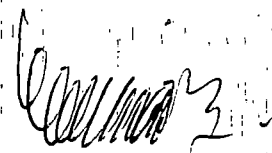
7. That apart, yet for another ground, the applicant is not entitled to any relief. As can be seen from the stand taken by the respondents in the reply based upon the version of the applicant himself, he is qualified upto 5th standard, thus, the applicant was not even eligible to be appointed against Group-D post for want of educational qualification. Despite this, case of the applicant was considered by the Committee. The applicant was not eligible for appointment even on Group-D post as he did not possess requisite qualification, as such, his case was not even required to be considered for compassionate appointment. It may be stated here that relaxation regarding educational qualification can be given in respect of widow and not in respect of other family members. Thus even on this account, the applicant is not entitled to any relief.

8. The learned counsel for the applicant submits that in deserving cases as per the policy in vogue, compassionate appointment can be given to a deserving candidate even if he does not fulfill the requisite educational qualification in terms of the recruitment rules and, in that eventuality, the person so appointed has to qualify the examination within a period of two years. The contention so raised by the learned counsel for the applicant does not require any consideration, as even though the applicant was not eligible for appointment still the HPC has given a categorical finding that the family is not in indigent condition requiring immediate assistance. In this case father of the applicant died on

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27.09.1999. A period of 9 years has already lapsed and the applicant has also become over-age for entering into service. Even on this ground, no relief can be granted to the applicant at this stage.

9. Thus, viewing the matter from any angle, I am of the view that the applicant has not made out any case for grant of any relief. Accordingly, the OA is dismissed with no order as to costs.



(M.L. CHAUHAN)
Judl. Member

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