

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH**

This the 30<sup>th</sup> day of August, 2010

ORIGINAL APPLICATION NO.117/2009

**HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER**

Ajeet Kumar Saini,  
s/o late Shri Navratan Mal Saini,  
r/o Plot No.70, Arjun Nagar South,  
Gopalpura Bye Pass,  
Jaipur.

.. Applicant

(By Advocate: None)

Versus

1. The Union of India  
Through Secretary,  
Department of Telecommunication,  
Ministry of Communications,  
Sanchar Bhawan,  
20, Ashoka Road,  
New Delhi.
2. Bharat Sanchar Nigam Ltd.  
through its Chairman and  
Managing Director,  
Bharat Sanchar Bhawan,  
Janpath, New Delhi.
3. The Chief General Manager,  
Telecommunications,  
Rajasthan Circle,  
BSNL, Jaipur
4. The Principal GMTD,  
BSNL, Jaipur.

.. Respondents

(By Advocate: None)

O R D E R (O R A L)

The applicant has filed this OA thereby praying for quashing the impugned order dated 31.3.2008 (Ann.A/1) whereby case of the applicant for appointment on compassionate ground has been considered and rejected by the Circle High Power Committee in its meeting held on 18.03.2008. It is this order which is under challenge before this Tribunal.

2. As can be seen from the contention raised in the grounds for relief, the grievance of the applicant is that weightage point system allegedly adopted by the respondent for the purpose of examining the cases of compassionate appointment has never been published nor copy of the same has been given to the applicant. As such, this criteria/policy decision adopted by the respondents could not have been resorted to while considering the case of the applicant for compassionate appointment. It is further stated that after death of father of the applicant, there is further liability of treatment and medication of old grant-mother and physically handicapped sister. Thus, the family is in distress and in grave financial crisis. It is further stated that case of the applicant could not have been rejected simply on the ground that family has received terminal benefits and is receiving family pension amount per month. It is on the basis of these facts, the applicant has filed this OA thereby praying for quashing the impugned order Ann.A/1.

3. Notice of this application was given to the respondents. In the reply, the respondents have stated that case of the applicant was

considered in the light of the guidelines dated 27.6.2007 (Ann.R/5), which stipulate that cases of net point 55 or more shall be prima-facie treated as eligible for consideration by Corporate Office High Power Committee and cases with below 55 net points( i.e. 54 or less) shall be treated as non-indigent and are to be rejected. It is further submitted that check-list for applicant's compassionate appointment was prepared for submitting before the Circle High Power Committee held on 18.3.2008 and the Committee observed that Smt. Prem Devi (widow) did not apply for compassionate appointment. It is further stated that as per report of Visiting Officer, the family is residing in own house having three rooms at Jaipur and an amount of Rs. 735907/- was paid to the family as terminal benefits and Rs. 3410+ IDA per months is being paid to the family. Thus, in view of the above facts, the family of the deceased employee scored 47 net weightage points, which are less than 55 points. Therefore, according to the Committee in overall assessment, the family of the ex-employee is not found to be living in indigent condition and did not consider the case for giving compassionate appointment to the applicant. Hence case of the applicant was rejected vide impugned order. The respondents have stated that points are allotted based on various criterion viz. number of wholly dependent family members of the ex-employee including special weightage to handicap, minor member in the family and unmarried daughter and to the widow if seeking compassionate appointment for herself, left out service of the ex-employee, having accommodation (rented/own house), financial aspects of the

family based on account of family pension, terminal benefits, presence of earning members in the family (if any), belated request etc. as applicable in an individual case. The respondents have placed copy of the policy decision dated 27.6.2007 at Ann.R/5 containing guidelines for compassionate appoint based on DOPT OM dated 9<sup>th</sup> October, 1998 and weightage point system for assessment of indigent condition as per the criteria laid down in Ann.I of the said decision.

4. In this case reply was filed by the respondents on 25.8.2009. Despite repeated opportunities, the applicant has not filed any rejoinder though vide order dated 22.7.2010 last opportunity of two weeks was granted to the applicant to file rejoinder.

5. None appeared on behalf of the applicant. As such, in terms of provisions contained in Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987, I have decided to dispose of the OA on merit instead of dismissing the same for non-prosecution.

6. In the instant case, father of the applicant died on 15.2.2005. Admittedly, only four members are dependent on the family, viz. Smt. Gulku Devi-mother of the deceased, Smt. Prem Devi-widow of the deceased, one daughter who is physically handicapped and the applicant. As per the report submitted by the Visiting Officer on 6.12.2006 (Ann.R/1), Smt. Pooja Saini and Smt. Pinky Saini daughters of the deceased are married. As can be seen from Ann.R/5, special consideration has to be given in the cases <sup>in of a</sup> ~~of a~~ <sup>dependents</sup> ~~dependents~~, handicap dependent, minor children and unmarried daughters. In each case 5 points extra has to be awarded to the each dependent. The

respondents have specifically stated in the reply affidavit that besides awarding 5 points in respect of each dependent, special point in respect of physically handicapped daughter has also been awarded. In this case, since the widow has not applied for compassionate appointment, as such, special weightage as per the criteria vide Ann.R/5 has not been given. Further, the points have been awarded depending upon the family pension received, left out service of the deceased, terminal benefits received by the family and as to whether the family is residing in rented or own house. It is on the basis of the entire objective assessment that the applicant has been awarded 47 points as against minimum 55 points which were necessary in order to give compassionate appointment as per policy decision in vogue vide letter dated 27.6.2007 (Ann.R/5). The applicant has not obtained requisite 55 points in terms of the policy decision dated 27.6.2007, as such, his case was rejected.

7. I see no infirmity in the action of the respondents whereby case of the applicant was rejected vide impugned order dated 31.3.2008 (Ann.A/1). At this stage, it will be useful to quote relevant portion of this order, which thus reads:-

".....

The Committee considered the case in detail with reference to weightage point system introduced vide BSNL HQ, New Delhi letter no.273-18/2005-Pers.IV dated 27.06.2007 to have uniformity in assessment of the indigent condition of the family within Govt. of India instructions on the subject of offering compassionate ground appointment, which are being followed in BSNL. The weightage point system stipulates that cases with 55 or more net points shall be prima-facie treated as eligible for

consideration to compassionate ground appointment. The points are allotted based on the various criterion viz. number of wholly dependent family members of the ex-employee including special weightage of handicap, minor member in the family and unmarried daughter special weightage to the widow if seeking compassionate appointment for herself, left out service of the ex-employee, having accommodation (rented or own house), financial aspects of the family based on amount of family pension, terminal benefits, presence of earning members in the family (if any), belated request etc. as applicable in an individual case.

The committee made the following observations in this case that the ex-employee expired on 15.02.2005 at the age of 53 years 6 months 11 days with left out service 6 year 5 months and 20 days, survived his wife, One son (Married) and three daughters (two married and one unmarried) and old age mother. Ku. Retha (1<sup>st</sup> daughter) is physically handicap. Shri Ajit Kumar Saini (Son) applied for CGA on 04.09.2005. Smt. Prem Devi (Widow) did not apply for CGA. As per report of the Visiting Officer, the family is residing in own house having 3 rooms at Jaipur. The amount of terminal benefits to the deceased family was Rs. 735907/- only and family pension is being paid Rs. 3410 + IDA P.M. Earlier, this case was submitted before Circle HPC held on 19.10.2006. The committee desired to get more information regarding occupation of Shri Ajit Singh and marital/employment status and type of disability of Ku. Rekha (daughter) before taking the decision in the case.

In view of above facts, net weightage points scored in the case are 47 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 Ajit Kumar Saini hence case is rejected."

8. Thus, in view of the reasoning given by the Circle High Power Committee, as reproduced above, based upon the criteria adopted by the respondents on the basis of the weightage point system attached with the policy guidelines dated 27.6.2007 (Ann.R/5), it cannot be said that case of the applicant was wrongly rejected. The contention raised by the applicant in the OA that the said policy

decision has not been published or the same has not been made available to the applicant is of no consequence. There was no requirement under law that policy decision taken by the authorities has to be communicated to individual concerned. The respondents have placed on record, the policy decision dated 27.6.2007 (Ann.R/5). The applicant has not challenged validity of the said policy decision whereby points have been allotted under different heads and case of compassionate appointment has to be decided on the basis of the criteria as submitted in Ann.I of the policy decision. In fact by evolving this method, the respondents have adopted a transparency in awarding marks based on the criteria mentioned therein while considering cases of compassionate appointment instead of confining the same on the basis of discretion of the committee to award marks based on their subjective satisfaction.

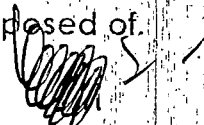
9. Be that as it may, the family of the deceased employee residing in their own house having three rooms at Jaipur and received terminal benefits to the tune of Rs. 735907/- and also getting family pension of Rs. 3410 + IDA per month cannot be said to be a case where the family is in indigent circumstances so as to warrant compassionate appointment de-hors the well accepted norms that every appointment in the public service is to be made strictly on the basis of open invitation of application on merit in consonance with the provisions contained in Article 14 of the Constitution. It may be stated here that this general rule can be departed only in compelling circumstances where on account of

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death of the sole bread winner the family is in destitute condition requiring immediate assistance. It may be stated that the applicant is already major i.e. 34 years when his case for compassionate appointment was considered, as such, he cannot be said to be wholly dependent on the family as he can contribute to the income of the family. Since the respondents by way of policy decision (Ann.R/5) has decided that only those cases which has obtained 55 or more net points are to be treated eligible for consideration of compassionate appointment and validity of such policy decision has not been challenged by the applicant, as such, this is also one of the additional grounds whereby relief cannot be granted to the applicant and the impugned order dated 31.3.2008, which is based on the said policy cannot be quashed.

10. For the foregoing reasons, the OA is bereft of merit, which is accordingly dismissed with no order as to costs.

11. In view of dismissal of the OA, no order is required to be passed in MA No.149/2010, which is accordingly disposed of.

  
(M.L. CHAUHAN)  
Judl. Member