

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 24.11.2014

OA No. 585/2013

Mr. C.B.Sharma, Counsel for the applicant.

Mr. Neeraj Batra, Counsel for the respondents.

Heard the learned counsel for parties.

Order Reserved.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Order pronounced
by the Bench
consisting of Mr. C.B.
Sharma & Mr. Anil Kumar Adm/
to-day i.e. 28/11/14
in open court.
Anil Kumar
28/11/14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 585/2013

ORDER RESERVED ON 24.11.2014

DATE OF ORDER : 28.11.2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Gajendra Kumar son of Late Shri D.L. Mandrawaliya, aged about 32 yrs, resident of Raigaran Mohalla, Rajeev Nagar, Saradhana, District Ajmer. Aspirant for appointment on compassionate grounds on the suitable post.

... Applicant

(By Advocate : Mr. C.B. Sharma)

Versus

1. Bharat Sanchar Nigam Limited through its Chairman and Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Jan Path, New Delhi.
2. Chief General Manager, Rajasthan Telecom Circle, Bharat Sanchar Nigam Limited, Sardar Patel Marg, C-Scheme, Jaipur.
3. General Manager, Telecom District Ajmer, Bharat Sanchar Nigam Limited, District Ajmer.

... Respondents

(By Advocate: Mr. Neeraj Batra)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The applicant has filed this OA praying for the following reliefs:-

- “(1) That the entire record relating to the case be called for and after perusing the same respondents may be directed to give appointment to the applicant on the suitable post on compassionate grounds by reconsidering the matter and by quashing letters dated 17.07.2013 and 11.06.2010 (Annexure A/1 and A/2) with all consequential benefits.”
- (2) The respondents be directed to produce minutes of the committee in the interest of justice and further provisions of letter dated 27.06.2007 (Annexure A/6) be quashed and set aside to the extent of assessment criteria for eligibility with 55 or more points.

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- (iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the father of the applicant, Late Shri D.L. Mandrawaliya, was a substantive employee of the respondent department, who expired on 20.03.2007 while in service. That the father of the applicant left behind him following family members:-

- 1. Smt. Beeju Devi - Widow
- 2. Shri Gajendra Kumar - son, Applicant.
- 3. Sharda - Daughter in law
- 4. Rekha Kumar - Daughter, Unmarried.
- 5. Ritu - Grand Daughter.

3. That the respondents vide letter dated 27.06.2007 issued a policy guideline for compassionate ground appointments providing point system and on that basis respondents consider the appointment on compassionate ground, which provide 55 points or more for eligibility and below 55 points are treated as non indigent. This provision is against the procedure as respondents are duty bound to act as per 5% vacancy position without insisting on 55 weightge points. The respondents have vacancy as per 5% vacancy position for compassionate appointment. However, the respondents have rejected the claim of the applicant on the ground that the applicant has secured only 24 weightage points as against the required 55 point though the vacancy under 5% quoted is available.

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4. The learned counsel for the applicant submitted that the applicant along with his wife and minor daughter are living with the deceased family and that both husband and wife are unemployed and, thus, as per the clarification issued by the respondents vide their circular dated 25.02.2008 (Annexure A/6), the applicant is entitled for 25 points for five dependants under the head of total number of dependants rather than 15 points as awarded to the applicant. He further submitted that for the left out service also, the applicant is entitled for 03 points as against 02 points awarded to him. Moreover, he submitted that the applicant has been awarded '0' points on the ground that the family is living in their own house whereas this house was built by father of the applicant by taking the loan. Therefore, the applicant should have been awarded 10 points under the head of 'Accommodation' and thus the total of correct points should have 45 instead of 24. Since the decision of the respondents with regard to minimum of 55 points or more for eligibility is against the original scheme of 1998 and, therefore, the respondents be directed to reconsider the case of the applicant.

5. The respondents have filed their reply. In the reply, the respondents have stated that the case of the applicant was considered and the applicant secured 24 net weightage points as against the required bench mark of 55 net weightage points. Therefore, the Circle High Powered Committee did not recommend the case of the applicant for appointment on compassionate grounds. As per the policy of the department,

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the cases with 55 or more net points are treated as eligible for consideration and the cases below 55 net weightage points are not recommended for compassionate ground appointment, treating such cases not fit for recommendation as per the existing rules/guidelines.

6. The respondents have also stated in their reply that the case of the applicant was not rejected only on the ground of terminal benefits but his case was considered by the Circle High Powered Committee on the basis of overall circumstances, viz. number of dependant members, left over service of the deceased employee, immoveable property at the time of death of employee etc. as per BSNL Guidelines contained in the letter dated 27.06.2007 (Annexure R/2) and after overall and objective assessment of the case, it was rejected by the Circle High Powered Committee as the applicant secured only 24 net weightage points.

7. The respondents have denied that there is any violation of provisions of Articles 14, 16 and 21 of the Constitution of India while issuing the guidelines dated 27.06.2007 (Annexure R/2). The circular dated 25.02.2008 (Annexure A/6) is only a clarification, issued by the Department on certain doubts raised by some SSAs/ Units for granting points, under weightage point system. Even the guideline dated 27.06.2007 (Annexure R/2) has been issued to bring transparency, objectivity and fair play regarding giving appointment on compassionate grounds. The learned counsel for the respondents has submitted that

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the appointment under compassionate grounds is not a right of the applicant and it is offered to the families who are living in indigent condition and to mitigate the immediate financial crisis and, thus, to adjudge the suitability and the indigent condition of the family, these guidelines have been issued. Therefore, the system of bench marking cannot be said to be unconstitutional. Thus the OA has no merit and it should be dismissed with costs.

8. Heard the learned counsel for the parties and perused the documents on record. In compliance of the orders of this Tribunal dated 03.11.2014, the respondents have produced a copy of the statement showing itemwise net points obtained by the applicant (Page 47 of the OA). This statement was also shown to the learned counsel for the applicant.

9. During the arguments, the learned counsel for the applicant reiterated the facts as stated in the OA. Similarly, the learned counsel for the respondents also reiterated the facts as mentioned in their reply. It is not disputed that the father of the applicant was in the service of the respondents and that he expired on 20.03.2007. The applicant being the son of the deceased applied for appointment on compassionate grounds. His case was considered by the respondent department but he secured only 24 net weightage points as against the required 55 net weightage points. The learned counsel for the applicant submitted that the applicant should have been given 25 marks as against 15 marks for total number of dependants and 3

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marks instead of 2 marks for the left out service and 10 marks instead of '0' under the head of accommodation. For the sake of arguments even if the plea of the learned counsel for the applicant is accepted, even then the total net weightage points of the applicant would be 45 as against required 55 net weightage points. It is not disputed that the family of the deceased is living in their own house. It may have been constructed with the loan taken from the department or from other source but the fact is that the family is living in their own house. Therefore, the respondents could not have given 10 points to the applicant under the head of accommodation. Thus at best, the applicant could have been given 35 points which are far below the required 55 net weightage points. Therefore, the letter dated 17.07.2013 (Annexure A/1) and letter dated 11.06.2010 (Annexure A/2) issued by the respondents to the applicant informing him that the family of the ex-employee has not been found to be living in indigent condition and hence the applicant could not be offered appointment on compassionate ground cannot be quashed and set aside.

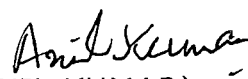
10. I am not inclined to agree with the arguments of the learned counsel for the applicant that the policy of considering only those candidates who secured 55 net weightage points for compassionate appointment is unconstitutional. The policy of compassionate appointment is to provide appointment to meet out the financial crisis caused by the death of the breadwinner. 5% of direct recruitment posts have been reserved for appointment on compassionate grounds. This quota is meant

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to be utilized only for deserving cases and not for one and all.

Therefore, the respondents issued guidelines to judge the financial condition/ indigent condition of the family of the deceased. In this case, the respondents have laid down this policy vide their letter dated 27.06.2007 (Annexure R/2) and issued very detailed instructions regarding awarding of net weightage points to the applicants. According to me, it is a very fair system which brings transparency and objectivity in the system of providing appointment on compassionate grounds. Therefore, the circular dated 27.06.2007 (Annexure R/2) and clarificatory circular dated 25.02.2008 (Annexure A/6) cannot be said to be constitutional and hence they cannot be quashed and set aside.

11. Thus on the basis of above discussion, the applicant has failed to make out any case for interference by this Tribunal. Consequently, the OA being bereft of merit is dismissed with no order as to costs.


(ANIL KUMAR)
MEMBER (A)

Abdul