

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

24.03.2014

OA No. 97/2013

Mr. Vikas Pareek, Proxy Counsel for
Ms. Kavita Bhati, Counsel for applicant.
Mr. Sudeep Mathur, Proxy counsel for
Mr. Inderjeet Singh, Counsel for respondents.

The learned counsel for the applicant submits that he does not wish to file rejoinder. Therefore, the pleadings are complete.

With the consent of both the parties, the case was heard.

The OA is disposed of by a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 97/2013

Jaipur, the 24th day of March, 2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Ishwar Varma son of Late Shri Lal Chand Varma, aged about 29 years, resident of 29 years, resident of 24 Balananad Ji Ka Rasta, Behind Shahpura House, Chandpole Bazar, Jaipur.

... Applicant

(By Advocate: Mr. Vikas Pareek proxy to Ms. Kavita Bhati)

Versus

1. The Chief General Manager Telecommunication, BSNL, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.

... Respondent

(By Advocate: Mr. Sudeep Mathur Proxy to Mr. Inderjeet Singh)

ORDER (ORAL)

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

- (i) By an appropriate order or direction the respondents may be directed to consider the case of the applicant for the compassionate appointment thereby quashing the impugned order of rejection passed vide order dated 06.03.2012.
- (ii) Cost of the application may also kindly be awarded to the poor applicant; and

Any other order or direction which this Hon'ble Tribunal deems fit and proper may also kindly be passed in the favour of the applicant in the larger interest of the equity justice and law.

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the father of the applicant was serving on the post of EX-TM. He died on 21.05.2006 while in service, leaving behind his family in a penurious condition.

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3. That the family of Late Shri Lal Chand Varma consisted of his wife, one son that is the applicant and four unmarried daughters, out of them one is minor also. That the father of the applicant was the only earning member of the family.

4. After the death of his father, the applicant moved an application praying for appointment on compassionate ground with the respondent. That the applicant is Class IXth pass.

5. That the application of the applicant for appointment on compassionate grounds was rejected by the respondent on the premise that under weightage point secured by the applicant were 54 which is less than 55. That the weightage point system introduced vide letter dated 27.06.2007 stipulates that the cases with 55 or more points shall be prima-facie considered as eligible for appointment on compassionate grounds.

6. That the respondents have not properly assessed the family liability and the circumstances. The house which has been considered by the respondents is a house owned by the family of the applicant is incorrect. In fact it is an ancestral house and belonged to a joint family. Thus the whole house does not belong to the applicant. Merely because they are residing in the said house, hence on this count, the assessment of the family condition was not done correctly.

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7. Being aggrieved by the action of the respondents, the applicant filed an OA No. 501/2011, which was disposed of vide order dated 01.11.2011. The Hon'ble Tribunal gave directions to the respondent to consider the case of the applicant and decide the notice for demand of justice by passing a reasoned & speaking order. In compliance of the aforesaid order, the respondent has passed the impugned order dated 06.03.2012 (Annexure A/1) vide which his request has again been rejected. Being aggrieved by this decision of the respondent, the applicant has filed the present OA.

8. The learned counsel for the applicant submitted that the action of the respondent in rejecting the case of the applicant for giving appointment on compassionate grounds is illegal, arbitrary, unreasonable and discriminatory.

9. He further submitted that the deceased family consisted of six dependants, who are now getting only the family pension, which is not enough for their livelihood and other basic necessities. The family has no other source of income except the family pension.

10. The learned counsel for the applicant reiterated that the house in which the family is residing is not in the ownership of the applicant but in the ownership of the joint family. Thus giving 'Nil' point in the Point No.6 of the weightage point system on account of having own accommodation is wrong. Had the case of the applicant would have assessed in the right perspective then he

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would have secured much more than 55 weightage point and would have become eligible for appointment on compassionate grounds.

11. The respondent has failed to consider that the family of the deceased consists of four unmarried daughters, out of which one is minor. Thus the family of the deceased has a liability of marrying the four daughters. The family pension is not enough for the education of the daughters and for the purpose of marriage of these daughters. Hence the case of the applicant needs reconsideration.

12. The respondent has filed the reply. The respondent has stated in the reply that the case of the applicant has been rightly rejected as per the policy of the department.

13. He further submitted that as per the report of the visiting officer, the family of the deceased is residing in their own house having two rooms and kitchen at the ground floor, two rooms at the first floor and two rooms at the second floor at 24, Balai Basti, Balanand Ka Rasta, Chandpole Bazar, Jaipur. Moreover the applicant himself has mentioned in his application that he is having his own house of 50 sq. yards approximately.

14. The learned counsel for the respondent argued that the case of the applicant for appointment on compassionate grounds was duly considered by the Circle High Powered Committee on the basis of the existing rules and guidelines. The weightage point

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system is uniformly applied for assessment of the cases for appointment on compassionate grounds. This weightage point system stipulates the case with 55 or more points shall be prima-facie treated as eligible for consideration for appointment on compassionate grounds. These points are allotted on the basis of various criteria such as number of wholly dependant family members of the Ex. Employee, giving special weightage of handicapped, minor member in the family and unmarried daughters and special weightage to the widow. The left out service of the employee, accommodation (rented or own house), financial aspects of the family based on the amount of the family pension, terminal benefits, persons of earning members in the family are also considered while the deciding the application. The yardsticks of this Scheme are objective. Since the applicant has secured only 54 point, therefore, his case was not recommended for appointment on compassionate grounds. Thus the action of the respondent in not giving appointment to the applicant on compassionate grounds is according to the provisions of the Scheme and there is no merit in the OA and, therefore, it should be dismissed with costs.

15. Heard the learned counsel for the parties and perused the documents on record. The learned counsel for the applicant emphasized that the respondents have not correctly assessed the status of the residential house in which the family of the deceased is staying. His main contention was that the house in which the family of the deceased is living is a joint family house and it does not belong to deceased family alone. The applicant has annexed a

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copy of the guidelines dated 27.06.2007 for appointment on compassionate grounds issued by the respondent (Annexure A/3). From the perusal of this Annexure of Item No. 6, there is a provision of weightage point for accommodation. This provides if the family of the deceased is living in a rented house then the applicant would be entitled for 10 weightage point but if the family is living in own house then the applicant would not be entitled for any weightage point. In this case, the family of the deceased is staying in their own house. The only dispute is whether the entire house belongs to the deceased or it is an ancestral house. Even if it is an ancestral house then also the applicant would not be entitled for any weightage point under the item of accommodation. It is not the case of the applicant that the family of the deceased is living in a rented house. The weightage point under this item that is accommodation are admissible only when the family of the deceased live in a rented house. Even if the applicant's family has a share in the house then it cannot be said that they are living in a rented house. The learned counsel for the applicant in the OA has not stated as to who other family members have the ownership in this house. The only document that the applicant has annexed with the OA is the photocopy of notice for depositing of certain amount issued in the name of his grandfather. Even in the OA, the applicant has not been able to clearly state as to on which account, this notice was issued in the name of Shri Deva, the grandfather of the applicant. On the contrary, according to the learned counsel for the respondent, the visiting officer's report is clear that the family of the deceased is residing in their own house having two rooms and kitchen at the

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ground floor, two rooms at the first floor and two rooms at the second floor. Moreover the applicant himself has mentioned in para 'A' of his application dated 13.09.2006 that he is having his own house measuring 50 sq. yards approximately.

16. The case of the applicant was duly considered by the Circle High Powered Committee on the basis of the existing rules and guidelines and the applicant secured only 54 weightage point. For being considered for appointment on compassionate grounds, the applicant should have secured 55 weightage points. Thus the Committee considering overall assessment did not find the family of the employee living in indigent condition and, therefore, rejected the claim of the applicant for appointment on compassionate grounds.

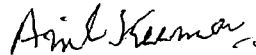
17. The learned counsel for the applicant could not explain any discrepancy other than the house with regard to the weightage point given to the applicant. I am of the considered opinion that in view of the submissions made by the respondent in the reply and also the statement of the applicant in his application that the deceased family having a immoveable property of 50 sq. yards, I do not find any infirmity on this ground in the assessment made by the Circle High Powered Committee. The case of the applicant has been duly considered and rejected as the family of the deceased was not treated as living in indigent condition.

18. Accordingly, I do not find any infirmity/irregularity in the order dated 06.03.2012 (Annexure A/1) of the respondents in

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rejecting the claim of the applicant for appointment on compassionate grounds.

19. Consequently, the OA being bereft of merit is dismissed with no order as to costs.


(Anil Kumar)
Member (A)

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