

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH****OA. 060/00099/2014****(Reserved on 13.11.2014)**

Chandigarh, this the ¹⁸ ~~18~~ day of November, 2014

CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J)

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Amandeep Bhagania, aged 27 years

S/o Late Sh. Amarjeet Lal

(Deceased Telecom Mechanic)

Village Chandua Khurd

Post Office Bhadwal

Tehsil Rajpura,

District Patiala (Punjab).

...Applicant

BY ADVOCATE: MR. N.P. MITTAL

Versus

1. Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, Harish Chander Mathur Lane, Janpath, New Delhi – 110 001. (Through its Chairman-cum-Managing Director)
2. Chief General Manager Telecom, Bharat Sanchar Nigam Limited, Sanchar Sadan, Sector 34-A, Chandigarh-160 022.

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3. General Manager Telecom 'District', Bharat Sanchar Nigam Limited, Patiala.

...Respondents

BY ADVOCATE: **MR. D.R. SHARMA**

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- "(i) That impugned order A-1 dated 11.6.2013 be quashed/set aside and invalidated qua applicant.
- (ii) That the impugned Compassionate Appointment Policy dated 27.06.2007, Annexure A-2, challenged to the extent qua points assessment criteria for recommendations of the indigent conditions of the family with 55 marks net to treat *prima facie* as eligible for consideration for compassionate appointment be quashed/set aside in view of the Government of India order dated 09.10.1998, Annexure A-6 so that the poor wards of the deceased could be able to get compassionate appointment as per Government of India orders in the interest of justice.
- (iii) That this Tribunal may issue directions to the respondents for granting compassionate appointment to the applicant inlieu of his deceased father who died in harness, granting him Group 'D' post on compassionate grounds in case Group 'C' post is not available taking into consideration his higher qualification and grant all consequential benefits to which he may be found entitled to under the rules and law."

2. Averment has been made in the OA that the applicant belongs to Scheduled Caste Category. His father one Sh. Amarjeet Lal was working as Telecom Mechanic in the BSNL at the time of his death on 10.08.2009 when he was still in service. The bereaved family received the retiral benefits to the tune of Rs. 9,15,304/-.

The applicant is unmarried and is also handicapped due to amputation of his right thumb. After the death of his father, the applicant submitted his application for appointment on compassionate grounds in February, 2011. Since the appointment was not afforded to the applicant, he filed OA No. 1397/PB/2012 titled Amandeep Bhagania Vs. BSNL. This OA was disposed of by CAT Chandigarh Bench vide order dated 8.4.2013 (Annexure A-3).

In spite of the direction of the Tribunal dated 8.4.2013, the office of respondent No. 2 had passed the impugned order A-1 vide No. RD/R&E/R-48/870/11 dated 11.06.2013 (Annexure A-1) rejecting the claim of the applicant for compassionate appointment on three premises i.e. (i) living in own house (ii) weightage point system comes total 22 positive points, whereas 55 marks are required for recommending the case for compassionate appointment and (iii) financial condition of the family living in penury was also not

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approved by the Competent Authority. Taking into consideration these reasons, the impugned order (Annexure A-1) has been passed by respondents totally ignoring that the respondent No. 3 while sending case to respondent No. 2 has granted 32 points as attached by respondent No. 2 with the impugned order Annexure A-1 and also attached as Annexure A-4 herein whereas no point has been awarded to the applicant qua his being handicapped, which has a provision in the point system communicated to the applicant under RTI Act, Annexure A-5 and also no point has been awarded on the premises that applicant is living in his own accommodation as he has not been living in his own living accommodation and that is hit by Annexure A-7. Hence, coupled with all these points, the impugned order rejecting the compassionate appointment of the applicant is unsustainable in the eyes of law and deserves to be quashed and invalidated.

3. In the written statement filed on behalf of the respondents, it has been stated that in order to bring uniformity in assessment of indigent condition of the family for offering Compassionate Ground Appointment, weightage point system was issued by BSNL as per letter No. 273-18/2005-Pers-IV dated

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dated 27.06.2007 (Annexure A-2). Since it is impossible to quantify all the parameters to be considered by HPC (High Power Committee) for judging comparative merit of different candidates, it is left to the discretion of HPC of BSNL Corporate Office to apply similar considerations which obviously conform to the provisions of law and are rational and justified to arrive at the right conclusion regarding financial destitution of the family of the deceased employee and the need for immediate assistance. By scoring 55 or more points, an applicant becomes prima facie eligible for consideration by High Power Committee of BSNL Corporate Office whereas, in the present case, the applicant was awarded 22 positive points. The salient features of the weightage point system are given below:-

- (a) Dependents' weightage (Positive points) : points per dependant, per handicapped dependant, per minor child, per unmarried daughter (after 18 years of age), maximum points restricted to 30.
- (b) Basic family pension (Positive points) : 20 points varying from 20 to NIL depending on the basic family pension up to Rs. 2000/- to Rs. 4250/- and above.
- (c) Left out service(Positive points) : 1 point for each year of left out service subject to a maximum of 15 points.
- (d) Applicant's weightage (Positive points) : 15 points for widow seeking compassionate employment and NIL for others.

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- (e) Terminal benefits (Positive points) : Maximum 10 points varying from 10 to NIL depending on the terminal benefits up to Rs. 1 lakh to > Rs. 10 lakh.
- (f) Accommodation (Positive points) : 10 points for rented house and NIL points for own house.

Under the weightage point system, the case of the applicant was considered and he was awarded 22 points. Earlier he was awarded 32 points, which were awarded wrongly regarding accommodation and the same was corrected by SSA. The case was, thereafter, forwarded to the Circle High Power Committee for consideration as per the instructions dated 09.10.1998 and the policy dated 27.6.2007. The Circle High Power Committee recommended the case for rejection as the family was not found in indigent condition keeping in view the liabilities of the family, as the family has its own house to reside, and family is getting a pension of Rs. 7645 + IDA per month and other terminal benefits of Rs. 9,15,304/- have been released. The family consist of 6 members i.e. mother, applicant, his brother and his three sisters who are already married. The case of the applicant for appointment on compassionate ground has been considered by the respondents as per the instructions dated 09.10.1998 and the same has been

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rejected on the ground that the family of the applicant is non-indigent.

4. Arguments advanced by the learned counsel for the parties have been heard when they reiterated the content of the OA, Rejoinder and written statement respectively. It is seen from the material on record that nothing has been said in support of the claim of the applicant for quashing the compassionate appointment policy dated 27.6.2007 (Annexure A-2). This policy appears to be fair and has been upheld by the Courts/Tribunal from time to time. The policy provides for a transparent mechanism for assessing the claim of the applicants for appointment on compassionate grounds so that such appointment only goes to those who are truly in indigent circumstances and even among those, the number of available vacancies has to be kept in view and recommendations are made on this basis. The cut-off points as per the policy circular of BSNL is 55 while the applicant secured only 22 points. Hence, the High Powered Committee of BSNL Corporate Office had no option but to reject the claim of the applicant for appointment on compassionate grounds. The applicant's claim for appointment on compassionate grounds has

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been accorded fair consideration and hence the impugned orders do not merit judicial interference. The OA is therefore rejected. No costs.

**(RAJWANT SANDHU)
MEMBER(A)**

**(DR. BRAHM A.AGRAWAL)
MEMBER(J)**

Dated: November 18 , 2014.

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