

(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD
(CIRCUIT SITTING AT NAINITAL)

This the 20TH day of **JUNE 2018**.

ORIGINAL APPLICATION NO. 331/01242/2012

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A).

1. Ravi Kishor Baloni son of Late Sri Mohan Lal Baloni Resident of Sewa Kalan Majra (Simla Road) Pithuwala, Dehradun (Uttaranchal).
.....Applicant.

VERSUS

1. Bharat Sanchar Nigam Ltd. New Delhi through its Assistant Director General (Establishment IV) New Delhi.
2. Chief General Manager Bharat Sanchar Nigam Ltd. Uttaranchal Circle Windlass Complex IIIrd Floor Rajpur Road District Dehradun.
3. Additional General Manager (Administration) Bharat Sanchar Nigam Ltd, Dehradun.
4. General Manager Bharat Sanchar Nigam Ltd. Dehradun District Dehradun.
.....Respondents

Advocate for the Applicant : Shri Arun Srivastava

Advocate for the Respondents : Shri D S Shukla

ORDER

This OA has been filed with the prayer for the following reliefs:-

- "(a) *issue suitable order direction may be issued to the respondent authorities to quashing the impugned order dated 21.05.2003 shown as Annexure A-1 to this O.A.*
- (b) *issue a writ order or direction in the nature of mandamus commanding the respondents to give the petitioner appointment in the department on compassionate ground.*
- (c) *issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case of applicant.*
- (d) *to award costs of this application to the applicant."*

2. The facts in brief in this case are that after death of the father of the applicant on 20.9.2002, the applicant on 12.6.2004 submitted his representation for appointment on compassionate ground (Annexure no. 3 to the OA). When no action was taken by the respondents in spite of reminders, a writ petition was filed, which was transferred to this Tribunal

by Hon'ble High Court of Uttarakhand. It was revealed from the Supplementary Counter Affidavit filed by the respondents that vide order dated 21.5.2003, the case of the applicant for compassionate appointment has been rejected. The transfer application was dismissed as being infructuous with liberty granted to the applicant to file fresh OA. Accordingly, this OA has been filed challenging the order dated 21.5.2003 (Annexure no.1 to the OA) mainly on the following grounds:-

- i. The impugned order is a non-speaking order and it does not disclose why the applicant is not entitled to the appointment on compassionate ground.
- ii. No criteria is there and the respondents are adopting pick and choose policy for selecting the candidates for compassionate appointment.
- iii. Though the claim of the applicant for compassionate appointment is not a matter of right, but the departments are required to adopt the transparent practice while considering the applications for compassionate appointment.

3. The respondents have filed their Counter Reply stating the following main points:-

- The case of the applicant alongwith the condition of the family was considered by Circle High Power Committee which did not find the condition of the family to be indigent as compared to other cases before the Committee. Hence, the case of the applicant was rejected by the Committee.
- Applicant's contention that he was not communicated the order dated 21.5.2003, is not correct as he has submitted a representation dated 11.8.2004 (Annexure CR-1 to the Counter

Reply) requesting for consideration of his case for his compassionate appointment.

4. The OA was taken up for consideration on 23.5.2018, when this Tribunal passed the following order:-

"None is present for the applicant even in the revised call. The matter pertains to compassionate appointment. It has been pointed out by the respondent's counsel that counter has been filed by official respondents but the same is not on record. As counsel for the applicant is not present today, one more opportunity is granted to the applicant to argue the case in case the applicant fails to appear on the next date the matter shall be disposed of under Rule 15 of CAT (Procedure) Rule on the basis of material available on record. List on 20.06.2018."

5. When the OA was taken up today, it was seen that no one was present on behalf of the applicant. Hence, the case was considered for disposal based on available material as per the order dated 23.5.2018 of this Tribunal.

6. Shri D.S. Shukla, learned counsel for the respondents was heard. He submitted that the case of the applicant has been duly considered by the Circle High Power Committee of the respondents, which did not find the case to be fit for appointment on compassionate ground vis-a-vis other cases considered by the Committee as per the order dated 21.5.2003 (Annexure no.1 to the OA). He also submitted that the reasons for not considering the case of the applicant have been explained in the Counter Reply filed by the respondents.

7. From the impugned order dated 21.5.2003, it is seen that the case of the applicant was considered by the Committee and he was not found suitable for appointment. Although no reason has been furnished in the said order, the para 5 of the Counter Reply stated the reason for rejecting the case of the applicant as under:-

" 5. That the contents of paragraph 4.5 of the original application as stated are incorrect hence not admitted and denied and in reply thereto it is stated that the case of compassionate ground appointment was taken up in Circle High Power Committee meeting on 21-5-2003 and the HPC did not found the case living in indigent condition in view of following reasons-

- i) The dependent of deceased employee were paid following amounts as terminal benefits.
 - a. Death Cum retirement gratuity
= Rs. 3,34,753/-
 - b. CGEIS = Rs. 46,700/-
 - c. Leave Encashment = Rs. 1,07,926/-
 - d. Family Pension = Rs. 4050+DA
- ii) Living in own House of deceased employee.
- iii) Monthly income of Applicant Rs. 700/-
- iv) Liabilities – One unmarried sister of 24 years and unmarried brother of 21 years (No minor children)"

It is seen that in the representation dated 11.8.2004 (Annexure CR-1 to the Counter Reply) submitted by the applicant, it is stated that after death of the elder brother of the applicant's father when the applicant's father was alive, the responsibility of the children of the elder brother of the applicant's father also fell upon the family of the applicant's father. It was also mentioned that the family had huge burden of loan for which the retiral dues of the applicant's father was used to repay the loan. Prima facie, from this representation, the financial condition of the family immediately after death of the applicant's father appears to be critical. The Counter Reply has not mentioned whether any inquiry was conducted by the respondents to inquire about financial hardship faced by the family.

8. Taking into account the fact that the purpose of the Scheme for compassionate appointment is to mitigate immediate hardship being faced by the family of the deceased employee, which have been mentioned in the representations of the applicant and that no materials have been furnished by the respondents as to whether any inquiry has been conducted by the respondents to ascertain the financial condition of the family, I am of the view that when the case of the applicant was considered by the Circle High Power Committee on 21.5.2003, true picture of the financial condition of the family of the applicant's father was not placed before the Committee. Further, correctness of the facts mentioned in the representations of the applicant about the family's financial condition appears to have not been considered or ascertained by the respondents as would appear from the impugned order dated 21.5.2003 and from the submissions in the Counter Reply.

9. In view of above, this OA is disposed of with a direction to the respondents to conduct a fresh inquiry into the financial condition of the family of the applicant's father after his death through a senior officer taking into account the financial hardship as indicated in the representation dated 11.08.2004 and other representations submitted by the applicant and place the report of the said inquiry before the competent authority/Circle High Power Committee to consider the case of the applicant afresh as per the extant scheme, rules and guidelines of the Government and to pass an appropriate speaking and reasoned order to be communicated to the applicant within four months from the date of receipt of a copy of this order.

10. The OA is disposed of accordingly. No order as to the costs.

(GOKUL CHANDRA PATI)
MEMBER-A