

Central Administrative Tribunal , Allahabad Bench,

Allahabad

O.A. No.330/00658/2013

Reserved on 27.3.2018

Pronounced on 2nd April, 2018

Hon'ble Mr. Justice Dinesh Gupta, Member (J)

Ankit Gupta son of late Ramesh Chandra Gupta resident of village and post Office Asdhana, District- Kanpur Nagar

Applicant

By Advocate: Sri A.K. Singh

Versus

1. Chief Managing Director, Bharat Sanchar Nigam Limited, Corporate Office, New Delhi.
2. Chief General Manager, U.P. (East) Telecommunication Circle, Bharat Sanchar Nigam Limited, Hazratganj, Lucknow.
3. Assistant General Manager (Recruitment) Recruitment Call Office of the Chief General Manager (East) Tele communication , Bharat Sanchar Nigam Limited, Hazratganj, Lucknow.
4. General Manager, Kanpur District Office, Tele Communication, Bharat Sanchar Nigam Limited, Kanpur.
5. Assistant General Manager (Administration) Kanpur Tele Communication Bharat Sanchar Nigam Limited, Kanpur.

Respondents

By Advocate: Sri S.K. Mishra

ORDER

By Hon'ble Mr. Justice Dinesh Gupta, Member (J)

The applicant has preferred this O.A. under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

- i) To issue an appropriate order quashing the orders dated 23.11.2012, 4.01.2012 and 6.1.2012 passed by the respondents No. 4, 6 and 4 respectively.
- ii) To grant the respondents to provide compassionate appointment to the applicant on a suitable post.
- iii) To grant other reliefs for which the applicant might be found eligible and entitled to.
- iv) To award cost of litigation against the respondents and in favour of the applicant.

2. The brief facts emerging from the O.A. are that the applicant's father Sri Ramesh Chandra Gupta while working as Telecom Operator under AEFRS (PLU-6) Kanpur Telecom District, Kanpur died on 3.3.1992 and at that time applicant was hardly two years old.

2.1 The applicant's uncle made application on 9.6.1999 and 3.8.1999 for his appointment on compassionate ground for the same was rejected vide order dated 3.11.1999 on the ground that there is no provision to provide compassionate appointment to an unmarried brother of the deceased employee. This order however, provides that as per instruction received from Directorate General, New Delhi vide its letter dated 10.2.1999, the case of deceased son when he becomes major shall be considered for compassionate appointment.

2.2 The date of birth of applicant is 7.4.1990 and he became major on 7.4.2008. Vide letter dated 2.4.2008

applicant requested the General Manager, Bharat Sanchar Nigam Limited, Door Sanchar District Kanpur for compassionate appointment.

2.3 Vide letter dated 24.1.2012, respondents rejected the case of the applicant for compassionate appointment. This order appears to have been passed on the basis of order dated 6.1.2012 issued by the Chief General Manager, Door Sanchar (East) Circle Lucknow.

2.4 The order dated 6.1.2012 was neither communicated to the applicant nor report of the committee was supplied to the applicant.

2.5 Vide application dated 24.7.2012, under RTI applicant requested for information and in response to the same, respondents provided 4 documents including order dated 6.1.2012.

2.6 Perusal of the report of the committee shows that the applicant was awarded 55 weightage point by the Circle High Power Committee and his case was recommended for compassionate appointment to BSNL Head Quarter, High Power Committee and High Power Committee found that the request of the applicant for compassionate appointment was belated for more than 15 years and returned the case as being below the net point 55.

3. Notices were issued to the respondents who in turn filed the counter reply through which it is stated that according to BSNL letter dated 27.6.2007, the cases with

net point 55 or more are recommended for the indigent condition of the family by Circle HPC and its minutes are sent to BSNL Corporate Office, along with supporting documents for consideration and decision by the corporate office. In the case with net points below 55 (i.e. 54 or less) the family will be treated as not living in indigent condition and as such compassionate ground appointment request will be rejected by the Circle.

3.1 Being net weightage point 55 awarded to the applicant, the case of applicant was recommended by the Circle HPC on 10.11.2009.

3.2 Vide letter dated 22.7.2011, BSNL HQ, returned the said case by including that the applicant had applied for the compassionate ground appointment after more than 10 years of death of deceased. Hence according to weightage point system circulated vide BSNL letter dated 27.6.2007, negative 35 marks should be awarded to the applicant and also grand mother of the applicant might not be considered as dependent hence 5 marks had been deducted which was awarded earlier for the same. As a resultant, BSNL HQ, New Delhi intimated that the said CGA case was actually having net point 55-35 (Belated point)- 5= 15 point. The said case with net 15 points was again put up before the Circle HPC and subsequently same was communicated to the applicant by letter dated 24.1.2012.

3.3 Thereafter, applicant moved a representation on 2.11.2012 and the same was replied on 23.11.2012. It is stated that the case of the applicant was considered in the proper way and order dated 23.11.2012 and 24.1.2012 is just and as per rules.

4. Rejoinder reply is filed by the applicant through which he has reiterated the facts as stated by him in the O.A.

5. Heard the learned counsel for applicant Sri A.K. Singh and learned counsel for respondents Sri S.K. Mishra and perused the pleadings available on records

6. The learned counsel for applicant submitted that applicant's father Sri Ramesh Chandra Gupta died on 3.3.1992 and at that time applicant was hardly two years old. The applicant's uncle case for appointment on compassionate ground was rejected vide order dated 3.11.1999 on the ground that there is no provision to provide compassionate appointment to an unmarried brother of the deceased employee and this order however, provides that the case of deceased son when he becomes major shall be considered for compassionate appointment.

The applicant became major on 7.4.2008 and vide letter dated 2.4.2008 he requested the General Manager, Bharat Sanchar Nigam Limited, Door Sanchar District Kanpur for compassionate appointment. The same was rejected vide letter dated 24.1.2012. Respondents provided 4 documents including order dated 6.1.2012 in pursuance of reply to the

RTI asked by the applicant. The applicant was awarded 55 weightage points by the Circle High Power Committee and his case was recommended for compassionate appointment to BSNL Head Quarter, High Power Committee and High Power Committee reduced the weightage point awarded by the Circle HPC on the ground of request for compassionate appointment was belated for more than 15 years which is not just and proper and stated that the case of applicant should be considered as per weightage point awarded by the Circle HPC.

7. Counsel for respondents stated that according to BSNL letter dated 27.6.2007, the case of applicant being 55 points awarded to the applicant by Circle HPC was recommended by the Circle HPC on 10.11.2009 but vide letter dated 22.7.2011, BSNL HQ, returned the same stating that the applicant had applied for the compassionate ground appointment after more than 10 years of death of deceased. Hence according to weightage point system circulated vide BSNL letter dated 27.6.2007, negative 35 marks was awarded to the applicant and also stated that grand mother of the applicant might not be considered as dependent hence 5 marks had been deducted which was awarded earlier for the same.

8. The court is unable to accept the contentions raised by the learned counsel for respondents.

9. From perusal of records, it is clear that at the time of death of his father, the applicant was minor and case of his uncle was rejected and in that letter it was provided that case of deceased son will be considered when he became major. Applicant became major on 7.4.2008 and thereafter he requested vide letter dated 2.4.2008 for compassionate appointment and his case was recommended by the Circle HPC for consideration but vide letter dated 22.7.2011, BSNL HQ, returned the case stating that the applicant had applied for the compassionate ground appointment after more than 10 years of death of deceased whereas order dated 3.11.1999 specifically states that case of deceased son will be considered when he became major. Awarding negative 35 marks on the ground of belated request is not proper. Applicant has no other source of income as such grand mother of the applicant is also dependent upon the applicant. BSNL HQ, New Delhi intimated that the said CGA case was actually having net point 55-35 (Belated point)- 5= 15 point which is not justified. It is admitted fact that vide letter dated 3.11.1999, Assistant General Manager, Kanpur Door Sanchar, District Kanpur had intimated that case of deceased's son will be considered when he became major and now awarding 35 negative points on the ground of belated request is not proper and court is of the view that the points awarded by the Circle

HPC is correct order passed by the BSNL Corporate Office is liable to be quashed.

10. Accordingly, orders dated 23.11.2012, 24.1.2012 and 6.1.2012 are quashed and the matter is remitted to the respondents for considering the case of applicant on merit along with other candidates considering the points awarded by the Circle HPC to the applicant as correct. It is also observed that the order must contain the details such as number of vacancies in which applicant's case was considered, names of the candidates who were considered and their relative merit in the selection process. No order as to costs

**(JUSTICE DINESH GUPTA)
MEMBER (J)**

HLS/-

(Justice Dinesh Gupta)
Member (J)

HLS/-