

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD  
\*\*\*\*\***

Orders reserved on : 20.03.2018

Orders pronounced on : 04.04.2018

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

**O. A. No.330/1010/2013**

*Amit Sonkar son of  
Late Bankey Lal Sonkar,  
Resident of Village & Post Manikalan,  
District Jaunpur.*

*..... Applicant*

(By Advocate : Shri R.S. Gupta)

***Versus***

1. *Union of India, through Secretary,  
Ministry of Communication and Information Technology,  
Department of Telecommunication,  
Bharat Sanchar Nigam Ltd.,  
Sanchar Bhawan, New Delhi.*
2. *Chief General Manager,  
Telecommunication, U.P.  
(East) Circle, Lucknow-226001.*
3. *General Manager Telecom,  
Bharat Sanchar Nigam Ltd.,  
District Allahabad (U.P.)-211001.*
4. *Assistant General Manager (Rectt.),  
Bharat Sanchar Nigam Ltd.,  
District Allahabad (U.P.)-211001.*

*..... Respondents*

(By Advocate : Shri S.K. Mishra)

## O R D E R

The Applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- “(i) To issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 16.05.2012 and 10.06.2013 passed by the respondent No.4 thereby rejecting the claim of the applicant for compassionate appointment (vide Annexure No. 1 to Compilation No.1 of this OA).
- (ii) To issue a writ, order or direction in the nature of Mandamus commanding and directing the respondents to consider the case/claim of the applicant for compassionate appointment under Group ‘D’ cadre in BSNL afresh and offer him compassionate appointment so sought by the applicant pursuant to death of his father, Late Bankey Lal on 11.11.2009 in harness.
- (iii) To issue any other and further suitable writ, order or direction which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- (iv) To allow this petition with costs in favour of the applicant.”

2. Brief facts of the case as stated in the OA are that applicant’s father, namely, Shri Bankey Lal, who was working as CAO in BSNL, died in harness on 11.11.2009. He left behind him, his widow, namely, Smt. Badama Devi, three sons, including applicant and three daughters, i.e., 7 dependents on the deceased.

2.1 The applicant, having the qualification of High School passed, submitted his application for compassionate

appointment under Group 'D' cadre in BSNL to respondent no.3, i.e., General Manager Telecom, Bharat Sanchar Nigam Ltd., District Allahabad and after his recommendation, the respondent no.3 forwarded the same to the respondent no.2, i.e., Chief General Manager, Telecommunication, U.P. and the claim of the applicant for compassionate appointment alleged to have wrongly rejected by Circle High Power Committee ('HPC' in short) in its meeting held on 10.05.2012, which was communicated vide the impugned letter/order dated 16.5.2012.

2.2 The applicant moved application dated 3.11.2012 to the respondent no.1 with copy thereof to the respondent no.2 and no.3, thereby seeking review of the aforesaid order dated 16.5.2012 and thereby claiming relaxation/compassionate appointment under Group 'D' cadre in BSNL. The said review application was rejected by the respondent no.4, i.e., Assistant General Manager (Rectt.), Bharat Sanchar Nigam Ltd., District Allahabad vide impugned letter/order dated 10.6.2013.

2.3 Feeling aggrieved by the aforesaid impugned orders, the applicant has filed the instant OA for redressal of his grievances by challenging the same on the following grounds

(i) A perusal of the aforesaid impugned orders establishes that the claim of the applicant for compassionate appointment has been rejected in view of the instructions

contained in O.M. No.14014/6/94-Estt.(D) dated 09.10.1998 and BSNL Headquarter, New Delhi Policy guidelines vide letter No.273-18/2005-Pers. IV dated 27.06.2007, referred to in the impugned orders. It is further stated that applicant, being of 23 years old, unemployed, High School passed, without earning, fully dependent on his deceased father and as per the guidelines of the aforesaid OM dated 9.10.1998, is fully eligible and entitled to be considered and offered suitable appointment in Group 'D' cadre in BSNL but his claim for the same has, alleged to have, wrongly, arbitrarily and unwarrantedly been rejected. It is further stated that the claim of the applicant has been rejected by the respondents in view of the instructions contained in OM dated 9.10.1998 and the policy guidelines dated 27.6.2007 with the following observations:-

*"The Ex. Official Shri Bankey Lal Ex. CAO expired on 11.11.2009 at the age of 58 years approximately survived by his wife and three sons and one daughter only. The widow is getting family pension of Rs.32,203/- + IDA and other terminal benefits were Rs.35,94,906/-. The family is living in one house."*

In this regard, it is stated that pursuant to death of father, late Bankey Lal and with the receipt of aforesaid terminal benefit including family pension, the mother of the applicant, i.e., widow of late Bankey Lal, came under immense influence of the family members of her Mayaka (i.e. parents) and on account of said influence, the applicant including his

brothers and sisters are made completely deprived of the pecuniary benefits including other benefits which are to accrue to them on account of aforesaid terminal benefit and family pension paid to the mother of the applicant. Hence, the calculation of weightage points (i.e. 31) in the impugned order dated 10.6.2013 in view of guidelines contained in the policy dated 27.6.2007 based upon the observations, referred to in the preceding paragraphs in italicized form, is faulty one leading to rejection of the claim of the applicant for compassionate appointment.

(ii) As in place of 7 dependants on the deceased father, 30 points (i.e., 5 points per dependent) have been allotted to the applicant in place of 35 points for 7 dependents and with the death of Bankey Lal at the age of 58 years, leaving out 2 years remaining service only 1 point (i.e., @ 1 point per year of left out service) has been allotted in place of 2 points. Thus, in place of 37 points, only 31 points have been shown to have been scored by the applicant in the impugned order.

(iii) As no financial or any other sort of allied benefit accrued or is to accrue to the applicant including his two brothers and three sisters, hence, the family pension of Rs.32,203/- being paid and terminal benefits of Rs.35,94,906/- so paid to the mother of the applicant has become/is meaningless to the applicant including his brothers and sisters. As such, ignoring the amount of family

pension including the amount of terminal benefit, full points i.e., 20 and 10 respectively ought to have been awarded as awardable to the applicant over the head family pension and terminal benefits respectively, envisaged under weightage point system in the policy dated 27.06.2007. Thus, summing up the aforesaid 37 points (awardable over dependents' weightage) with 20 and 10 points (awardable over heads family pension and terminal benefit respectively), the weightage point to be scored by the applicant comes to 67.

(iv) As under the weightage system in the aforesaid guidelines dated 27.6.2007, the assessment criteria for considering the eligibility for grant of compassionate appointment happens to be net 55 points and above and since the applicant scores 67 points, i.e., above than 55 points, hence, his claim for compassionate appointment under Group 'D' cadre is liable to be considered but conversely the same has been rejected with faulty calculation, referred to above. Thus, the claim of the applicant for compassionate appointment has been rejected illegally, arbitrarily, unwarrantedly and with faulty calculation including the wrong observations as to assets and liabilities and the financial conditions of the family of the deceased Bankey Lal.

3. Pursuant to notice issued to the respondents, they have filed their counter affidavit in which they have stated that

request of the applicant for appointment under CGA scheme was put up and considered by Circle HPC as per guidelines laid down in BSNL Corporate Office letter dated 27.6.2007, which directs to evaluate the requests on prima facie ground for appointment under CGA according to criteria of various weightage points to BSNL Corporate Office New Delhi (who are the sole authority to appoint under CGA Scheme) for final consideration for appointment under CGA Scheme and otherwise requests can be rejected even by Circle heads on the report of Circle HPC. Vide letter, as annexed as Annexure A-1 of instant OA, it was intimated to the applicant that he had secured 31 net weightage after evaluation of various norms included in the BSNL Corporate Officer letter dated 27.6.2007. Consequently on the basis of Circle HPC report, the request of applicant was rejected by the competent authority under intimation to the applicant through the concerned SSA/Unit.

3.1 It is further stated that upto a maximum 30 points can be awarded in the head of dependents. Further there is provision to award 1 point for each complete year and as per the synopsis submitted by the applicant, date of superannuation in respect of the deceased late Shri Bankey Lal (DOB – 11.01.1951) is 31.1.2011 and date of death of Shri Bankey Lal was 11.11.2009, Thus, left over service period of late Shri Bankey Lal was only one year, two months and 20 days only. Hence, in compliance of aforesaid order letter

dated 27.6.2007, only 1 point for one complete year was awarded to the applicant.

3.2 It is further stated that in view of the above, the applicant has got only 31 net points and the claim of the applicant for 67 net points is neither justified nor has the justification been reflected by the applicant in his OA. As such the rejection of request of the applicant for appointment under CGA scheme stands valid and justified in eyes of law. The action taken by the Circle HPC as well as respondent no.4 passed the aforesaid impugned order is just, proper and legal in the eyes of law and circumstances and further none of the grounds taken by the applicant is sustainable and maintainable within the legal purview and as such there is no occasion arises for the applicant to file the instant OA before this Tribunal.

3.3 Lastly they have submitted that applicant's prayer for relief is not sustainable in the eyes of law and he could not be entitled for any relief from this Tribunal.

4. The applicant has also filed his rejoinder affidavit in which besides reiterating the averments contained in the OA and denying the averments made by the respondents in their counter affidavit, stated that even if only one point is to be awarded to the applicant for more than one year left over service of the deceased Bankey Lal, the total point to be



scored by the applicant over the heads "dependent weightage" and "Left out service" comes to 36 i.e. 35 + 1 respectively.

5. Heard Shri R.S. Gupta, learned counsel for the applicant, and Shri S.K. Mishra, learned counsel for the respondents and also carefully perused the material placed on record.

6. Counsel for the applicant reiterated the averments made by him in the OA as well as in rejoinder affidavit and counsel for the respondents has also reiterated the averments made by the respondents in their counter affidavit.

7. The issue involved in the instant case is whether the rejection of the case of applicant for grant of appointment on compassionate ground on the basis of Circle HPC report awarding him 31 points only is justified or not, as counsel for the applicant submitted that applicant should have been awarded 67 points and the case of the applicant was wrongly, illegally and arbitrarily rejected by the respondents vide impugned orders. This Court is of the view that to evaluate the correctness of the averments raised by the applicant, it is necessary to refer to the Scheme/circular dated 27.6.2007, which is reproduced herein below:-

"Bharat Sanchar Nigam Limited [A Government of India Enterprise] Corporate Office 102-B, Statesman House, New Delhi-11001.

[Personnel-II Section]

No. 273-18/2005-Pers.IV

Dated: 27.06.2007

To,

All Heads of Telecom Circles

Sub: Compassionate Ground Appointments (CGA)-Policy  
guidelines regarding-

It has been decided to bring uniformity in assessment of indigent condition of the family for offering compassionate ground appointment in view of the following recent developments:-

(A) Advise by Honble Chairman, National Commission for Scheduled Tribes in the meeting held on 20.11.2006 with Secretary (Telecom) and CMD, BSNL that keeping in view the guidelines issued by Govt. of India, standard guidelines for eligibility for appointment on compassionate grounds may be formulated by the BSNL and (B) BSNL Boards decision, communicated vide letter No. 6-5/2004-EB (Part-I) dated 26.12.2006, wherein Circle Heads are authorized to create non-executive level posts offering compassionate ground appointment subject to the Policy guidelines to be given by the Corporate Office in this regard.

2.0 Accordingly, The High Power Committee of the Corporate Office for considering the compassionate ground appointment cases, Headed by Director (HRD), recommended for introduction of a weightage point system, within DOPT guidelines, to bring uniformity in assessment of indigent condition of the family, which has subsequently been approved by the Management Committee of BSNL as per the following:-

(I) To continue with the policy guidelines on compassionate ground appointment, issued by DOPT vide OM No. 14014/6/94-Estt (D) dated October 9, 1998 and to introduce the weightage point system, as per details given at Annexure-I.

(II) The assessment criteria for recommendation of the indigent condition of the family by the Circle High Power Committee shall be-(a) Cases with 55 or more NET POINTS shall be prima-facie treated as eligible for consideration by Corporate Office High Power Committee for compassionate ground appointment and (b) Cases with NET POINTS below 55(i.e. 54 or less) shall be treated as non-indigent and rejected.

3.0 Keeping in view the provisions of weightage point system, the procedure for processing the cases of compassionate appointment shall now be as below:-

(I) The Welfare Officer of the Circle/SSA/Unit will meet the members of the family of the ex-employee immediately after his death/medical invalidation to advise them about provisions of the scheme and assist them in completing necessary formalities in filling up of details in prescribed Proforma i.e. Proforma Part A (as in Annexure of the DOPT scheme) and other details needed as per weightage point system and verify it with the official records. The office concerned will fill up the Proforma Part B as per the existing practice.

(II) The SSA/Unit concerned will scrutinize the application and prepare check-list according to the weightage point system (Proforma enclosed at Annexure-II) for the purpose of assessment of indigent condition in the family.

(III) The Check-list (in the format of Annexure-II), Proforma Part A and Proforma Part B complete in all respects, alongwith supporting details, shall be sent to concerned Territorial Circle for further processing.

4.0 A Circle High Power Committee (CHPC), consisting of Circle Head and two other officers of SAG/JAG level, nominated by Circle Head, shall consider applications for appointment on compassionate grounds as per weightage point system. In the case with net points 55 or more, the minutes of the Circle HPC will be sent to BSNL Corporate office, alongwith supporting documents including the check-list, for consideration and decision by 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 such compassionate ground appointment request will be rejected by the Circle. The applicant will be intimated about rejection of the request by the concerned circle through a speaking order.

5.0 Where there is a problem in attributing points on any of the aspects due to peculiar circumstances in any specific case, the same may also be sent to BSNL Corporate Office alongwith supporting documents, including the check-list, for consideration and decision by Corporate Office.

6.0 Any appeal for re-consideration of the already rejected case will also be considered according to the weightage point system. If in any appeal case, net points come to 55 or more, the complete case alongwith check-list may be sent to the Corporate Office for decision.

7.0 The High Power Committee of the Corporate Office will consider and decide the cases, forwarded by Territorial Circles, with the approval of CMD, BSNL.

8.0 The decision taken by the Corporate office will be intimated to respective circles for further follow up action i.e. informing the candidate about acceptance or rejection or wait listing etc. The procedure with regard to waitlisting and

offering of compassionate ground appointment under 5% CGA quota shall remain the same as prescribed vide letter No. 268-101/2002-Pers.IV dated 1.10.2002.

Sd/ (P.S. Venkatraman) Asstt. Director General (Pers.IV) TT:  
2373 4152

Copy to: (1) PPS to CMD, BSNL New Delhi.

(2) PS to all Directors of BSNL Board, New Delhi.

(3) All Sr. DDsG/DDsG in Corporate Office, BSNL, New Delhi.

(4) C.S. & G.M.(Legal), Corporate Office, BSNL, New Delhi.

(5) Jt. DDG (EF/IA), Corporate Office, New Delhi.

(6) Asstt. Director (OL), Corporate Office, BSNL, New Delhi :  
For Hindi Version.

(7) General Secretary, BSNLEU.

#### ANNEXURE-I

#### Weightage Point System for assessment of Indigent Condition

##### (A) Items with Positive Points

| ITEM  | WEIGHTAGE POINTS  |
|---|---|
| <b>1- Dependents weightage</b>  | <b>Max. 30 points</b>   |
| (a) @ 5 points per dependents   |   |
| (b) @ 5 points per handicap dependent   |   |
| (c) @ 5 points per minor child  |   |
| (d) @ 5 points per unmarried daughter (after 18 yrs. of age)                          |   |
| Sum of total of points for (a) to (d) above shall be subject to maximum of 30 points. |   |
| <b>2- Basic Family Pension</b>  | <b>Points Max. 20 points</b>  |
| (IDA pattern or CDA+50%)  |   |
| Upto 2000   | 20  |
| 2001 to 2250  | 18  |
| 2251 to 2500  | 16  |
| 2501 to 2750  | 14  |
| 2751 to 3000  | 12  |
| 3001 to 3250  | 10  |
| 3251 to 3500  | 08  |
| 3501 to 3750  | 06  |
| 3751 to 4000  | 04  |
| 4001 to 4250  | 02  |
| <b>4250 &amp; above</b>   | <b>Nil</b>  |
| <b>3. Left out service</b>  | <b>Max. 15 points</b>   |
| < 1 year left out service*  | Nil   |
| > 1 year left out service*  | @ 1 point for each year of left out service subject to maximum of 15 points |
| *to be counted w.r.t. date of death/medical invalidation.                             |   |
| <b>4. Applicants weightage</b>  | <b>Max. 15 points</b>   |
| Widow seeking CGA   | 15  |

Others (Son/Daughter/Brother/Sister/Widower) Nil

|   |                 |
|---|-----------------|
| 5. Terminal benefits including<br>DCRG,GPF/EPF, Leave encashment,<br>CGEGIS/GSI LIC policies, ex-gratia<br>payment etc. | Max. 10 points. |
| <1.00 Lac   | 10              |
| <1 Lac to ? 2 Lac   | 09              |
| <2 Lac to ?3 Lac  | 08              |
| <3 Lac to ? 4 Lac   | 07              |
| <4 Lac to ? 5 Lac   | 06              |
| <5 Lac to ? 6 Lac   | 05              |
| <6 Lac to ? 7 Lac   | 04              |
| <7 Lac to ? 8 Lac   | 03              |
| <8 Lac to ? 9 Lac   | 02              |
| <9 Lac to ? 10 Lac  | 01              |
| <10 Lac   | Nil             |

| ITEM  | WEIGHTAGE POINTS |
|---|------------------|
| 6. Accommodation  | Max. 10 points   |
| Family living in rented house<br>And not owning his own house | 10               |
| Family living in own house                                    | Nil              |

(B) Items with Negative points

|   |                |
|---|----------------|
| 7.Monthly income (Expect income from<br>srl 2 &5 above) of earning member(s)<br>including income from property/other<br>sources | Max. 20 points |
| If spouse is an earning member  | Points         |
| Income upto 4000/- p.m.   | 05             |
| 4001 to 6000 p.m.   | 10             |
| 6001 to 8000 p.m.   | 15             |
| 8001 p.m. & above   | 20             |
| If spouse is not an earning member  |                |
| Income upto 4000 p.m.   | Nil            |
| 4001 to 6000 p.m.   | 05             |
| 6001 p.m. & above   | 10             |

|                     |                |
|---------------------|----------------|
| 8. Belated requests | Max. 35 points |
|---------------------|----------------|

(Period to be counted from date of death/medical invalidation till date for application for CGA in prescribed format) Period Points 0 to ? 5 yrs. Nil >5 to ? 6 yrs 05 > 6 to ? 7 yrs 10 > 7 to ? 8 yrs 15 > 8 to ? 9 yrs 20 > 9 to ? 10 yrs 25 > 10 & above 35 NET POINTS = { A(1+2+3+4+5+6)} {b(7+8)} Assessment Criteria I. Cases with 55 or more NET POINTS shall be prima-facie treated as eligible for consideration by Corporate Office High Power Committee for compassionate ground appointment.

II. Cases with NET POINTS below 55 (i.e. 54 or less) shall be treated as non-indigent and rejected.

Annexure-II

Check-list with reference to Weightage Point System (A) Items with positive points Srl. No. Item Details Points\* Remarks

1. Dependents Weightage Nos.

(a) Total no. of dependent(s) .

Out of from (a)

(b) No. of Handicap dependent(s)

(c) No. of Minor dependent(s) .

(d) No. of Unmarried daughter(s) .

(For (b), certificate issued by competent authority be enclosed. For (c) & (d) status to be taken w.r.t. date of CGA application in Proforma Part A

2. Family Pension Amount of basic family pension Rs..(IDA or CDA+50%)

3. Left Out Service Years

Left out service .  
To be counted w.r.t. date of death/medical invalidation

4. Applicants weightage

Widow

Or others

(Tick whichever is applicable)

5. Terminal Benefits

Total terminal Benefits-Rs..

6. Accommodation

Family living in rented house and not owning his own house-

Or

Family living in own house

(Tick whichever is applicable)

Total Points (1+2+3+4+5+6)

(B) Items with negative points

7. Monthly income

Income of spouse Rs

Income of other dependents-Rs..

(Income from any other source may be included. Income salary certificate issued by employer/Tehsildar may be enclosed)

8. Belated Request Belated period, if any-

(To be counted from date of death/medical invalidation till date of CGA application in Proforma Part A Total Points (7+8) \*Points as per weightage Point System. If points for Dependents weightage and left out service come to more than the maximum allotted points w.r.t. weightage point system. The maximum allotted points are to taken for that item, while computing total points.

NET POINTS = {A(1+2+3+4+5+6)} {B(7+8)} =”

(emphasis supplied)

8. The Circle HPC of the respondents’ department in its meeting held on 10.5.2012 evaluated the case of the applicant for awarding weightage points/Net Points in accordance with the aforesaid BSNL Corporate Office circular/letter dated 27.6.2007 and the following weightage points have been awarded in the case of the applicant:-

| Method/criteria for allotment of points. |                       |                            |  |                  |
|--|-----------------------|----------------------------|--|------------------|
| Sl. No.                                  | Item                  | Value/ Information         | Weightage Criteria                               | Weightage Points |
| A  | No. of Dependents     | 05 (01 unmarried daughter) | 05 points/ Dependent+05 point/unmarried daughter | 30               |
| B  | Family Pension        | Rs.32203/                  | Nit point for Family Pension > Rs.4250/-         | Nil              |
| C  | Left out service      | 01 whole years             | 1 point for each year of left out service        | 1                |
| D  | Applicant's weightage | Son                        | Nil point for applicant other than Widow         | Nil              |
| E  | Terminal Benefits     | Rs.33,94,906               | Nil point above 10 Lacs.                         | Nil              |
| F  | Accommodation         | Owned house                | Nil point for family living in own House         | Ni.              |
|  |                       |                            | NET POINTS                                       | 31               |

9. Now this Court has to deal with the contention of the applicant that in respect to sl. No.A (No. of Dependents), the applicant should have been awarded 35 points. As it is manifest from the aforesaid criteria of awarding points that maximum 30 points only to be awarded for this item, which

the respondents have done in the case of the applicant. As such this contention of the applicant is not sustainable and justified. Further with regard to applicant's contention that 2 points should have been awarded for left out service is concerned, the respondents have awarded 1 point for left out service, as the left out service of the deceased father of the applicant was only one year, two months and 20 days only, as the date of superannuation of deceased late Shri Bankey Lal (DOB – 11.01.1951) is 31.1.2011 and date of death of Shri Bankey Lal was 11.11.2009. As such the respondents have rightly awarded only 1 point for left out service because in accordance with the aforesaid scheme/circular for awarding the points, 1 point is to be awarded for each completed year and in the case of the applicant, the deceased father's left out service was only one year, two months and 20 days.

10. Further the applicant's contentions is that no points have been awarded for family pension and terminal benefits. This Court has already quoted above the scheme of allotment of points and also points awarded in the case of the applicant by the Circle HPC and find that respondents have rightly not awarded any points for family pension and terminal benefits because as per the Scheme, Nil point is to be awarded for Family Pension above Rs.4250/- and Nil point is to be awarded for terminal benefits above 10 lacs., as in the case of the applicant, family pension is Rs.32203/- and amount of terminal benefits is Rs.35,94,906/-. Further the contention of



the applicant that pursuant to death of father, late Bankey Lal and with the receipt of aforesaid terminal benefit, including family pension, the mother of the applicant, i.e., widow of late Bankey Lal, came under immense influence of the family members of her Mayaka (i.e. parents) and on account of said influence, the applicant including his brothers and sisters are made completely deprived of the pecuniary benefits including other benefits, which are to accrue to them on account of aforesaid terminal benefit and family pension paid to the mother of the applicant is concerned, the same is not acceptable as the same is misconceived and baseless and not supported by any documentary evidence.

11. It is also relevant to mention here that the policy has been framed in the year 2007 in accordance with the scheme of compassionate appointment of DOP&T dated 9.10.1998. The conjoint reading of para 7 (e) and (f) of the scheme of DOP&T reveals that compassionate appointments are allowed to maximum of 5% of the vacancies available to direct recruitment quota. This was operative prior to death of father of the applicant. In case where number of applicants exceeds to the total number of vacancies, there was no criteria for considering the applications and to shorting-out the more deserving candidates, the system was evolved by respondents vide circular/letter dated 26.7.2007 with intent to have uniformity in assessment of indigent condition of family and

for shorting out the most deserving candidates. The guidelines issued by circular/letter dated 26.7.2007 seems to be strictly in accordance with the Scheme of DOP&T.

12. Further it is well settled proposition of law that compassionate appointments are not in consonance of Articles 14 and 16 of the Constitution of India, but considering the concession extended by the Government for the posts to be filled by way of compassionate appointment to the extent of 5% only of the total vacancies under direct recruitment quota.

13. In ***Commissioner of Public Instructions and others Vs. K.R. Vishwanath***, (2005) 7 SCC 206, the Apex Court, after referring to the decisions rendered in *State of Haryana and Others Vs. Rani Devi and Another*, (1996) 5 SCC 308; *Life Insurance Company of India Vs. Asha Ramchandra Ambekar (Mrs) and Another*, (1994) 2 SCC 718; and, *Umesh Kumar Nagpal v. State of Haryana and others*, (1994) 4 SCC 138, has opined thus:

"9. As was observed in ***State of Haryana v. Rani Devi*** ((1996) 5 SCC 308 : 1996 SCC (L&S) 1162 : AIR 1996 SC 2445), it need not be pointed out that the claim of person concerned for appointment on compassionate ground is based on the premises that he was dependant on the deceased employee. Strictly this claim cannot be upheld on the touchstone of Articles 14 or 16 of the Constitution. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service. That is why it is necessary for the authorities to frame rules, regulations or to issue such administrative orders which

can stand the test of Articles 14 and 16. Appointment on compassionate ground cannot be claimed as a matter of right. Die-in-harness scheme cannot be made applicable to all types of posts irrespective of the nature of service rendered by the deceased employee. In ***Rani Devi*** case ((1996) 5 SCC 308 : 1996 SCC (L&S) 1162 : AIR 1996 Supreme Court 2445) it was held that scheme regarding appointment of compassionate ground if extended to all types of casual or ad hoc employees including those who worked as apprentices cannot be justified on constitutional grounds. In ***LIC of India v. Asha Ramchandra Ambekar (Mrs) and Another***, ((1994) 2 SCC 718 : 1994 SCC (L&S) 737 : (1994) 27 ATC 174) it was pointed out that High Courts and Administrative Tribunals cannot confer benediction impelled by sympathetic considerations to make appointments on compassionate grounds when the regulations framed in respect thereof do not cover and contemplates such appointments. It was noted in ***Umesh Kumar Nagpal v. State of Haryana***, (1994) 4 SCC 138 : 1994 SCC (L&S) 930 : (1994) 27 ATC 537) that as a rule in public service appointment should be made strictly on the basis of open invitation of applications and merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of employee while in service leaving his family without any means of livelihood."

14. In view of the above, for the foregoing reasons, this Court does not find any fault in the action of the respondents rejecting the claim of the applicant on the basis of weightage points awarded in his case by the Circle HPC. Accordingly, the present OA being devoid of merit deserves to be dismissed. Accordingly, the same is dismissed. There shall be no order as to costs.

(Justice Dinesh Gupta)  
Member (J)

/ravi/