

**Central Administrative Tribunal  
Principal Bench**

**OA No. 1558/2016**

New Delhi this the 25<sup>th</sup> day of October, 2018

**Hon'ble Ms. Nita Chowdhury, Member (A)**

Manoj Kumar Shyamlal Yadav,  
S/o late Sh. Shyamlal Yadav,  
R/o Jayshree Mahakali Nagar  
Behind Parimal Hospital,  
Motera Road,  
Sabarmati, Ahmedabad-5  
Gujarat,

At Present:

C/o House No.742-22,  
Shivji Park, Near Rajiv Chowk,  
Gurgaon, Haryana at present  
New Delhi

-Applicant

(None)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)  
Through the Chairman & Managing Director  
Bharat Sanchar Bhawan,  
Janpath, New Delhi
2. Chief General Manager (Telecom),  
Recruitment Section, BSNL,  
Telephone Bhawan,  
CG Road, Navrangpura,  
Ahmedabad-380006
4. Assistant General Manager (Estt.)  
BSNL, Gujrati Telecom Circle,  
Ahmedabad-380006

- Respondents

(By Advocate: Ms. Sunit Ojha)

**O R D E R (ORAL)**

This Original Application (OA) has been filed by the applicant seeking the following reliefs:-

- “(a) For quashing impugned orders being No.CGA/AM/2010/64/7 dated 23.10.2012 passed by the Respondent Nos. 2 & 3; and
- (b) Direct the Respondents for his reconsideration the Application for appointment on Compassionate ground by setting aside the order dated 23.10.2012 passed by the Respondents;
- (c) Pass such other or further orders as may be deemed fit and proper under the circumstances of the case.”

2. On the previous date, i.e. 28.09.2018, the arguments of the learned counsel for the applicant were concluded and the matter has been listed today as part-heard for the remaining arguments of the learned counsel for the respondents.

3. It is the case of the applicant that he has obtained more than 55 points and therefore, as per the policy guidelines regarding compassionate appointments of the BSNL dated 27.06.2007, he was entitled to be appointed on compassionate grounds. It is alleged that despite the fact that the applicant had obtained 68 points, the respondents have issued the impugned order dated 23.10.2012 whereby he was informed that his request for

compassionate appointment has been considered and rejected. Hence the present OA.

4. Learned counsel for the respondents strongly opposed the contention of the applicant that he obtained 68 marks and instead drew attention to calculation sheet annexed as Annexure -II of their reply which clearly states that maximum marks allocated to Dependents Weightage is 30. Thus the High Powered Committee have rightly awarded 58 points as per weightage point system (maximum 30 points awarded under the dependents weightage), whereas the applicant has wrongly calculated his marks as 40 and hence 58 marks have been correctly awarded to him.

5. Further, respondents drew attention to letter dated 07.08.2019 annexed as Annexure-B of the reply wherein the sixteen cases have been sent duly filled up Weightage Point Calculation Sheets and signed by GM (Admn/Mktg.) as per GM (General) Office letter no.AT/AGM(G)/X/08-09 dated 29.12.2008. It is pointed out that the High Powered Committee of BSNL have rightly considered the merit of the each case based upon the inputs provided about the constitution of family and stage of settlement, overall financial conditions of the family and the fact of the

limited number of vacancies for compassionate ground cases and all the decisions have been taken after referring to the criterion laid down for the compassionate appointment.

6. Both the parties are heard and the records perused.

7. It is found that the grant of compassionate appointment is not a source of recruitment but an exception to the normal recruitment rules taking into consideration the effect of the death of the employee while in service on his family. Accordingly, the claim of compassionate appointment in this matter has been fairly considered by the respondents as per the existing policy guidelines. Once the respondents have fairly considered all the applications made for compassionate appointments, it is not open to the Tribunal to question the decision of the respondents, except if they have not followed the rules laid down for compassionate appointment fairly.

8. In the case of **Nanak Chand v. Delhi Jal Board**, 2007(140)DLT 489, the Hon'ble High Court clearly held as under:-

“14. The mandate of the Supreme Court is very clear from the aforesated judgments that it is not for the High Court in exercise of its powers under Article

226 of the Constitution of India to interfere with the decision arrived at by the competent authority while considering the eligibility of an applicant for appointment on compassionate basis and all it can do is to see whether the decision of the competent authority is vitiated. Having scrutinized the cases in hand in the aforesaid background, this Court does not consider it appropriate to interfere with the findings of facts and the conclusion arrived at by the competent authority.”

9. In view of the above, the OA is dismissed being bereft of any merits.

10. However, this Court is well aware that DoPT has issued a consolidated instructions with regard to compassionate appointments vide OM No.14014/02/2012-Estt.(D) dated 16.01.2013. The applicant can, if he so desires, again apply for compassionate appointment as per the instructions of the said OM. No costs.

**(Nita Chowdhury)  
Member (A)**

/1g/