

**Central Administrative Tribunal
Principal Bench**

OA No. 60/2015

New Delhi this the 5th day of October, 2018

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

Swarta Manohar Naik,
W/o late Sh. Manohar Maruti Naik,
Aged about 52 years,
Group – D, Department – BSNL,
Nature of Grievance – Appointment,
R/o House No.208, Gali No.17,
Sabzi Mandi, Karkardoma, Delhi-92 - Applicant

(By Advocate: Ms. Priya Aggarwal for Ms. Rani Chhabra)

Versus

1. Chairman-cum-Managing Director
Bharat Sanchar Nigam Limited (BSNL)
Corporate Office,
Personnel, Section-IV,
5th Floor, Bharat Sanchar Bhawan,
Janpath, New Delhi
2. Assistant General Manager,
Corporate Office,
Personnel, Section-IV,
5th Floor, Bharat Sanchar Bhawan,
Janpath, New Delhi
3. Chief General Manager (Telecom),
Telephone Bhawan,
CG Road, Navrangpura,
Ahmedabad-380006
4. Assistant General Manager (Estt.)
Personnel, Section-IV,
5th Floor, Bharat Sanchar Bhawan,
Janpath, New Delhi - Respondents

(By Advocate: Mr. R.V. Sinha)

O R D E R (ORAL)

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

- “(a) quash the order No.CGA/AM/2010/73/9 dated 08.5.2013 received by the Applicant on 20.6.2013;
- (b) reconsider the applications of the applicant dated 9.12.2013 and 05.11.2014 for compassionate appointment;
- (c) direct the Respondents to appoint the Applicant in the department on compassionate ground; and
- (d) pass such other or further order/s as Your Lordships may deem fit and proper.”

2. It is the case of the applicant she has obtained more than 55 points and therefore, as per the policy guidelines regarding compassionate appointments of the BSNL, she was entitled to be appointed on compassionate grounds. It is alleged that despite the fact that the applicant had obtained 56 points, the respondents have issued the impugned order dated 08.05.2013 whereby she was informed that her request for compassionate appointment has been considered and rejected. Hence the present OA.

3. Learned counsel for the respondents strongly opposed the contention of the applicant and first of all,

drew attention to Para 2.0 (II) of policy guidelines of compassionate appointment of the BSNL (Annexure R-1) which states as follows:-

“(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 POINTS shall be prima-facie treated as eligible for consideration by Corporate Office, Circle 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.”

4. Further he drew attention to paras 4 and 10 of the said policy guidelines of BSNL which read as under:-

“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. The respondents have thus submitted that they have fairly considered the case of the applicant for compassionate appointment as per the aforesaid policy

guidelines of BSNL in their letter No.273-18/2005-Pers.IV dated 27.06.2007 and rejected the same, which was communicated to the applicant vide order dated 08.05.2013. He also drew attention to a matter adjudicated by the Hon'ble High Court of Delhi in the case of **Nanak Chand v. Delhi Jal Board**, 2007(140)DLT 489 in which the Hon'ble High Court clearly held as under:-

“14. The mandate of the Supreme Court is very clear from the aforesaid 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.”

6. After hearing both the parties, 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 policy guidelines dated 27.06.2007. 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. In this instance, this Court does not find any violation of policy guidelines dated 27.06.2007 for compassionate appointment. Accordingly, the OA is dismissed.

7. 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 she so desires, again apply for compassionate appointment as per the instructions of the said OM. No costs.

(Nita Chowdhury)
Member (A)

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