

OA.No.170/00741/2017/CAT/Bangalore Bench

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00741/2017

DATED THIS THE 13th DAY OF JUNE, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Sri.Ganesh Brahmeshappa Murgi

Age: 25 years

S/o Late Sri.Brahmeshappa Murgi

Residing at: No.9/B

A.C.Baligar's Building

Nageshettikop

Hubli:580 023.

....Applicant

(By Advocate Sri P.A.Kulkarni)

Vs.

1. Bharat Sanchar Nigam Limited
by its Chairman and Managing Director
No.102-B, Statesman House
148, Barakhamba Road
New Delhi: 110 001.

2. Circle High Power Committee for Compassionate Ground
Appointment cases
O/o Chief General Manager Telecom
Karnataka Telecom Circle
No.1, Swamy Vivekananda Road
Halasuru, Bengaluru: 560 008.

3. Chief General Manager Telecom
Karnataka Telecom Circle
No.1, Swamy Vivekananda Road
Halasuru, Bengaluru: 560 008.

4. General Manager Telecom
BSNL, Uttara Kannada Telecom District
Karwar: 581 301.

...Respondents

(By Advocate Shri V.N.Holla)

ORDER

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The applicant who is seeking appointment on compassionate ground has filed the present OA seeking the following relief:

- a. Quash the order bearing No:Q.IP/273/45, dated 05.09.2017, Annexure-A6 passed by General Manager Telecom District, BSNL

U.K.Telecom District Karwar Respondent No.4 herein.

- b. Hold that applicant's point assessment under BSNL Corporate Office policy order dated 27.6.2007 Annexure-A1 regarding the weightage point system for assessment of indigent condition, applicant's eligibility is to be decided not out of 100 points but out of 85 points.*

OR IN THE ALTERNATIVE

- c. Hold that **'under item 4 of applicant's weightage'** provided under policy order dated 27.6.2007 Ann-A1, there should be a specification of points in respect of **dependent family members** other than the spouse when the dependent family members of the Government servant decide to seek compassionate appointment to one of the dependent family member other than the spouse in the order of preference provided under original scheme for compassionate appointment dated 9.10.1998 framed by Govt. of India through DOPT (adopted by the BSNL) as the present weightage point system provided in the policy order dated 27.6.2007 makes provision only in respect of the widow seeking CGA.*
- d. Direct the respondents to reconsider the case of the applicant in the light of the relief (b) above and to pass necessary orders in the matter of applicant's compassionate appointment for the purpose of overcoming indigent factor suffered by the dependent family members on account of the invalidate pension condition suffered by the deceased employee the father of the applicant.*

- 2. According to the applicant, following his father taking invalid pension on medical grounds, he approached the authority seeking appointment on compassionate ground and this is third round of litigation in this regard. Initially on rejection of his prayer on 14.10.2015, he approached this Tribunal in OA.No.01/2016 claiming that he is entitled for 71 points under the Weightage Point System introduced by the BSNL vide its order dtd.27.6.2007 whereas he was allowed weightage points of only 46. The said OA was disposed of by the Tribunal vide order dtd.17.6.2016(Annexure-A3) directing the authority to reconsider as the points matrix is being challenged by the applicant based on comparative table given by him and pass appropriate order. Pursuant to that, the authority vide order dtd.12.9.2016 rejected his case which was again challenged in OA.No.957/2016. The said OA was

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disposed of vide order dtd.13.7.2017 with a direction to High Power Committee(HPC) to complete the process of examination of the representation in the context of the livelihood of a person being at stake (Annexure-A5). The High Power Committee again rejected the claim of the applicant holding that the points awarded to the applicant by them is correct. The said communication dtd.5.9.2017 is under challenge in the present OA.

3. According to the applicant, under item 4 of Weightage Point System if the widow of the government servant seeks compassionate appointment 15 weightage points are to be provided. But in the present case, the applicant's mother is unable to make application on medical grounds and the applicant being the son of the deceased is seeking appointment on compassionate ground on behalf of entire family. Therefore, the benefits of these 15 points cannot be denied simply because the widow is not seeking the compassionate appointment. It only mean that when the widow is not applying the points awarded is only against 85 points and not against 100 points. No administrative decision was taken as to why the said points was not available to the applicant if the widowed mother is not in a position to seek employment.
4. The applicant also submits that in accordance with the weightage points against the terminal benefits, the respondents have only taken into consideration the amount paid to the deceased employee but have not taken into account the liabilities left behind by the deceased employee at the time of his death. When the entire terminal benefits received by the family of the deceased employee was not sufficient enough even for clearance of the loan suffered by the family at the time of death of the employee on account of his more than 20 years illness and for its treatment, that should have been taken into consideration by the respondents instead of simply taking the total

amount paid to them mechanically and awarding the weightage points based on that. The applicant further submits that his father had taken invalid pension because of his prolonged illness and subsequently passed away. This has resulted the applicant to seek compassionate appointment to save the entire family from penury condition. Therefore, he prayed for granting the relief as sought for.

5. The respondents in their reply statement submitted that the applicant's father took voluntary retirement from service on medical grounds on 01.10.2011 at the age of 54 years with the left out service of 5 years and 7 months. He passed away on 09.06.2012. The family was given terminal benefits of Rs.8,40,105/- comprising GPF, gratuity and other benefits. They are also getting family pension of Rs.3830/- + DA per month. Subsequent to the documents submitted by the applicant, the officer had visited the house of the applicant for physical verification. The Compassionate Ground Application(CGA) of the applicant had been taken up by the Circle High Power Committee(CHPC) in its meeting held on 29.5.2015 as per existing CGA guidelines and on the basis of Weightage Point System(WPS), the weightage points less than 55 are not considered as family in indigent condition. The High Power Committee considering the weightage points as per the CGA guidelines, has given 46 points to the applicant. Therefore, his case was not recommended. Pursuant to the order of the Tribunal, the applicant's case was again considered in the HPC meeting held between 24.05.2017 and 26.05.2017 in accordance with the revised CGA procedure laid down by BSNL Corporate office vide communication dtd.01.10.2014. After examining the case, the Circle High Power Committee expressed the opinion that weightage points given to the applicant is in order as per BSNL CGA policy and 25 more weightage points as claimed cannot be granted. The

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same was communicated to the applicant. Therefore, the weightage points granted to the applicant holds good and based on that the applicant cannot be considered for appointment on compassionate ground.

6. We have heard the Learned Counsel for both sides. The Learned Counsel for the applicant while highlighting the points mentioned in the OA placed emphasise on the point that giving additional 15 marks for the widow means that in all other cases where the widow is not applying for compassionate appointment, the persons seeking compassionate appointment are evaluated against 85 marks instead of 100 marks. He mentioned that it is a question of indigency of a family. When someone in the family in place of widow applies for compassionate appointment to take care of the family that should not put the family into a disadvantageous position. He also placed emphasise on the point that the outstanding liabilities of the family at the time of death of the employee should also be taken into consideration rather than giving weightage points only based on the amount paid towards terminal benefits.
7. The Learned Counsel for the respondents submitted that 15 weightage points are awarded to the widow since the mother is the most responsible person to look after the family to bring up the children with good education and look after family responsibilities. Moreover, a widow normally crossed the employment age and getting employment in other department or elsewhere is very difficult. On the other hand, the children who are within the age limit, can get employment in other department or elsewhere also. Therefore, giving additional points to the widow cannot be considered as unjustified. On the other issue of terminal benefits, he mentioned that the weightage point system is being introduced to make the process more objective and it would not be appropriate to introduce subjective elements. The outstanding liability of a

family could be for various reasons and not related to illness only and it is a matter of subjective judgment. He further mentioned that in this case the applicant has not come out with specific details of the outstanding liabilities as to whether the same is only for the health reasons. Therefore, the contention of the applicant in this regard cannot be taken into consideration.

8. We have carefully considered the facts of the case and submissions made by either side. The applicant has primarily contested the weightage points awarded to him on three accounts. The first one is regarding marks awarded for left out service while he claims weightage was 7, the respondents have awarded 5 weightage points to him. Considering the details furnished by the respondents, it is clear that the applicant's father at the time of retirement on health grounds had 5 years 7 months left out service. In case the weightage points allowed at the rate of 1 point per one year, maximum he gets 5.7 weightage points and not 7 points as claimed by him.
9. The second point raised by the applicant is not taking into consideration the outstanding liabilities while giving weightage for the terminal benefits received by the family and the third point relates to award of additional 15 points to the widow. It is to be noted that the weightage point system was introduced to bring in more objectivity in assessment of indigent factor rather than a subjective assessment being made earlier. There is no doubt that the weightage system reduces any possibilities of arbitrariness and subjective assessment about the indigency of a family seeking compassionate appointment following the death of the employee or retirement on health ground as has been in this case. As per the weightage system introduced by the BSNL, maximum 10 points are awarded based on the amount of terminal benefits received. The weightage is also given in a grade manner starting with

10 points for terminal benefits of less than 1 lakh and 1 for 9 to 10 lakhs. It is not that if there is some outstanding liability one will get the entire 10 weightage points. It is a fact that in each and every case where terminal benefits are given, there would be some outstanding liabilities for the family on various reasons, may be on account of construction of house, education/marriage of children, expenditure on illness etc. Therefore, it would be a subjective assessment to examine the nature of the liability and whether such liability should be adjusted against the terminal benefits. This may result in more amount of arbitrariness and can be questioned by others. In any case, the applicant has not come out specifically as to what is the outstanding liability exclusively on account of illness that ought to have considered by the respondents against the terminal benefits received by the family. We also note from the details of terminal benefits provided that more than 2 lakhs were available in GPF. Normally a person tend to draw money from GPF for an emergency rather than availing loan at higher rate of interest. Both based on rationale given earlier and the fact that the applicant has not given any details in this regard, we do not consider this point raised by the applicant as relevant and justified.

10. The other issue raised is regarding award if 15 weightage points to a widow.

The scheme of compassionate appointment was primarily introduced to give an immediate support to the family so that in the event of an untimely death of an employee, the family is not left in lurch. In a situation where the widow is compelled to approach the authority seeking appointment on compassionate ground, it would only mean that she had no other option or alternative left to look after the family, needs such as education of minor children and other dependents etc. Moreover as pointed out by the Ld.Counsel for the respondents, when a widow had crossed the age limit, she may get

handicapped to get employment elsewhere on account of age factor. Therefore, when a widow applies for appointment on compassionate ground, she deserves a special dispensation vis-à-vis other members of the family who are employable and can seek job elsewhere also. Therefore, giving additional weightage point to the widow cannot be said as arbitrary or unjustified. We also note that the Postal Department where similar weightage point system has been introduced, 20 additional points are given to the widow over and above 100 points. Whether the additional marks are given within the 100 points or above 100 points, it would not make any difference because basically widow is given 15 points vis-à-vis other persons who applies for compassionate ground appointment. Therefore, we are of the view that awarding of 15 weightage points to a widow by the respondents cannot be considered as unjustified as contended by the applicant.

11. Considering the facts and circumstances of the case as highlighted in preceding paras, we are of the view that the weightage points awarded to the applicant by the respondents does not suffer from any infirmity and the decision of the High Power Committee as communicated vide letter dtd.5.9.2017 to the applicant does not call for any interference. Therefore, we hold that the OA is devoid of any merit and hence the same stands dismissed. No order as to costs.

(P.K.PRADHAN)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicant in OA.No.170/00741/2017

Annexure A1: BSNL policy order dated 27.6.2007 regarding weightage point system for assessment of indigent condition along with DOPT original scheme order dated 9.10.1998

Annexure A2: Comparative table of assessment weightage points as per applicant and as per administration

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Annexure A3: CAT BG order dated 17.6.2016 in OA.1/2016

Annexure A4: Rejection order dated 12.09.2016

Annexure A5: CAT BG order dated 13.3.2017 in OA.957/2016

Annexure A6: Impugned order dated 5.9.2017

Annexure A7: Medical details of the applicant's father

Annexure A8: Medical certificate of applicant's mother
