

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING BILASPUR

Original Application No.203/00094/2017

Jabalpur, this Friday, the 7th day of September, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Tikesh Thakur, Son of Late Manakram Thakur,
Aged about 30 years, Caste-Gond,
resident of Village-Belar,
Tahsil and District-Mahasamund (C.G.)

-Applicant

(By Advocate –**Shri Sanjeev Ku. Verma**)

V e r s u s

1. Bharat Sanchar Nigam Limited,
Through the Chief General Manager,
Khamhardih, Vidhansabha Road,
Raipur (CG)-492007

2. The General Manager, Telecom District,
Raipur, BSNL, Administrative Building,
Fafadih Telephone Exchange Campus,
Fafadih, Raipur (C.G.) 492001

3. The Assistant General Manager,
(HR & Admin.) BSNL,
Administrative Building,
Fafadih, Telephone Exchange Campus,
Fafadih, Raipur (C.G.) 492001

4. Sub-Divisional Officer Telegraph,
BSNL Bagbabra,
District Mahasamund (CG)-493445

-Respondents

(By Advocate –**Shri Sandeep Dubey**)

(Date of reserving the order:-11.07.2018)

O R D E R

By Ramesh Singh Thakur, JM:-

The instant Original Application is being preferred against the impugned order dated 20.11.2015, by which the respondents have rejected the case of the applicant for grant of compassionate appointment. Hence he has filed this Original Application.

2. The applicant has prayed for the following reliefs in this Original Application:-

“8. Relief Sought:

(8.1) That, this Hon'ble Tribunal may kindly be pleased to call for entire records of the case, from the respondents.

(8.2) That, this Hon'ble Tribunal may kindly be pleased to set-aside/quash the impugned order dated 22.11.2015 and further be pleased to direct the respondent authorities to grant compassionate appointment to the applicant, in accordance with law.

(8.3) That, any other relief/orders which may deem fit and just in the facts and circumstances of the case including award of the costs of the application may be given.”

3. The facts of the case in brief are that the father of the applicant was working as Phone Mechanic under the respondents, who died in harness during his service on 27.11.2012 (Annexure A-1). Since the father of the applicant was the only earning member of the family, the applicant applied for compassionate appointment in place of his father. The respondents rejected the same vide impugned order dated 20.11.2015 (Annexure A-9).

4. Learned counsel for the applicant submitted that the application of the applicant was forwarded by respondent No.4 for

appropriate action to Divisional Engineer. A copy of the same is annexed as Annexure A-2. The Collector issued dependency/legal heir certificate in favour of the applicant vide letter dated 05.06.2013 (Annexure A-3). The respondents on the basis of this application directed the applicant vide letter dated 30.07.2014 (Annexure A-4) to submit the Pension Payment Order for further action. Vide letter dated 20.01.2015 (Annexure A-5) the Assistant General Manager directed the applicant to submit the succession certificate for taking further action.

4.1 Learned counsel for the applicant further contended that despite submission of necessary documents the respondents have not considered the claim of the applicant for compassionate appointment, he filed Original Application No. 203/00814/2015 dated 17.09.2015 before this Tribunal and the said O.A. was disposed of with a direction to the respondents to consider the pending claim of the applicant for compassionate appointment within a period of two months from the date of communication of this order. He further submits that the respondents did not put any heed on the said application and vide order dated 20.11.2015 rejected the claim for compassionate appointment on the ground that the name of the applicant is not mentioned in the nomination

paper of deceased employee and he has not obtained the declaration decree from the competent civil court.

5. The main ground for challenge in this Original Application is that inaction on the part of the respondents in not granting compassionate appointment is bad in law, arbitrary and discriminatory.

6. The respondents have filed their reply. In preliminary submissions it is submitted by the respondents that they have considered and decided the O.A. No. 203/00814/2015, by which the claim for compassionate appointment of the applicant was rejected on the ground mentioned in order dated 20.11.2015.

7. Learned counsel for the respondents in their para-wise reply submitted that the father of the applicant did not nominate the applicant during his tenure as nominee in his service record, therefore he is required to produce the succession certificate, but the learned Civil Court dismissed his succession application. He further submitted that the competent authority has taken decision as per policy and service record of the deceased employee and on that ground only rejected the claim of the applicant.

8. We have heard the learned counsel for the parties and carefully perused the pleadings and the documents available on record.

9. From the pleadings it is clear that the father of the applicant had died on 27.11.2012 (Annexure A-1) and the applicant had filed application for compassionate appointment along with the relevant documents on 22.12.2012. As per Annexure A-3 the dependency certificate has been issued by the Collector. As per impugned order dated 20.11.2015 (Annexure A-9) the case of the applicant has been rejected on the ground that the nomination of the applicant is not there in the document and succession certificate has not been produced from the Competent Court. It is pertinent to mention that succession certificate is required to inherit the property of a particular person. Regarding the compassionate appointment the succession certificate has no relevance which is clear from Annexure A-6. The respondents should deal the case of the applicant as per the compassionate appointment policy. So the reasons regarding the procuring of succession certificate is irrelevant. Hence illegal. It is pertinent to mention that the applicant has procured the legal heir certificate from competent authority which is Annexure A-3.

10. So far as requirement of nomination in the service record is concerned, it is also regarding the benefits which accrued to the retired/deceased employee. The concept of compassionate appointment must have been dealt strictly in accordance with the compassionate policy. In the impugned order dated 20.11.2015 (Annexure A-9) we do not find any speaking order while rejecting the case of the applicant in terms of the compassionate policy, which amounts the impugned order as illegal.

11. As per Annexure A-7 dated 17.09.2015 this Tribunal has specifically directed the respondents while deciding the Original Application No. 203/00814/2015, the relevant portion of this order is as under:-

“(5). Considering the ad idem between the parties and the fact that the respondents have not taken a view on the pending claim of the applicant, I am of the considered view that ends of justice would be met if a direction is issued to the respondents to take a view on the pending claim of the applicant in accordance with the policy and law thereupon by passing a reasoned and speaking order.”

But the replying respondents has issued Annexure A-9 dated 20.11.2015 without speaking order in terms of the relevant policy for compassionate appointment, which is itself clear as per Annexure A-9. Regarding the succession certificate and nomination by the father of the deceased is not at all relevant while deciding the compassionate appointment.

12. Resultantly, this Original Application is allowed. Annexure A-9 dated 20.11.2015 is quashed and set aside. The respondents are directed to consider the case of the applicant in terms of compassionate appointment policy within a period of 60 days.

(Ramesh Singh Thakur)

Judicial Member

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(Navin Tandon)

Administrative Member