

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 23.8.2018

ORIGINAL APPLICATION NO. 060/01369/2017

Chandigarh, this the 4th day of September, 2018

...
**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

...
Maninder Paul, son of late Sh. Purshottam Lal, age 34 years, H.
No. 417, Ward No. 10, Ranbir College Road, Sangrur, Group-C.

....APPLICANT

(By Advocate: Shri Kapil Kakkar, Advocate)

VERSUS

1. Union of India through Secretary, Department of Telecommunications, Sanchar Bhawan, Janpath Road, New Delhi-110001.
2. Bharat Sanchar Nigam Ltd., through its Director General, Corporate office, 5th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi.
3. Bharat Sanchar Nigam Ltd., through its Chief General Manager, Punjab Telecom Circle, Sanchar Sadan, Sector 34-A, Chandigarh.
4. General Manager (Telecom), Bharat Sanchar Nigam Ltd., Sangrur.

....RESPONDENTS

(By Advocate: Shri D.R. Sharma)

ORDER

AJANTA DAYALAN, MEMBER (A)

The present Original Application (O.A.) has been filed by applicant Maninder Paul feeling aggrieved against the impugned

order dated 4.3.2016 (Annexure A-8) whereby his claim for grant of compassionate appointment has been rejected by the respondent department. The applicant has prayed for issuance of a direction to the respondents to appoint him on compassionate grounds.

2. The applicant has stated that his father Shri Parshottam Lal who worked as Phone Mechanic with Bharat Sanchar Nigam Ltd. on a permanent post, died on 15.2.2006 living behind his wife, a son and a daughter. None of them was employed and they were financially dependent on him. There was no earning member in the family and there was no source of income. The applicant represented for his appointment on compassionate grounds. His case was considered by Circle High Power Committee, Punjab Circle in its meeting held on 31.12.2007 and was recommended for appointment on Group-D post. The applicant earned 56 points as per this recommendation (Annexure A-2). However, no action was taken for grant of compassionate appointment. Instead the respondents sent his case back for re-evaluation as it was seen that points in the category of family pension were not assessed on the amount of Rs. 3570+DR which was the family pension drawn by the family at the time of application. Moreover, points in the category of left out service also needed to be reassessed as he had left-over service of over 5 years at the time of his death (Annexure A-3). Thereafter, in the meetings of Circle High Power Committee held on 7/8.5.2009 for reviewing the cases of compassionate appointment, the case of applicant was re-evaluated and was not

recommended, his points now being only 47 as against 56 points earlier awarded to him. According to the applicant, he came to know of this fact only in 2011 when he was conveyed the minutes of the Review Committee meeting vide Annexure A-4.

3. Thereafter the applicant alongwith one Balraj Singh whose claim was also rejected challenged the orders by filing O.A. No. 1047/PB/2012 before this Tribunal. The Tribunal vide its order dated 18.4.2013 (Annexure A-6) set aside the original order and directed that the case of the applicant be considered in terms of policy which was prevalent at the time of the death of the government employee i.e. in 2006 and not the policy prevalent at the time of consideration of the case by the Reviewing Committee in 2009. It is pertinent to mention here that the department had a policy governing the compassionate appointment dated 9.10.1998 and subsequently new policy was implemented w.e.f. 23.2.2007. It was held that the latter policy cannot be applied to form the basis for rejection of the applicant's case for compassionate appointment as the date of death of his father was in 2006.

4. The respondents moved an M.A. praying for extension of time for implementing this order which was allowed. However, later the respondents filed R.A. No. 65/2013 on the ground that order passed was in the light of judgment of jurisdictional High Court in the matter of **Krishna Kumari vs. State of Haryana and others** (CWP No. 4303 of 2009) which has been stayed by the Hon'ble Supreme Court vide orders dated 14.3.2013. Subsequently, the

SLP in the matter of Krishna Kumari (supra) was dismissed by Apex Court on 18.2.2015 and accordingly the R.A. filed by the respondents was also dismissed.

5. The applicants thereafter requested the respondents to consider their cases in terms of Tribunal's order, but the claim was rejected vide order dated 4.3.2016 (Annexure A-8) by interalia observing that at the time of death of deceased employee, the family was paid terminal benefits and family pension and Circle High Power Committee did not find the family of the deceased to be living in indigent condition.

6. The applicant again approached before this Tribunal by filing O.A. No. 060/00408/2016 challenging the rejection order jointly with Balraj Singh. This time, however, an objection was raised that the applicant and Balraj Singh have independent cause of action and needed to move separate O.As for their separate cause of action. This view was upheld by this Tribunal vide its order dated 10.3.2017. The present O.A. has been filed by the applicant with respect to his individual cause of action.

7. The applicant has prayed that the order of rejection by the respondent department is illegal, arbitrary and discriminatory and is violative of Article 14 and Article 16 of the Constitution of India and they needed appointment in view of poor financial condition of the family. However, the claim has been rejected keeping in view the terminal benefits and family pension granted to them which has already been set aside by this Tribunal as well as by Hon'ble

Apex Court and High Courts in a number of cases. He has also pleaded that number of candidates have been issued appointment orders though they have been given greater emoluments than those given to the family of the applicant as is clear from the bare reading of the list supplied by the respondents vide Annexure A-12.

8. The respondents, on the other hand, have stated that the case of the applicant was considered initially as per policy of 2007 and was rejected as the family of the applicant was not found in an indigent condition. The applicant has challenged the action of the respondents in not considering his case for appointment on compassionate ground under the scheme which was existing at the time of death of his father, and in terms of this Tribunal order thereon, the case of the applicant was considered afresh in the light of policy dated 9.10.1998 which was existing at the time of death of the government employee in 2006. On such review, a speaking order dated 4.3.2016 (Annexure A-8) was passed rejecting the claim.

9. The respondents have pleaded that the compassionate appointment cannot be claimed as a matter of right. The case of the applicant was examined by the Circle High Power Committee keeping in view policy for such appointments and the family circumstances prevalent in 2006. The Committee came to the conclusion that the family of the deceased was not found to be in indigent condition. Moreover, no one has been given appointment on compassionate grounds whose financial condition is better than

that of the applicant. No discrimination has been caused to the applicant and there is no illegality in the order dated 4.3.2016. The family of the deceased employee with only two dependents (who are both major now) survived for the last about 12 years and is in receipt of family pension of Rs. 9335/- per month.

10. We have heard the contentions of the learned counsels for the opposite parties, have carefully gone through the pleadings and given our thoughtful consideration to the matter.

11. The facts of the case are largely not in dispute. The applicant's father died in 2006 leaving behind wife, one son and one daughter who are both major as of now. The case of the applicant has been considered in terms of policy dated 9.10.1998 which was prevalent at the time of death of the deceased employee. The case has been considered by Circle Selection Committee of the respondent department in its meeting held on 10.2.2016. It is noted in the order that the liabilities on record of the family of the deceased employee, grown up children, constitution of family, overall assessment of the condition of the family and also limited number of vacancies which can be offered to the needy candidates have been kept in mind by the Committee. The Committee did not find the family of the deceased to be living in indigent condition. Some aspects of economic status of family like own house, no major liabilities have also been indicated in the said order. Accordingly the representation of the applicant has been rejected. The department has also made a very categorical statement in its

written statement that no one has been given appointment on compassionate grounds whose financial condition is better than that of the applicant and no discrimination has been caused to the applicant. The reduction in points obtained by the applicant has been mentioned, but has not been challenged in effective manner by linking the points with the instructions governing the same and proving any mismatch.

12. It is obvious that compassionate appointment is not a normal method of recruitment. It is an exception to normal selection process. Appointment to public service is not to be decided by mere descent, but on merits after following due selection process. Hence, compassionate appointment cannot be claimed as a matter of right and is to be made only in circumstances where the family of the deceased government servant is in destitution and to render immediate economic assistance to the family and relieving it from economic distress. In the facts and circumstances of the case, the deceased government servant has beside widow, only one son and one daughter both of whom are now major and it is almost 12 years since his death. These facts are not disputed.

13. In view of fresh orders passed by the respondent department and the fact that the financial condition of the applicant has been assessed by the Circle Selection Committee in the light of policy governing the compassionate appointment prevalent at the time of death of the deceased government employee and also the fact that the Committee did not find the family of the deceased to be living in

indigent condition as well as the categorical statement made by the department that no applicant in better financial condition than the applicant has been offered compassionate appointment by them, we find no plausible reason to interfere with the impugned orders.

14. The O.A. is accordingly dismissed with no order as to costs.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 04.08.2018
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