

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**RA No. 063/00021/2017**  
**In RA 80/2013**  
**In O.A 1097/HP/2012**

**Date of decision- 14.12.2017**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**  
**HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Manish Thakur, S/o Late Sh. Narayan Singh Thakur,  
R/o Village-Bhutti Colny, P.O. Shamshi,  
Tehsil & District-Kullu, Himachal Pradesh.

**...APPLICANT**

**BY ADVOCATE :** Mr. Vivek S. Attri, Advocate.

**VERSUS**

1. Union of India, through Secretary, (Department of Telecommunication), Sanchar Bhawan, Asoka Road, New Delhi.
2. Bharat Sanchar Nigam Limited with its corporate office, Bharat Sanchar Bhawan, Janpath, New Delhi.
3. Chief Managing Director, BSNL with its office at, 5<sup>th</sup> Floor Bharat Sanchar Bhawan, Janpath, New Delhi.
4. Assistant General Manager, BSNL with its office at 5<sup>th</sup> Floor Bharat Sanchar Bhawan, Janpath, New Delhi.
5. Chief General Manager (Telecom), Himachal Pradesh Telecom Circle, Kasumpti, Shimla, H.P.
6. Telecom District Manager, Kullu.

**...RESPONDENTS**

**BY ADVOCATE:** Mr. Rajiv Jiwan, Advocate.

**ORDER**

**SANJEEV KAUSHIK, MEMBER(J):-**

Present RA has been filed under Section 22(3) of the Administrative Tribunals Act, 1985 seeking review of order dated 28.11.2013.

2. We have heard learned counsel for the respective parties at considerable length.

3. Mr. Attri, learned counsel for the review applicant argued that initially O.A was allowed vide order dated 31.05.2013 and a direction was issued to the respondents to reconsider the case of the applicant as per the instructions prevalent at the time of his application with reference to the vacancy available for compassionate appointment at that time. That consideration was to be done within a period of three months from the date of receipt of a certified copy of the order by passing a reasoned and speaking order. He argued that the respondents filed RA 80/2013 in the said O.A and without issuing notice to the present applicant, RA was allowed and order dated 31.05.2013 was modified vide order dated 28.11.2013. Since no notice was issued to the applicant and the respondents have considered his case in terms of modified order dated 28.11.2013 and rejected his case, therefore, order under review be reviewed having been passed at the back of the applicant.

4. Learned counsel for the review applicant also stated that earlier vide order dated 31.05.2013, his case was to be considered as per the instructions prevalent at the time of his application with reference to the vacancy available for compassionate appointment at that time, but the respondents have considered his case as per the instructions applicable when the vacancy became available for compassionate appointment.

5. Mr. Jiwan, learned counsel for the respondents vehemently opposed the prayer of the applicant and argued that by modifying the order dated 31.05.2013, this Court rather enlarged the scope of the applicant's case for considering his case for appointment against the vacancies which are available subsequently. Since, no vacancy was available when the applicant submitted his application and they could turn down his request at that relevant time, but they have considered his case in terms of modified order against the vacancies which were available subsequently, thus, there is no change in the order and spirit of the order remained same to consider the case of the applicant for appointment under compassionate scheme. He, therefore, prayed that RA be dismissed.

6. We have given our thoughtful consideration to the entire matter and we are in agreement with the submissions made at the hands of the respondent-BSNL that present RA deserves to be dismissed. For convenience, paras 5 & 6 of the order dated 31.05.2013 reads as under:-

"5. The applicant had submitted an affidavit of his mother Smt. Ranjana Thakur, who was not willing for appointment on compassionate ground due to her health problems. He had attached affidavit of Neha Thakur, his elder sister as well , for offering appointment in favour of the applicant. Moreover, the applicant had submitted an application in April 2007, which was considered in the light of the circular dated 27.06.2007 of respondent no. 2. The case of the applicant should have been decided as per the instructions prevalent at the time of submission of his application.

6. Therefore, this O.A is allowed. Impugned order No. Q-13/Maneesh Singh Thakur/20 dated at Kullu the 27.08.2010 (Annexure A-7) and No. 268-1301/2008-Pers. IV dated 23.07.2010 (Annexure A-8) are quashed and set aside. The respondents are directed to re-consider the case of the applicant as per the instructions prevalent at the time of his application with reference to the vacancy available for compassionate appointment at that time. The competent authority shall pass a reasoned and speaking order on the claim of applicant within a period of three months from the date a copy of this order is presented in its office."

Relevant para 4 of the order dated 28.11.2013 passed in RA No. 80/2013 also reads as under:-

" 4. The learned counsel for the Review Applicant was heard in detail when he reiterated the grounds taken in the RA. From a reading of the order passed in O.A 1097/HP/2012, it is clear that the respondents were directed to re-consider the case of the applicant as per the instructions prevalent at the time of his application "with reference to the vacancy available for compassionate appointment at that time". In view of the submission of the applicant that there were no vacancies available against which appointment could be made on compassionate grounds at the time when the father of the applicant died in December, 2006 and even later, in April 2007 when the application for appointment on compassionate grounds was filed by the applicant, there appears to be no difficulty in the respondents passing a reasoned and speaking order on the claim of the applicant for appointment on compassionate grounds with reference to the instructions applicable when the vacancies became available for appointment on compassionate grounds."

Earlier order passed in O.A restricted the claim of the applicant for appointment on compassionate ground as per the instructions prevalent at the time of his application with reference to the vacancy available for compassionate appointment "**at that time**". By modifying that order in absence of review applicant, this Court has not diluted his claim rather, he has been given wide chance for appointment under compassionate scheme on the available vacancy for subsequent years also. Therefore, we see no reason to review our order dated 28.11.2013 and accordingly, present RA is dismissed.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**Dated: 14.12.2017**

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