

**Central Administrative Tribunal
Madras Bench**

MA 310/00422/2018 & OA 310/01021/2018

Dated Thursday the 2nd day of August Two Thousand Eighteen

P R E S E N T

**Hon'ble Shri. R.Ramanujam, Member(A)
&
Hon'ble Shri. P. Madhavan, Member (J)**

Ms. Rabekha
D/o. Late Asaithambi
No. 232, H Block
ICF Housing
Viduthalai Gurusamy Nagar
Gandhi Nagar, ICF, Chennai 38.

.. Applicant

By Advocate **M/s. Sarfudeen Ali Ahamed**

Vs.

1. Union of India
Chairman-cum-Managing Director
Bharat Sanchar Nigam Limited
New Delhi.

2. The Chief General Manager
Chennai Telephone District
Bharath Sanchar Nigam Limited
Chennai Telephone
No. 10, Millers Road
Kilpauk, Chennai – 10.

.. Respondents

By Advocate **Mr. S. Gopinath**

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. MA 422/2018 filed for condoning delay of 60 days in re-presenting the OA is allowed.

2. The applicant has filed this OA seeking the following reliefs:-

“To set aside the impugned proceedings of the second respondent dated 28.02.2018 in Proceedings No. ART/CGA/AR/OA/65/2018/5 and seeking for a direction to the respondent to consider the applicant for compassionate appointment.”

3. Learned counsel would submit that the applicant had made a representation for compassionate appointment following the death on 29.12.2000 of her father one Mr. J. Asaithambi who was an employee of the respondents. The applicant had earlier filed OA 65/2018 which was disposed of by this Tribunal by an order dated 22.02.2018 directing the authorities to consider the representation of the applicant dated 08.11.2017 and pass a speaking order in accordance with law. The impugned order dated 28.02.2018 has been passed in compliance thereof rejecting the representation of the applicant for compassionate appointment. Aggrieved by the same the applicant is before us.

4. It is submitted that the applicant's request for compassionate appointment has been rejected only on the ground that the family of the deceased official was able to 'withstand' for the last 17 years and this was adequate proof that the family had some dependable means of subsistence without being offered appointment on

compassionate grounds. Considering this the Circle High Power Committee did not recommend the request of the applicant in terms of the DOPT guidelines as laid down in OM dated 01.10.2014. It is alleged that the respondents never carried out any inquiry regarding the financial condition of the family and rejected her representation merely on a presumption which was wholly untrue as the family continued to live in misery. The applicant's brother and her mother are dependants on the applicant without any independent means of income. It is, therefore, absolutely necessary for the family to be given some support by way of compassionate appointment, it is urged.

5. Mr. S. Gopinathan takes notice for the respondents and submits that the delay in submitting the application for compassionate appointment is alleged to be on account of a civil dispute which culminated in the order of the Hon'ble High Court dated 17.04.2013 passed in terms of the compromise struck between by the parties therein according to which the applicant was entitled to claim compassionate appointment and the terminal benefits were to be paid to all the applicants therein equally. If the applicant would have made an application for compassionate appointment at the right time, the applicant would perhaps have had a claim even if the matter got delayed because of the civil dispute. However, the request for compassionate appointment was made only after the civil dispute was over and, therefore, the respondents were not at fault for the delay that occurred. The respondents were justified in presuming that the applicant and her family were able to manage for the past 17 years and, therefore, there was no reason to grant

compassionate appointment to her as there were more deserving cases requiring immediate support.

6. We have considered the matter. It is not in dispute that the impugned order summarily rejects the claim of the applicant for compassionate appointment on the ground that the family of the deceased official was able to 'withstand' for the last 17 years, normally taken as sufficient evidence that the family had adequate means for subsistence without being granted compassionate appointment. We are unable to see from the order if any inquiry was conducted by the competent authority with regard to the income from various resources of the family and how they have been surviving for the last 17 years. The scheme of compassionate appointment requires such claims to be assessed on the basis of various criteria / parameters so as to make the assessment as objective as possible.

7. According to DOPT instructions, there is no time limit to consider such applications or even a ceiling on the number of times an application could be considered. The only requirement is satisfaction of the competent authority whether the family required support or not and whether the claim could be accommodated within the quota of 5% of vacancies per annum for compassionate appointment. We are accordingly of the view that an order summarily rejecting a claim cannot be sustained. Annexure A11 impugned order dated 28.02.2018 is accordingly set aside. The respondents are directed to conduct a proper inquiry in terms of the laid down procedure for processing cases for compassionate appointment, place it before the Circle High Power Committee and thereafter

proceed according to its decision. This exercise shall be completed within a period of three months from the date of receipt of copy of this order.

8. OA is disposed of with the above directions at the admission stage.

(P. Madhavan)
Member (J)

02.08.2018

(R.Ramanujam)
Member(A)

AS