

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO.1000 OF 2013
Cuttack this the 3rd day of May, 2018

CORAM:
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

R.Lakheswar Rao, aged about 43 years, S/o. late R.Venket Rao of Jeypore, Koraput, presently residing at Dnk Colony, PO/Dist-Koraput

...Applicant

By the Advocate(s)-M/s.Ashok Das
P.Sethy

-VERSUS-

Union of India represented through:

1. The Secretary to Govt. of India, Ministry of Home Affairs and Department of Internal Security, Rehabilitation Division, Jaisalmer House, Mansingh Road, New Delhi.
2. Deputy Secretary, Ministry of Home Affairs, Department of Rehabilitation, 2nd floor, 8-Esplanade Road (East), Calcutta
3. The Director General Telecom, New Delhi-20, Ashoka Road, New Delhi
4. The General Manager, Telecom Circle, Bhubaneswar, Dist-Khurda

...Respondents

By the Advocates (s)-Mr.B.Swain

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant is the son of an employee who used to work as Upper Division Clerk in erstwhile Dandakaranya Project and died on 29.1.1989 due to heart attack. After the death of his father, the applicant submitted a representation dated 10.2.1989 for appointment under Rehabilitation Assistance Scheme. Since no action was taken, he filed O.A. No. 8 of 1995

before this Tribunal, which disposed of the same on 19.05.1995 with the following order:

“...we direct the respondents to consider the applicant’s case as expeditiously as possible and in case by the time his turn comes, his case becomes age barred, the respondents shall relax the age and give him appointment on compassionate ground. With this direction, we dispose of the Original Application”.

2. Against this order of the Tribunal, the respondents preferred Writ Application before the Hon’ble High Court of Orissa in O.J.C.No.2195 of 2002 which was disposed of on 11.07.2005 as follows:

“12. Therefore, the law laid down by the Apex Court is binding on all and hence the petitioners should make a policy for providing compassionate appointment following the law laid down by the Apex Court in this regard.

With the above observations, the writ application is disposed of”.

3. Thereafter, the applicant had again approached the respondents to give him compassionate appointment and without getting any relief has approached this Tribunal praying for the following reliefs:

- i) To direct the opposite parties to appoint the applicant on compassionate ground immediately as per his educational qualification since he is entitled for the same as per the orders of this Hon’ble Court.
- ii) To allow the application with cost.

4. The applicant has based his prayer mainly on the ground that the action of the respondents in not giving him compassionate appointment is in violation of the guidelines issued by the Government of India in the matter and the applicant deserves a compassionate appointment because of the adverse circumstances of his family. The applicant has also filed M.P.No.90/13 praying for a direction to the Secretary to Government, Ministry of Home Affairs (Rehabilitation Division) to consider his case for compassionate appointment since his representation for the same is pending since long.

5. Records show that no reply/counter has been filed by the respondents so far although notices were issued to them. The matter was heard on 5.4.2018. Learned counsels from both the sides presented their arguments. It reveals from the records that at various points of time, the Ministry of Home Affairs had written letters to the Department of Telecom to consider the case of the applicant for compassionate appointment. I also find that the Ministry of Home Affairs under which the Dandakaranya Project was operating had written to the Director General, Department of Telecom , Sanchar Bhawan, New Delhi on 2.3.1998 recommending the case of the applicant and requesting the Department of Telecom to provide him compassionate appointment against a Group-D post. The applicant had followed it up with representations dated 21.04.1998(A/5) dated nil (A/6) and dated 14.11.1998 (A/7)

to various authorities in the Telecom Department praying for compassionate appointment by quoting the letters No.7/6/97 Litg. Dated 2.3.1998 of the Under Secretary ®, Govt. of India, Ministry of Home Affairs, Rehabilitation Division, New Delhi and No. 12/03/98/PMP/2/702438 dated 21.08.98 of the Section Officer, Prime Minister's Office, New Delhi. The applicant had written a letter to the Secretary, Ministry of Home Affairs, Government of India on 21.05.2011 praying for compassionate appointment due to the death of his father and also because he belongs to S.C. category. There is also a letter from the Under Secretary, Government of India, Ministry of Home Affairs dated 17.12.1998 enclosing the letter to the Department of Telecommunication dated 30.11.1998 recommending his case for compassionate appointment. On 16.9.2016, the Assistant General Manager (HR & Admn.) for CGM, BSNL, Odisha Circle, Bhubaneswar wrote a letter to the Under Secretary, Govt. of India, Ministry of Home Affairs, New Delhi which reads as follows:

“Sub: Compassionate Ground Appointment case of Sri R.Lakheswar Rao, S/o. late R.Venkat Rao, Ex-UDC, Defunction Dandakaranya Project, Koraput:

Ref: Your letter No.7/6/97-Litg. Dtd. 07.11.1997

Sir,

Kindly refer to your letter cited above on the subject where in you had requested to consider the compassionate ground appointment case of Sri R.Lakheswar Rao, S/o. late R.Venkat Rao, Ex.UDC, defunct

Dandakaranya Project, Koraput. Now Competent authority of BSNL has approved for considering the CGA case of Sri Rao as per the changed procedure of CGA issued vide letter No.273-18/2013/CGA/P-IV dated 01.10.2014.

As such you are requested to supply the following documents/reports for consideration of the case.

1. Synopsis in Part-B, complete in all respect with recommendation (Proforma enclosed).
2. Family details as per service Book records (Copy of relevant Pages)
3. Family pension as per revised rate (Copy of PPO)
4. Total terminal benefits paid to the family with proof.
5. Date of birth/death of the deceased employee with supporting documents".
6. It was followed by a letter dated 23.11.2016 calling for the records. The applicant on his part has furnished the necessary particulars as called for in letter dated 16.9.2016 directly to the Assistant General Manager (MR & Admn), Office of the CGM, BSNL, Odisha Circle. He has also followed it up with a letter dated 30.12.2017 to the Under Secretary, Govt. of India, Ministry of Home Affairs (Rehabilitation Division), New Delhi for consideration of his case by the BSNL under intimation to the Assistant General Manager (MR & Admn.), O/o. the CGMT, BSNL, Odisha Circle.
7. Taking into account all the above correspondence, it appears that the orders passed by this Tribunal in O.A.No. 8 of

1995 on 19.05.1995 are yet to be implemented by the Ministry of Home Affairs. The order of this Tribunal was also upheld by the Hon'ble High Court of Orissa with the observation that the law laid down by the Apex Court is binding on all and hence the petitioners should make a policy for providing compassionate appointment following the law laid down by the Apex Court in this regard. Although compassionate appointment is to be considered for providing immediate succor to the deceased family, the fact that the applicant's case has never been considered and has been kept pending for more than 20 years, speaks of the ignominious way in which compassionate appointment of the applicant has been treated with disdain and with scant regard to the orders of this Tribunal as well as the Hon'ble High Court of Orissa. A last and final opportunity is being given to the respondents, i.e., Ministry of Home Affairs to take up this matter with the BSNL or any suitable organization and consider the case of the applicant for compassionate appointment in pursuance of the orders of this Tribunal dated 19.5.1995 in O.A.No.8/1995 as upheld by the Hon'ble High Court of Orissa, within a period of eight weeks from the date of receipt of this order.

8. With the aforesaid direction, the O.A. is disposed of with no order as to costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

BKS

