

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O. A. No. 260/119 OF 2016
Cuttack, this the 23rd day of March, 2018

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)

.....

Manoj Kumar Deep, aged about 24 years, S/o. Late Surubabu Deep, Ex-STs under G.M. Telecom District, Sambalpur At-Telenpali(School Pada), PO. Brajaraj Nagar, Dist:- Jharsuguda.

...Applicant

(By the Advocate-M/s. S. Behera, A. Misra, S. Soren)

-VERSUS-

Union of India Represented through

1. Secretary, Ministry of Communication and Information Technology, Department of Telecommunication, 42, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001.
2. The Managing Director, Bharat Sanchar Nigam Limited, Corporate Office, 102-B, Statesman House, New delhi-110001.
3. Chief General Manager, BSNL., B & E Cell, Room No. 325(3rd Floor), Orissa Circle, Bhubaneswar-751001, District-Khurda.
1. General Manager, Telecom Department, B. S. N.L., Sambalpur, At/PO/Dist- Sambalpur.

...Respondents

(By the Advocate- M/s. K. C. Kanungo, D. K. Mallick, Mr. D.K. Beheera)

ORDER

S. K. PATTNAIK, MEMBER (J):

The applicant has filed the O. A. challenging the order dated 09.10.2015 passed by the Respondents No.3 where the case of the applicant for appointment under compassionate ground has been rejected on the ground that the case of the applicant is not fit for compassionate ground appointment. It is submitted that the ground as has been stated in the rejection order is not applicable to the applicant, further more while considering the case for appointment under compassionate ground the terminal benefit and family pension cannot be taken into account which has been deprecated by the Hon'ble Apex Court in Balbir

Kaur case where it has been held that the family benefits scheme cannot in anyway be equated with the benefit of compassionate appointment and further prays for a direction to quash the order of rejection dated 09.10.2015 and to direct the Respondents to reconsider the case of the applicant for appointment under compassionate ground.

2. Background facts of the case is that the father of the applicant Late Surubabu Deep while working as STS in the office of the Respondent No.4 during his course of employment died on 26.12.2008 leaving behind his widow, 2 sons, 2 married daughters, one unmarried daughter and old father and mother. It is further pleaded that as the applicant is the eldest son of his family and has passed +2 Science with PGDCA qualification, he is eligible to be considered for appointment under compassionate ground as after the death of his father, the applicant along with family members are continuing in distress condition due to financial stringency. Due to compelling circumstances, the applicant submitted application for appointment under compassionate ground before the Respondent No.4 in the year 2008 with 'No Objection' from the family members. While the matter stood thus all of a sudden Respondent No.4 vide letter dated 14.09.2012 asked the applicant to submit the NOC from major family members. In obedience to the above letter applicant submitted the required documents. While the matter stood thus and after lapse of three years, Respondent No.3 vide letter dated 09.10.2015 rejected the case of the applicant on the ground that the

case is below the criteria required for compassionate ground appointment and decided the case as not fit for compassionate appointment. It is the further case of the applicant that during six years i.e., from January, 2009 to September, 2015 there were number of vacancies under compassionate ground appointment still the Respondents did not consider the case of the applicant. In spite of vacancies available, Respondent No.4 sat over the matter till October, 2015 and thereafter rejected the case which is illegal, arbitrary and violation of the decision of the Hon'ble Apex Court in catena of decisions. It is further submitted by the applicant that as per DOP&T Guideline in every year Department should give appointment under compassionate ground, but in the instant case, the father of the applicant died in December, 2008, the Respondents ought to have considered the case of the applicant in the year 2009, but the Respondents Nos.3 & 4 slept over the matter from 2009-2015 and in the month of October, 2015 all on a sudden intimated the applicant that the applicant's case has been rejected which is malafide, illegal, arbitrary for that the order of rejection has been passed by the Respondent No.3 & 4 are liable to be quashed.

3. In the counter affidavit filed by the Respondents, it is submitted that the O.A is barred by limitation, and wholly misconceived, misleading, untenable and contrary to the records and as such liable to be dismissed with cost. The Respondents further pleaded that, the request of the applicant for appointment under compassionate ground has been considered by the Circle High Power Committee (in short CHPC) held in July, 2015 in terms of DOP&T guidelines

issued OM. Dated 09.10.1998 read with weightage point system introduced by BSNL vide Corporate office letter dated 27.06.2007 and rejected vide order dated 09.10.2015 as per rules. It is the further submission of the Respondents that the assessment criteria for recommendation of the indigent condition of the family by the Circle High Power Committee in cases with 55 or more net points were treated as prima facie eligible. As per clause 2.0 (II) of circular dated 27.06.2007, cases with net points below 55 are treated as non-indigent and are to be rejected by Circles. In the present case, the applicant scored only 25 points i.e., below 55 points and was rejected by the CHPC. It is further submitted by the Respondents that law is well settled in a catena of decisions pronounced by the Hon'ble Supreme Court, in the case of *State of J & K Vs. Sajad Ahmed Mir* (2006) 5 SCC 766, *State of Gujarat & Ors. Vs. Arvind Kumar Tiwari & ANR* (Civil Appeal No.6468 of 2012 and *State Bank of India Vs. Raj Kumar*, (2010) 11 SCC 661, that appointment under compassionate ground is not a matter of right.

4. It is further submitted by the Respondents that recently, in O.A. No.946/13 (B.K. Prusty Vs. UOI & Ors.) this Tribunal vide its order dated 15.06.2015, while dismissing the O.A., was pleased to uphold the Weightage Point System Guidelines of 2007 introduced by BSNL. Hence the rejection of the request of the applicant for CGA is just and proper without any iota of arbitrariness. The request of the applicant for consideration for appointment could not be acceded to and this decision of the department to arrive at the right

conclusion regarding financial destitution of the family of the deceased employee was rationale, justified and conformed to guidelines and the provisions of law.

5. Heard the Ld. Counsel for both the sides. Perused the record.

6. On going through the impugned order, I do not find any illegality or irregularity calling for interference. Once the applicant secured only 25 points and as the Committee considered 55 points and below as not indigent, no interference is called for. Compassionate appointment is not a right and when the Respondents have not acted arbitrarily or in an unfair way no interference is called for. Hence ordered.

7. The O.A. is dismissed. No costs.

(S. K. PATTNAIK)
MEMBER (J)