

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00181/2017

Jabalpur, this Tuesday, the 06th day of November, 2018

HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Pavan Thakur, aged about 31 years, S/o late Durga Prasad Thakur, R/o – T – Type Colony, Servant Quarters, H. No.233, Netaji Subhash Chandra Bose Medical College, Jabalpur, Jabalpur (M.P.) – 462003.

-Applicant

(By Advocate – Shri Gautam Prasad)

V e r s u s

1. Bharat Sanchar Nigam Limited, (A Government of India Enterprise) through : Chairman-cum-Managing Director, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpad, New Delhi – 110001.
2. Chief General Manager, Bharat Sanchar Nigam Ltd., M.P. Telecom Circle, Circle B.S.N.L, Hoshangabad Road, Bhopal (M.P.) – 462003.
3. General Manager, Telecom District, Jabalpur Old CTO building, Near High Court, Jabalpur (M.P.) – 482001

-Respondents

(By Advocate – Shri Himanshu Shrivastava)

(Date of reserving order : 31.10.2018)

O R D E R

The applicant is aggrieved by order dated 22.02.2016 (Annexure A-8), whereby his case for grant of compassionate appointment has been rejected on the ground that he had

secured 54 merit points only, which is below the benchmark of 55 required for this purpose.

2. He has, therefore, sought for the following reliefs:

“8(i) Summon the entire relevant records from the respondents for its kind perusal.

8.(ii) This Hon’ble Tribunal may be pleased to quash/set aside the impugned communication dated 22.02.2016 (Annexure A/8) and direct the respondents to extend the benefit of compassionate appointment to the applicant on a suitable post.

8.(iii) Any other order or orders that this Hon’ble Tribunal deems fit and proper in the facts and circumstances of the case may kindly be passed.

8.(iv) Award the cost of the instant lis to the applicant.”

3. The case of the applicant is that his father Late Shri Durga Prasad Thakur died in harness on 23.01.2000 while working as Peon under respondent No.3. After the death of deceased, the mother of the applicant was appointed on compassionate ground. She also expired on 04.09.2009 while in service. Thereafter, the applicant submitted his application on 23.06.2010 for providing employment assistance under compassionate ground scheme. Since, no action was taken on his application, the applicant submitted an application on 19.10.2015 under the RTI and had sought for status of his application for compassionate appointment. Vide Annexure

A-4, the applicant was supplied with the information that he had scored 74 merit points under the various attributes.

4. It is the case of the applicant that despite securing 74 merit points, he had not been offered appointment on compassionate ground. The applicant again submitted an application under RTI to which, vide communication dated 19.11.2015 (Annexure A-6), the respondents informed him that process of compassionate ground appointment has been sent for vigilance enquiry and the information sought for can only be provided after conclusion of enquiry. However, vide the impugned order dated 22.02.2016 (Annexure A-8), the respondents have rejected his claim on the ground that he had obtained only 54 merit points and the same was below the benchmark of 55 as per the scheme.

5. It has been submitted by the applicant that the methodology adopted by the respondents in reducing the marks from 74 to 54 is shocking, as there was no change in the pecuniary conditions of the family. It has also been alleged that persons having less than 55 marks, which is the minimum benchmark for being considered for compassionate ground appointment, have been granted appointment. Hence, the action

of the respondents in rejecting the applicant's case is violative of Article 14, 16 and 21 of the Constitution of India and same is liable to be set aside.

6. In their reply, the respondents have submitted that by scoring 55 or more merit points, a person becomes eligible for consideration for appointment on compassionate ground. In the present case, applicant's father was a employee in the respondent department and after his death mother of the applicant was provided appointment on compassionate ground. Since sufficient time has been passed after the death of applicant's mother, therefore, applicant is not entitled for compassionate appointment.

7. The respondents have also stated that the Circle High Power Committee has the power to correct/modify the weightage points allotted to a person. Since the family of the deceased is getting the family pension of Rs.3076/- (Rs.1538/- receiving by each brother), hence the points given under the head 'Basic Family Pension', has been reduced to 10 instead of 20. Further, since the family is not living in rental house, hence 10 marks awarded under the head 'Accommodation' were revised to 0. It has also been submitted that none of the

candidates have been given appointment on compassionate ground who have secured less than 55 weightage points. Thus, in view of the 20 marks reduced by the Circle High Power Committee, the claim of the applicant was considered on the basis of 54 marks instead of 74 and as he could not secure the minimum benchmark of 55 points, his case has been rejected.

8. In his rejoinder, the applicant has reiterated his earlier stand. It has been submitted that neither the applicant nor his brother, were in receipt of any family pension after the death of his mother or at the time of consideration of his case in the year 2011. Further, as stated by the respondents that family of deceased is getting family pension of Rs.3,076/- (Rs.1538/- receiving by each brother), is not understandable as family pension can be received by only one member at a time. Thus, reducing the 10 marks under the head 'Family Pension', is arbitrary and illegal. It has also been submitted that it has been clearly mentioned in Annexure A-4 weightage point system under the head 'Accommodation' that applicant was living in '*Temporary Jhuggi*' at the time of consideration of his case. In-fact, the applicant was living with his maternal aunt at the time of considering of his case in the year 2011. Therefore, reducing

the weightage point from 10 to 0 on the ground that the family is not living in rental house is vague and without any basis.

9. Heard learned counsel for the parties and gone through the pleadings and documents available on record.

10. From the pleadings regarding the death of father of the applicant on 23.01.2000 while working as Peon under the respondent department, there is no dispute. It is also not disputed that after the death of the deceased, the mother of the applicant was appointed on compassionate ground and she also expired on 04.09.2009 while in service. There is also no dispute regarding the application submitted by the applicant on 23.06.2010 for grant of compassionate appointment. It is also admitted that the applicant submitted application on 19.10.2015 under the RTI to which he was replied vide Annexure A-4 that he had scored 74 weightage points. It is undisputed regarding the fact that on another application filed by the applicant under RTI, the respondents vide Annexure A-6 communication dated 19.11.2015 informed him that process of compassionate appointment has been sent for vigilance enquiry and the information sought for can only be provided after conclusion of enquiry.

11. The respondents vide impugned order dated 22.02.2016 (Annexure A-8) had rejected the claim of the applicant on the ground that he had obtained only 54 merit points and the same are below the benchmark of 55 under the scheme. The stand of the respondents is that after meeting of the Circle High Power Committee, which has the power to correct/modify the weightage points allotted to a person, the weightage points of the applicant has been reduced to 54. As per reply, it has been indicated that since the family of the deceased is getting the family pension of Rs.3076/- (Rs.1538/- receiving by each brother), therefore, the 20 marks allotted earlier, were reduced to 10. Secondly, since the family is not living in the rental house so 10 marks awarded under the head 'Accommodation' were revised to zero. Thus, the revised weighage points come to 54 only.

12. The applicant has denied the fact regarding the receipt of any family pension after the death of his mother or at the time of consideration of his case in the year 2011. It is seen that the respondents have not annexed any documents to show that the family pension is being paid to the applicant and his brother. So, the fact of dividing family pension of Rs.3,076/- (Rs.1,538/-

received by each other) is not based on evidence. Thus, the respondents have failed to prove their stand that the applicant is receiving family pension. Moreover, the family pension cannot be paid to two persons. Therefore, the averments regarding the dividing the family pension amongst the brothers including the applicant is not tenable. Hence, reducing the 10 marks under the head 'Family Pension' is arbitrary and illegal.

13. The second reason given by the respondents that the family is not living in rental house and, therefore, the 10 marks earlier awarded under the head 'Accommodation' were revised to zero, is also not based on evidence. As per Annexure A-4 under the column 'Accommodation' 'Temporary Jhuggi' word has been indicated. Even assuming the family was not living in 'Temporary Jhuggi' and were residing elsewhere at the time of consideration of case, as stated in the rejoinder, but the same cannot be a basis for reducing the marks to zero, as admittedly, there is no document to show that the family have their own house. There is only shortfall of one mark for considering the case of the applicant for consideration of his case for grant of compassionate appointment. For the sake of argument, if the 10 marks under the head 'Accommodation' are considered as zero,

even then the applicant is entitled for 64 marks, in view of adding 10 more marks under the head 'Family Pension'.

14. Resultantly, the O.A is allowed. Impugned order dated 22.02.2016 (Annexure A-8) is quashed and set aside. The respondents are directed to reconsider the case of the applicant for appointment on compassionate ground in their next CRC meeting. No costs.

**(Ramesh Singh Thakur)
Judicial Member**

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