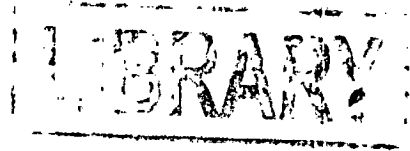


CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/693/2016
MA 350/195/2016

Date of order : 15.2.2018

Present: Hon'ble Ms. Manjula Das, Judicial Member

SUNANDA BOSE
W/o Late Gopal Chandra Bose
GAUTAM BOSE
S/o Late Gopal Chandra Bose,
R/o 1/103 M.M.Ghosh, Amarpally,
PO - Motijhil, PS - Dum Dum,
Calcutta - 700074.

APPLICANTS.

VERSUS

1. Bharat Sanchar Nigam Limited (BSNL)
A Govt. of India Enterprise
Sanchar Bhavan
Harish Chandra Mathur Lane,
New Delhi - 110001.
2. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL)
Sanchar Bhavan
Harish Chandra Mathur Lane,
New Delhi - 110001.
3. The Chief General Manager,
Bharat Sanchar Nigam Limited (BSNL)
West Bengal Circle,
Calcutta Telephones,
8 Bentinck Street,
3rd Floor, Taher Mansion,
Calcutta - 700001.
4. The General Manager/Head Quarters,
Bharat Sanchar Nigam Limited (BSNL)
Calcutta Telephones,
Telephone Bhavan,
Calcutta - 700001.
5. The Assistant General Manager (R&E),
Bharat Sanchar Nigam Limited (BSNL)
Calcutta Telephones,
Telephone Bhavan,
Calcutta - 700001.

RESPONDENTS.

For the applicant : Mr.K.Chakraborty, counsel

For the respondents: Mr.N.Mukhopadhyay, counsel

O R D E R (ORAL)

Per Ms. Manjula Das, Judicial Member


Mr.K.Chakraborty, counsel appears for the applicants and Mr.N.Mukhopadhyay, Id. Counsel appears for the respondents.

2. By making this OA the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) To file and prosecute this application jointly under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987 since both of them have prayed for the same and similar relief arising out of same cause of action;
- b) Do issue mandate upon the respondents, their men and agents and each of them to forthwith consider and dispose of the pending representation of the applicant No.2 dt. 12.8.2015 and on such consideration do offer an employment assistance to the applicant No.2 on compassionate ground in a suitable post commensurate to his educational qualification forthwith;
- c) Pass such other or further order or orders, direction or directions, mandate or mandates as may appear to be fit and proper.

3. The fact of the case in a narrow campus as stated by the Id. Counsel for the applicant is that the husband of the applicant No.1 and father of the applicant No.2 while working as TM/BSNL, Calcutta expired on 5.2.2004. After such premature demise of the deceased employee, the applicant No.1 made an application on 2.5.2004 seeking employment assistance for the applicant No.2 on compassionate ground. After thorough enquiry and investigation the respondent authorities supplied prescribed proforma to the applicant No.1 for the purpose of submitting the same after duly filling up by the applicant No.2. Though the applicants submitted such proforma, nothing transpired. Hence the applicants have approached this Tribunal in the present OA.

4. On the other hand the respondents have stated in their reply that the applicant No.1 made an application on 2.6.2004 and on completion of pre-recruitment formalities and investigation by Welfare Officer it was found that the deceased employee has left behind his widow and two sons. One of the son was found to be working as contract labour at BDN Exchange and employment assistance was sought for another son. The case was placed before the Circle High Power Committee with other deserving cases but after due consideration the committee did not recommend the case of the applicant No.2 and the



decision was communicated to the applicants vide letter dated 26.5.2005. It is further stated by the respondents that the case of the applicants was not recommended because the family was drawing Rs.1538/- as pension per dependent member of the family. According to the respondents the cause of action arose in 2005 when the case of the applicants was rejected and the application has been filed after 11 years. Hence the application is liable to be dismissed for want of sufficient cause for condonation of delay.

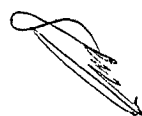
5. I have heard both the Id. Counsels and perused the pleadings and materials placed before me.

6. One condonation petition being MA 95/2016 has been filed by the applicants with a prayer for condonation of delay of about 11 years where the respondents filed their objection vide reply dated 25.1.2017.

7. From the case records it reveals that already there is a delay of about 11 years in filing the present OA. No sufficient ground has been set out in the condonation petition also for condoning the delay in filing the present OA. The scheme for compassionate appointment is to help the family of the deceased employee to tide over the sudden crisis which occurred due to untimely death of the breadwinner, which in the present case, by now is over as assumed from the fact that no one represented the case on behalf of the applicant. The applicant seems to have slept over the matter for long.

8. In **Umesh Kr. Nagpal -vs- State of Haryana [(1994) 4 SCC 138]** it has been held by the Hon'ble Apex Court as hereunder (with supplied emphasis) :

"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency."



The Hon'ble Court also held,

"Compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

The Hon'ble Apex Court in the case of ***Eastern Coalfields Ltd. -vs- Anil Badyakar*** [2009 (3) SLJ 205] has held that compassionate appointment is not a vested right which can be exercised at any time in future.

In the case of ***State of Manipur -vs- Md. Rajaodin*** [2004 (1) SLJ 247] the Hon'ble Apex Court has held that compassionate appointment cannot be claimed or offered after a lapse of time when the crisis is over.

9. In view of the foregoing discussions, I hereby hold that the application is fit to be dismissed and accordingly MA stands dismissed. Consequently OA is dismissed. No order as to costs.

(MANJULA DAS)

JUDICIAL MEMBER

in