

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/553/2016

Date of order : 10.5.2018

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

SUJIT SAHA

S/o Late Sailendra nathy Saha
Brother of late Sushil Kumar Saha
R/o 524 N.S.Road,
Suripara, PO - Chinsurah,
PS - Chinsurah, Hooghly,
Pin - 712101.

...APPLICANT

VERSUS

1. Union of India, through
The Secretary,
Ministry of Telecommunication
& Information Technology,
Sanchar Bhawan
20 Ashoka Road,
New Delhi - 110001.
2. The Assistant Director General,
Bharat Sanchar Nigam Limited,
Govt. of India Enterprise,
34 BBD Bag,
Telephone Bhawan,
3rd Floor,
Kolkata - 700001.
3. The Chief General Manager,
Calcutta Telephone,
Bharat Sanchar Nigam Limited,
Govt. of India Enterprise,
34 BBD Bag,
Telephone Bhawan,
3rd Floor,
Kolkata - 700001.
4. The Asst. General Manager,
R&E, Bharat Sanchar Nigam Limited,
Govt. of India Enterprise,
34 BBD Bag,
Telephone Bhawan,
3rd Floor,
Kolkata - 700001.
5. The Asst. General Manager
(Legal Cell-II) &
Asst. Public Information Officer,
Calcutta Telephone,
34 BBD Bag,
Telephone Bhawan,
3rd Floor,
Kolkata - 700001.

6. The Asst. Director General (Personnel)
 Bharat Sanchar Nigam Limited,
 Govt. of India Enterprise,
 Corporate Office,
 102-B Statesman House,
 New Delhi - 110001.

...RESPONDENTS.

For the applicant : Mr.B.Chatterjee, counsel

For the respondents: Ms. C.Mukherjee, counsel

O R D E R (ORAL)

Per Ms. Manjula Das, Judicial Member

Mr.B.Chatterjee, Id. Counsel appeared on behalf of the applicant and
 Ms.C.Mukherjee, Id. Counsel appeared on behalf of 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) A direction be given upon the respondents and each one of them,
 their men, agents, servants and subordinates to rescind, cancel,
 withdraw and/or forbear from giving effect and/or any further
 effect to the letter dated 21.5.2015 issued by the Assistant General
 manager (R&E), Bharat Sanchar Nigam Limited, Calcutta
 Telephones and to act in accordance with law;
- b) A direction be given upon the respondents and each one of them,
 their men, agents, servants and subordinates to consider the case
 of the applicant for grant of compassionate appointment on the
 basis of scheme which was prevailing on the date of death of
 deceased Sushil Kumar Saha on 28.10.2006 within a time as
 specified by this learned Tribunal and to act in accordance with
 law;
- c) A direction be given upon the respondents and each one of them,
 their men, agents, servants and subordinates to consider the claim
 of the applicant on the basis of scheme for compassionate
 appointment under the Central Government dated 10.2.1999
 within a time as specified by this learned Tribunal and to act in
 accordance with law;
- d) A direction be given upon the respondents and each one of them,
 their men, agents, servants and subordinates to certify and
 transmit all relevant records of this case before this Hon'ble
 Tribunal so that conscionable justice may therein be administered.

3. Heard Id. Counsels for the parties and perused the pleadings and
 materials placed before me.

4. The issue regarding the compassionate appointment in pursuance of the
 scheme dated 9.10.1998 (pg 65) the case of the applicant is that the applicant's

[Handwritten signature]

brother late Sushil Kumar Saha was unmarried and died on 28.10.2006. The applicant immediately made a representation before the authority with a prayer for grant of compassionate appointment. Mr.Chatterjee, Id. Counsel who represented the applicant submitted that the applicant's case was not considered by taking the plea that the committee i.e. DHPC-2013 meeting held on 27.7.2013, considered his case. However, his case was not recommended by the committee as he has scored below the bench mark.

5. The legal point raised by Mr.Chatterjee, Id. Counsel for the applicant is that at the relevant time when the applicant's brother died, subsequent scheme dated 1.10.2014 was not prevailing. Accordingly the applicant's case ought to have been considered as per the scheme of 9.10.1998 prevailing in that period. According to the Id. Counsel for the applicant, the cryptic order made on 21.5.2015 which is impugned herein is not a speaking one. More particularly the decision so arrived by the respondent authorities, infact is not in accordance with law.

6. On the other hand Id. Counsel for the respondents submits that the matter relates to 2006 and compassionate appointment could not be granted after such a long period. Further there was lack of vacancy which his case could not be considered.

7. Mr.Chatterjee, Id. Counsel for the applicant has drawn my attention to the decision of the Apex Court reported in **Canara Bank & Anr. vs. M.Mahesh Kumar [AIR 2015 SC 2411]** where the ratio laid down in the case is warranted for consideration of the present case. Accordingly the Id. Counsel for the applicant prays for remanding back the matter to the department to take a decision afresh in view of the OM dated 9.10.1998 as well as in the light of the decision of Apex Court in Canara Bank (supra).

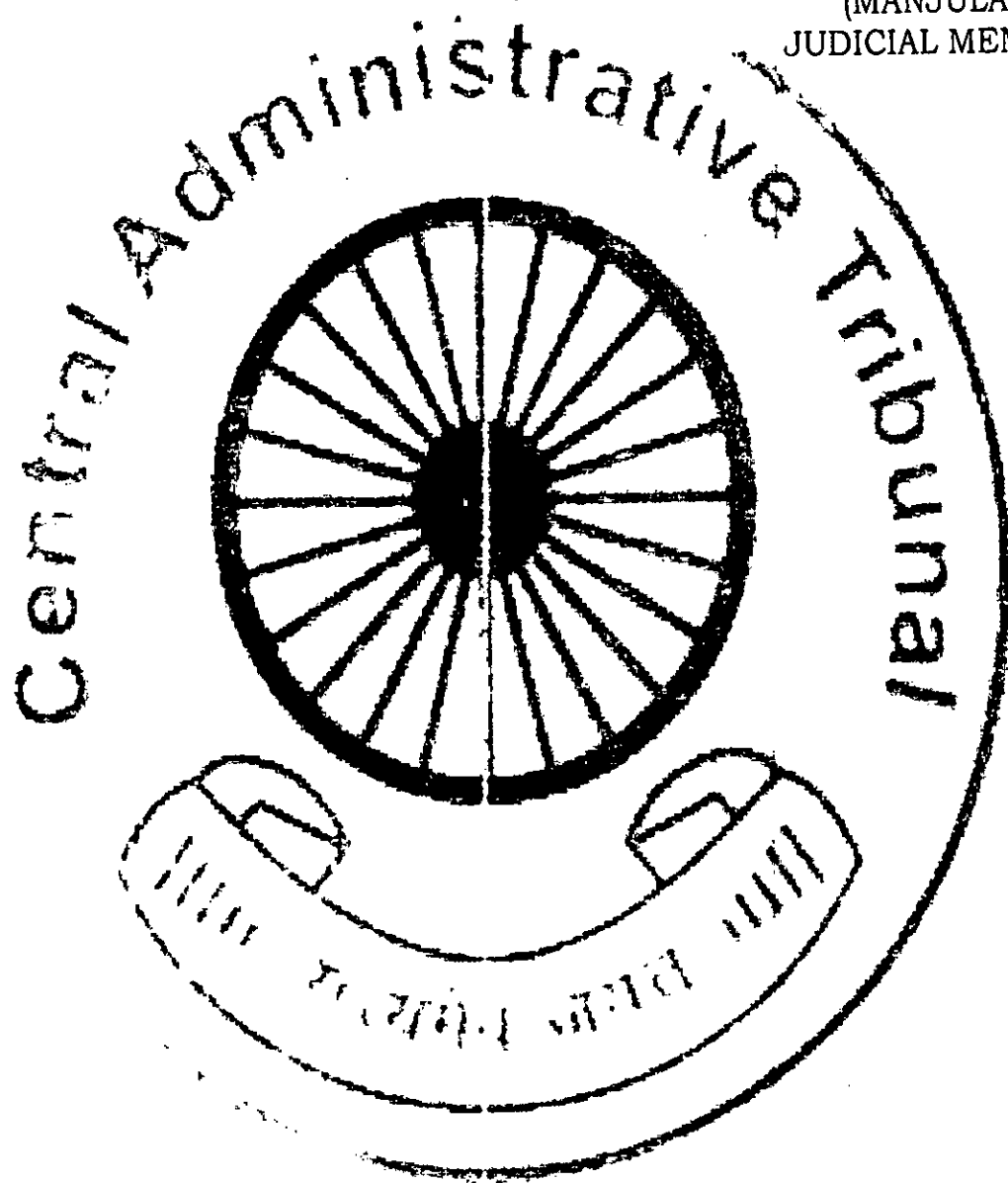
8. After hearing the Id. Counsels for the parties and perusal of records and materials placed before me, I am of the view that let the matter be remanded back to the department to take a decision afresh.

9. Accordingly I direct the applicant to produce this OA to the respondent authorities within a period of 15 days from the date of receipt of the copy of

this order. On receipt of such application the respondent authorities shall dispose of the same by treating this OA as representation and pass a reasoned and speaking order within a period of two months thereafter.

10. With the above observation and direction the OA stands disposed of. No order as to costs.

in



(MANJULA DAS)
JUDICIAL MEMBER