

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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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

Administrative Tribunal
Calcutta Bench

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 conscientious 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

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, ld. 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, ld. 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 ld. 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 ld. 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, ld. 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 ld. 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 ld. 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

