

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW**

Original Application No. 332/00098/2018

Reserved on : 18.05.2018

Pronounced on : 30.05.2018

HON'BLE MR. JUSTICE V.C. GUPTA, MEMBER (J)

Umesh Kumar Tiwari, aged about 31 years, son of late Sarvendra Tiwari, resident of Village Kadanpur, Pure Jogiya, Tehsil Milkipur, District Faizabad.

Applicant

By Advocate: Sri V.R. Chaubey.

Versus

1. Union of India through the Secretary, Telecom & Information Technology, Government of India, Electronics Niketan-6, C.G.O. Complex, New Delhi.
2. General Manager, Bharat Sanchar Nigam Ltd. O/o CGMT(East) Circle, Hazratganj, Lucknow.
3. Assistant General, Bharat Sanchar Nigam Ltd. O/o CGMT(East) Circle, Hazratganj, Lucknow.
4. District Manager, Telecom, District Jaunpur.
5. Divisional Engineer (Administration), Office of Telecom District Manager, Jaunpur.

Respondents.

By Advocate: Sri Rajesh Katiyar-1

Sri J.K. Tiwari for Dr. Neelam Shukla

Delivered By: JUSTICE V.C. GUPTA, MEMBER (J)

Heard the learned counsel for the applicant and learned counsel for the respondents at the admission stage. The reliefs claimed in the OA are as under:

- “(i) To quash the order dated 17.03.2017 passed by opposite party no. 3 and directed to the opposite parties to appoint the applicant on suitable post on compassionate ground.
- (ii) To direct the opposite parties to give compassionate appointment to the applicant under Dying-in-Harness Rules.
- (iii) To direct the opposite parties to consider the case of the applicant for the appointment on compassionate ground on suitable post.
- (iv) Issue such other suitable directions as the Hon’ble Tribunal may deem just and proper in the facts and circumstances of the case.
- (v) Allow the Original Application with cost.”

2. The order which has been assailed in this OA is of dated 17.03.2017 which reads as under:

“Bharat Sanchar Nigam Ltd.
(A Government of India Enterprise)
O/o CGMT UP (East) Circle Hazratganj, Lucknow-226001

सेवा में,

श्रीमती कमला देवी पत्नी स्व० सर्वेन्द्र कुमार
निवासी – ग्राम व पोस्ट– कदनपुर (जोगियापुर)
तहसील– मिल्किपुर, जनपद – फैजाबाद

पत्रांक:– भर्ती/एम–42/40/11

दिनांक 17.03.2017

विषय:– अनुकम्पा के आधार भर्ती नियमों में छूट देकर श्री उमेश कुमार पुत्र स्व. सर्वेन्द्र कुमार भू.पू. टी एम की नियुक्ति का मामला।

कृपया आपके प्रत्यावेदन पत्रांक शून्य दिनांक 06.03.2017 के संबंध में आपको अवगत कराया जाता है, कि आपका मामला दिनांक 10.05.2015 को सम्पन्न हुई CHPC के समक्ष विचार हेतु रखा गया था। उक्त मामले में विभागीय नियमानुसार कुल 51 अंक बने थे, जबकि संस्तुति हेतु 55 या 55 से अधिक अंक होना आवश्यक है अतः आपके मामले में अनुकम्पा का औचित्य न पाये जाने के कारण मामले को निरस्त कर दिया गया था। जिसकी सूचना आपकी संबन्धित ईकाई कार्यालय दूरसंचार जिला प्रबन्धक – जौनपुर को इस कार्यालय के समसंख्यक पत्र दिनांक 16.05.2012 के द्वारा प्रेषित की जा चुकी है (प्रतिलिप संलग्न है)।

उक्त मामले में विभागीय नियमानुसार पुनः विचार करना सम्भव नहीं है। इस प्रकार आपके द्वारा दिये गये प्रतिवेदन का निस्तारण किया जाता है।

ह०

सहायक महाप्रबंधक(भर्ती)

संलग्नक: उपरोक्तानुसार

3. The impugned order has been passed on the representation given by one Kamla Devi, the wife of deceased employee Sarvendra Kumar Tiwari. As per pleadings of the application the order dated 17.03.2017 has been challenged without seeking any relief with regard to an order of cancellation of application on merit vide order dated 10.05.2012 which was communicated on 16.05.2012 to the concern unit. The communication which was allegedly made to the applicant has been annexed with the order dated 17.03.2017 but while annexing the copy of the order no such enclosure has been annexed.
4. In view of the order dated 10.05.2012/16.05.2012, it is evident that the case of the applicant has already been rejected in the meeting of dated 10.05.2012 and the case of the applicant was closed. The same cannot be reopened because the same has been rejected on the merit. No such provision under the rules has been shown that once the case has been rejected the same may be reviewed.
5. It is also interesting that the order assailed was passed on the representation made by the wife of the deceased employee and not on the application of the applicant. The applicant's case was closed in the year 2012 as communicated to the mother of the applicant by impugned order in the year 2017, despite that the order rejecting the claim of the applicant on compassionate ground in the meeting held on 10.05.2012 and communicated on 16.05.2012 was not challenged nor copy of the same has been annexed.
6. It is also worth notice that the mother of the applicant is not petitioner in this case. How the applicant can challenge the order passed on the representation given by mother of the applicant.
7. It appears that to overcome undue delay in preferring the OA,

this practice has been adopted by filing this OA by challenging the order dated 17.03.2017 without challenging the substantial order of the rejecting the claim and that too without moving any application for condonation of delay at the time of presentation of the application.

8. It is not the case of the applicant that he ever requested to recall the order rejecting his claim. It is also not the case of the applicant that his relation with her mother is not cordial. It is also not the case of the applicant that copy of order dated 16.05.2012 was not annexed with impugned order.
9. Hence, in view of the above, Original Application cannot be admitted for hearing and accordingly dismissed at the admission stage.

JNS/

(Justice V. C. Gupta)
Member (J)