

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

OA No. 050/00529/2017

Date of order reserved: 25.04.2018

Date of order:- 02.05.2018

CORAM

Hon'ble Shri Jayesh V. Bhairavia, Member [J]

Amarjeet Kumar son of late Laxman Prasad, resident of Village- Jagirdari Bagahawa, P.O.- Sissi, P.s.-Bhore and District- Gopalganj-841428.

.....Applicant

By Advocate : Shri Abu Haider

Versus

1. Chief General Manager, Tele Communication, Bharat Sanchar Nigam Limited, Bihar Circle, Patna-800001.
2. Deputy General Manager (Admn.) Bharat Sanchar Nigam Limited, Bihar Circle, Patna-800001.
3. Assistant General Manager, (Estt.) C.C.M., Bihar Circle, Patna-800001.
4. General Manager, Tele Communication, Bharat Sanchar Nigam Ltd. Chapra-841301.

.....Respondents

By Advocate: Shri K.P. Narayan

ORDER

Jayesh V. Bhairavia, M [J]:- The applicant is aggrieved by impugned order dated 18.1.2017 whereby his application for compassionate appointment has been rejected by the respondents. He has, therefore, prayed for quashing the said order.

2. The brief fact of the case is that the father of the applicant, late Laxaman Prasad, ex regular mazdoor , working under G.M.T.D, Chapra, BSNL, died in harness on 1.7.2007, leaving behind his widow and three sons, out of which two are minors and the applicant has only attained the age of majority. The applicant had applied for appointment on compassionate grounds in Chapra Telecom District office on 16.6.2011. The said application was considered by the respondents under weightage point

system and after assessing the points, considering all aspects of applicant's indigent condition, it was found that the applicant earned only 51 points, which was less than the cut-off points of 55 and thus vide order dated 11.7.2014, his claim for compassionate appointment was rejected under intimation to the applicant.

3. Aggrieved by the said order, the applicant had approached this Tribunal, vide OA No. 163 of 2015. The said OA was decided on 19.4.2016 and the order dated 11.7.2014 was quashed and set aside and it was further directed to consider the case afresh and pass a reasoned and speaking order. Annexure A/3 series refer.

4. Thereafter, in pursuance of the order dated 19.4.2016 passed in OA 163 of 2015, the respondents considered the case of the applicant afresh in accordance with the policy with respect to appointment on compassionate grounds issued by BSNL/Hq dated 27.6.2007 and after considering all aspects, it was found by the respondents that the applicant had earned only 48 points which is less than the cut-off points of 55. Therefore, the claim of the applicant was rejected vide impugned order dated 18.1.2017. aggrieved by the said order, the applicant has preferred this OA and submitted as under:-

(i) The learned counsel for the applicant submitted that the respondents have erroneously considered the case of the applicant and not assigned proper points to the applicant. The respondents have not followed the policy / guidelines dated 27.6.2007 for assessing the eligibility of the applicant.

(ii) Though the applicant and his family members does not possess their own house and still they are residing in a rented accommodation, the respondents had erroneously not considered the said fact and no point was allotted under the head of accommodation.

(iii) It is further submitted that this Tribunal in its earlier order recorded its findings that existence of ancestral property does not automatically imply ownership until the same actually devolves upon the person by virtue of passage of time and actual inheritance. The respondents themselves acknowledge that the family of the deceased employee, including the applicant are actually residing in a rented accommodation and therefore, this Tribunal had held that there was a mistake in assignment of weight age points during the consideration of the case, and additional 10 points should have been assigned to the applicant against " accommodation head". However, though presently also, the applicant and his family are residing in a rented accommodation, no points have been under the said head, thereby again the respondents had committed a mistake in deciding the case of the applicant by awarding a nil point under the head of accommodation, if the respondents had correctly assessed and assigned the status of accommodation of the applicant, the applicant would have earned 10 points more for the said head and his total earned points would have come to 68 instead of 58 points.

(iv) The learned counsel for the applicant submitted that the applicant has been assigned a total 58 points. However, under head of negative points, the respondents had deducted 10 points on the ground of applicant's earning and finally allotted only 48 points. The said assessment of the respondents is also erroneous as the applicant is unemployed and does not have any income. The respondents have erroneously come to the conclusion that the applicant had an earning of Rs. 6000/- per month, that too without any evidence. Therefore, the deduction of 10 points under clause of negative points is without any substance and arbitrarily reduced the points of weight age system, thereby deducted 10 points out of 58 and finally allotted only 48 points which is less than the requirement of cut-off points.

5. In contra, the respondents had filed their written statement and denied the claims of the applicant. The learned counsel for the respondents submitted that the respondents had considered the case of the applicant

afresh in the light of the direction of this Tribunal issued in OA 163 of 2015 and also in accordance with existing policy for appointment on compassionate grounds. After considering the application, the respondents have passed the speaking order dated 18.1.2017 in which they have dealt with all the aspects of the case of the applicant, including the weight age points as well as the financial conditions of the family of the deceased employee.

6. The respondents have further submitted that they have considered the case of the applicant afresh on the basis of the latest report of the Welfare Officer, according to which the family of the applicant are residing in their own house. The Circle Officer, Bhore, in its report dated 14.10.2016 did not confirm that the family of the applicant has no house but only certified that Smt. Pati Devi, widow of the deceased employee comes under the class of landless and has not stated that she is residing in a rented premises. The applicant or any of his family members has not submitted any proof of rental premises / accommodation. Therefore, the claim of the applicant for awarding 10 points under the head of accommodation does not survive. Moreover, it is further submitted that the applicant is working in Saudi Arabia and earning Rs. 92064/- per month as on September, 2016. Thus, as per circular dated 27.6.2007, if income of the applicant is above Rs. 6001/- , 10 negative point is required to be given for seeking compassionate appointment. Accordingly, the respondents have rightly deducted 10 points from total earned points 58 by the applicant. It is also submitted that the respondents have rightly not allotted 10 points under the head of accommodation. The Committee had awarded 12 points under the head of family pension as per the weight age policy and there is no infirmities in awarding the points under this head also. The competent authority has assessed the overall case of the applicant and has further found that the committee did not consider the family to be living in penury /

indigent condition, and has, thus, recommended for rejection of the request under the provision of the scheme. Hence the speaking order is just and proper and based on substantive investigation done by the Welfare Officer of the department.

7. The applicant has filed rejoinder the reiterated his submission. The applicant has denied the submissions of the respondents and has stated that he has never been engaged in any employment and he is still unemployed and living with the family along with widow mother. Therefore, the deduction of 10 points under the negative point system under the head of Income is totally arbitrary and also contrary to the earlier order passed by this Tribunal.

8. Heard the parties and perused the record.

9. This is a second round of litigation. It is seen that in compliance of the earlier order passed by this Tribunal in OA 163 of 2015, the respondents have considered the overall case of the applicant afresh and they have conducted a thorough inquiry / investigation regarding the income, accommodation and indigent condition of the family of the deceased employee. The competent authority did not find the case of the applicant fit for recommendation for compassionate appointment and vide speaking order dated 18.1.2017, they have rejected the claims of the applicant.

10. According to the respondents, since its inception, the BSNL follows the compassionate ground appointment policy based on GOI instructions issued by DOPT vide OM dated 9.10.1998, as per which *the main objective of the policy is "to grant appointment on compassionate grounds to a dependent family members of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve family of the*

government servant concerned from financial destitution and to help it to get over the emergency". To bring uniformity in assessment of indigent condition of the family for offering compassionate appointment under the overall policy guidelines, the BSNL Board had introduced weight age point system vide letter dated 27.6.2007. According to it, the applicant scoring equal to or more than 55 points are prima facie treated as eligible for consideration by High Powered committee of BSNL corporate office for appointment on compassionate grounds. It is seen that the case of the applicant was considered accordingly by the respondents subsequent to the direction given by this Tribunal in its earlier order. It is further seen that the applicant has scored only 48 points as per the break up of the points as given below:-

1	2
Item	Points
(i) Dependent weight age	25
(ii) Family pension	12
(iii) Left out service	15
(iv) Applicant's weight age	Nil
(v) Terminal benefits	06
(vi) Accommodation	Nil
Total	58
<u>Negative Points</u>	
Applicant earning more than 6000/- per month	-10
Net Points scored	48

11. The above statement indicates that the applicant had earned net points only 48 as against 55 cut-off points. Hence, his case was not recommended for appointment on compassionate grounds. The said decision of the respondents is based on objective assessment. It is found that Welfare Inspector had visited the residence of the applicant and found the family of the applicant has been residing in their own house which is provided by the brother of late Laxaman Prasad and the family of brother of late Laxman Prasad are residing in village. The mother of the applicant had applied for electricity connection for which she had provided papers of her own land. It is also stated by the mother of the applicant that the applicant is residing at Saudi Arabia for more than a year. During inquiry, it was

established that the applicant's earning in Saudi Arabia is Rs. 92064/- as on September, 2016 which is above Rs. 72000/- a year (Rs. 6000 per month). So, it will be wrong for the applicant to state that he has been never engaged in any employment. In fact, the applicant was residing at Saudi Arabia. The competent authority has found that the family of the deceased employee is not living in penury or indigent condition. Not only that, the applicant has failed to score the requisite points to be eligible for appointment on compassionate grounds. The applicant has also failed to prove that the family are residing in a rental accommodation. There is no material on record to show that the accommodation in which the family of the applicant is living is on rental basis. In this regard, during the inquiry conducted by Welfare Inspector, it was found that the applicant's family are residing in their own house and based on these details, the case of the applicant was considered and no points were allotted under the head of accommodation. The respondents had considered the claim of the applicant by following the provisions of the existing policy/guidelines for appointment on compassionate grounds. I find that there is no infirmities in the speaking order dated 18.1.2017.

12. In view of what is discussed hereinabove, I find that the impugned order dated 18.1.2017 does not call for any interference. The OA, being devoid of merit, is accordingly dismissed. No order as to costs.

(Jayesh V. Bhairavia) M [J]

/cbs/

