

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

OA/020/909/2017 & MA 675/2018

**Reserved on: 02.04.2019
Order pronounced on: 05.04.2019**

Between:

1. Doddi Ramanamma,
W/o. Late D. Siva ram Chandra Rao,
Aged about 50, Occ: Nil,
R/o. H.No.44-37-13, Srinivasa Nagar,
Akkayyapalem, Visakhapatnam – 16.
2. Doddi Venkatesh,
W/o. Late D. Siva Ram Chandra Rao,
Aged about 27 years, Occ: Nil,
R/o. H.No.44-37-13, Srinivasa Nagar,
Akkayyapalem, Visakhapatnam – 16.

... Applicants

And

1. Bharat Sanchar Nigam Limited rep. by its
Chief General Manager (Personnel-IV) Section,
5th floor, Bharat Sanchar Bhavan,
Janpath, New Delhi.
2. Bharat Sanchar Nigam Limited rep. by its
Chief General Manager (Telecom),
Andhra Pradesh Telecom Circle,
Hyderabad.
3. Bharat Sanchar Nigam Limited rep. by its
Deputy General Manager (MTCE),
Southern Telecom Sub Region,
Mycerwave Building,
M.G. Road, Vijayawada – 520 010.
4. Bharat Sanchr Nigam Limited rep. by its
Senior General Manager,
Telecom District, Visakhapatnam – 530 020.
5. Bharat Sanchar Nigam Limited rep. by its
Managing Director, New Delhi.

... Respondents

Counsel for the Applicants ... Mrs. Akella Padma

Counsel for the Respondents ... Mrs. A.P. Lakshmi, SC for BSNL

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

The O.A. has been filed for not providing compassionate appointment to the applicant.

2. Applicant's father, while working in the respondent organization as Telecom Mechanic, passed away on 13.11.2005, leaving behind his wife, daughter and the applicant. On account of the sudden death of the employee, the family had to go through a lot of financial problems. In particular, they had to pay the dues raised by the deceased employee. Even the respondents are also fully aware of the fact as they have deducted some part of the terminal benefits for adjusting the loan taken from the BSNL Co-operative Society. On the demise of the applicant's father, an application was made by the applicant for compassionate recruitment on 14.7.2008 informing that they are living in a rented house and in indigent circumstances. The request was rejected on 1.2.2011. The applicant questioned the decision of the respondents by filing Writ Petition No.1726/2011 wherein the Hon'ble High Court of Andhra Pradesh directed the respondents to issue a detailed order on 22.6.2011. In response, the respondents rejected the request of the applicant once again by issuing proceedings on 18.8.2011. Thereafter, the applicant pursued by filing O.A. No.1098/2011 before this Tribunal. The Tribunal passed a detailed order on 17.9.2011 directing the respondents to re-consider the case. The respondents did not act on the order of the Tribunal and, therefore, a Contempt Petition No.48/2013 was filed in O.A. No.1098/2011. Thereafter, on hearing both the sides, the Contempt Petition was closed and the applicant was made to make afresh application. On making a fresh application, once again it was rejected. Aggrieved

over the rejection, the applicant filed O.A. No.1084/2013 before the Tribunal. The O.A. was allowed on 16.6.2014 observing that the applicant has secured more than 55 net points and, therefore, the case needs to be re-considered. As nothing happened, the applicant filed another O.A. No.533/2015 on 28.5.2015. On hearing both the sides, the Tribunal allowed the O.A. on 10.11.2016. The respondents, complying with the order of the Tribunal, have examined the case and rejected the request of the applicant for compassionate recruitment. Against the said rejection, the present O.A. is filed.

3. Respondents, through reply statement, informed that respondent organization has devised the system of allotting points to consider cases of compassionate recruitment. As per the revised system, an application is forwarded to High Power Committee for consideration, indicating the weightage points secured by the candidates. Those candidates, who got more than 55 points, will be considered to be in indigent condition and candidates who got less points will be treated as not to be in indigent circumstances. This is the norm the respondents are following in clearing cases for compassionate appointment. Besides, the compassionate appointments are restricted to 5% of Direct Recruitment vacancies available. In case of the applicant, he got 55 points and his case was forwarded to the High Power Committee, which rejected his case on 1.2.2011. Thereafter, when challenged in Writ Petition No.16268/2011, it was re-considered as per the directions of the Hon'ble High Court and was rejected. The same approach of considering and rejecting was continued when this Tribunal allowed OAs 1098/2011, 1084/2014 & 533/2015. However, in OA No.533/2015, respondents were directed to indicate the points secured by the applicant vis-à-vis those candidates who were approved by the High Power Committee. Respondents accordingly complied with the order by issuing a revised order dated 7.12.2016.

Challenging the said order, the present O.A. is filed. The respondents have also cited the Hon'ble Supreme Court judgement in Life Insurance Corporation of India v Mrs. Asha Ramchandra Ambedkar & Others (JT 1994 (2) SC 183) wherein it was held that High Courts and Tribunals cannot give direction for appointment of a person on compassionate grounds but can merely direct for consideration of the claim of such an appointment.

4. Heard both the counsel and perused the documents plus the material papers submitted.

5. MA/675/2018 filed for impleading the Managing Director, BSNL as Respondent No.5 is allowed.

6. Primarily, the objective of compassionate appointment is to provide succour to the family members of the deceased employee so that the family can get over the vacuum created because of the death of the bread winner. In the process, there are certain rules and regulations to be followed. Respondents have evolved a system of weightage points in assessing the indigent circumstances in which the family of the deceased employee is placed. The respondents claimed that the applicant's case could not be considered based on relevant merit of the candidates who were considered for compassionate appointment along with his case. Besides, there is a limitation of 5% of Direct Recruitment vacancies to issue orders of compassionate appointment. As can be seen from the records of the case, the applicant has filed quite a number of OAs seeking compassionate appointment. The facts of the case also reveal that the applicant's father died, leaving huge debts. The respondents are aware of this fact since they have adjusted BSNL Cooperative Credit Society debt raised by the deceased employee from the terminal benefits. The applicant is staying in a rented house with his family and he is not having any income to depend upon. Therefore, being in difficult circumstances, he has been approaching

this Tribunal for relief on compassionate basis. There is no provision to show sympathy and grant compassionate appointment because it injures Article 14 of the Constitution of India. However, Hon'ble Supreme Court has observed that in cases of compassionate appointment, respondents have to necessarily examine the penurious state of the applicant.

7. As per their system of evaluating indigency, they have adopted the approach of weightage points. The respondents have filed the weightage points in considering the case of the applicant vis-à-vis other candidates vide letter dated 15.12.2018. As per annexure appended to the impugned order dated 7.12.2016, it is seen that in respect of candidates namely Smt. U. Tulasamma, H. Annapurna, K. Prabhavathi & Smt. Suseela, the respondents have given more points than they are eligible in regard to number of dependents whereas in case of the applicant, they have given less points than the number of dependents available. When directed to produce the original records, the respondents produced the same and explained the reasons for discrepancy by stating that the additional points have been given since there were minor children in case of other candidates whose cases have been approved but not indicated in the annexure to the impugned order. Being a model employer, it is expected of the respondent organization to provide genuine and correct information to the Tribunal. Only on verification of the records, this has come to the notice of the Tribunal; otherwise, the case would have been dismissed based on the *prima facie* information given by the respondents. It is sad to note and record the same. It is also not explained as to why the points have been reduced in respect of the applicant. As the case has a chequered history over the years where the respondents have been consistently rejecting the request of the applicant, it gives an impression that the respondents are not well disposed towards the case of the applicant. This is evident from the wrong assessment of the merit

points vis-à-vis other candidates who have been considered. If the genuine points were to be allotted, learned counsel for the applicant informed that even the applicant would score required points to be considered for compassionate appointment. This is a very rare case where the Tribunal found that the respondents have awarded higher merit points to competing candidates than what they are eligible and thereafter tried to explain the difference when questioned by this Tribunal. Hence, it is a case where the Managing Director, BSNL needs to take a closer look and see that the applicant's case is genuinely assessed and that there is no other intention in rejecting his case.

8. In view of the facts stated above, it would be fair for the respondents to depute a responsible officer to meet the family of the applicant and make a first hand assessment as to whether the applicant's family is in indigent circumstances and as to whether a proper report has been submitted to the High Power Committee. Besides, it is essential that the points are accurately allotted and should not be prone to correction on one ground or the other. By doing so, it does not create confidence in the system developed by the respondents. Though the Tribunal would not like to make such a comment but having perused the records, we are forced to state so.

9. In the given circumstances, to uphold justice, the respondents are directed to re-consider the case of the applicant by properly assessing the indigent circumstances of the applicant and allotting marks as envisaged in the rules of the respondent organization. Since the case is being protracted because of filing of number of O.As, it would be appropriate for the Managing Director, BSNL i.e. the 5th respondent, to personally scrutinize the case before it is either accepted or rejected. This Tribunal expects the respondents, being instrumentalities of the State, to be fair and just in processing the case of the applicant. There can be no

two views on the aspect that the Tribunal cannot direct the respondents to provide compassionate appointment but we are sure that the respondents are aware that the applicant has a right to be considered. This right to be denied, would be unfair, to say the least.

10. Keeping the above in view, the OA is disposed of, directing the respondents to consider the case of the applicant in the next High Power Committee, as per the rules and regulations of the respondent organization. The time permitted to implement the order is three months from the date of receipt of the order. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

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