

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00761/2017

Jabalpur, this Thursday, the 25th day of April, 2019

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Smt. Krishna Vishwakarma
 W/o Late Rajendra Prasad Vishwakarma
 Aged about 57 years, Occupation House Wife
 R/o Bajrang Nagar, Sharda Colony,
 Near Kali Mandir Karmaita
 Jabalpur M.P. 482002 Mobile 8878604702

2. Arvind Vishwakarma,
 S/o Rajendra Prasad Vishwakarma
 Aged about 36, R/o Bajrang
 Near Sharda Colony,
 Near Kali Mandir Karmaita
 Jabalpur M.P. PIN Code 482002

-Applicants

(By Advocate –**Shri Vijay Tripathi**)

V e r s u s

1. Union of India, Through the Secretary,
 in the Department of Telecommunication
 Sanchar Bhawan, New Delhi 110001

2. Bharat Sanchar Nigam Limited,
 Through Chairman and Managing Director
 Bharat Sanchar Bhavan
 Harish Chand Mathur Lane
 Janpath New Delhi 110001

3. Chief General Manager,
 Telecom Factory,
 Jabalpur M.P. 482001

-Respondents

(By Advocate –**Ms. Neha Bhatia**)

O R D E R (Oral)

The applicants have filed this Original Application against the order dated 22.02.2017 (Annexure A-1) passed by the respondents whereby the claim of the applicant No.2 has been declined for compassionate appointment on the ground that he has secured only 54 marks whereas the benchmark was minimum 55 marks.

2. The applicant has sought for the following reliefs:-

“8.1 Summon the entire relevant record from the possession of respondents for its kind perusal;

8.2 Set aside the order dated 22.02.2017 Annexure A/1.

8.3 Direct the respondents to reconsider the case of the applicant No.2 for compassionate appointment if he is found suitable they may be directed to the applicant No.2 on suitable post.

8.4 Any other order/orders, direction/directions may also be passed.

8.5 Award cost of the litigation to the applicant.”

3. The brief facts of the case are that the husband of applicant No.1 Late Rajendra Prasad Vishwakarma was

working under the respondent on the post of Machine Operator (Welder) cum Sheeter in Group 'C' post in T.M.P. Richhai Jabalpur died on 08.05.2002 leaving behind his wife, one daughter and two sons who were total dependents on the applicant. The applicant No.1 submitted an application for grant of compassionate appointment to his son on 13.09.2002. The respondents have rejected the claim of applicant No.2 stated that he has secured 24 marks out of 100 vide order dated 25.02.2004 (Annexure A/2). The applicant preferred filing of Original Application No.28/2005 before this Tribunal which was dismissed for want of jurisdiction. Thereafter the applicants preferred a Writ Petition (S) No.1248/2005 before the Hon'ble High Court of Madhya Pradesh which was dismissed on 02.09.2011 with liberty to the applicants to take recourse to the remedy available by filing petition before this Tribunal. Thereafter the applicant filed Original Application No.1014/2012 before this Tribunal which was partly allowed vide order dated 03.07.2015. In compliance

of order passed by this Tribunal, the respondents have considered and rejected the case of applicant No.2 vide order dated 22.02.2017 (Annexure A/1) stating that he has secured only 54 marks whereas minimum cut off marks is 55.

4. The main ground put forth by the learned counsel for the applicant is that the respondent-department has not disclosed the break up point to the total marks obtained by the applicant. Secondly there is violation of the instructions issued from the Government from time to time in respect of compassionate appointment to provide financial assistant to the family of the deceased employee. Thirdly, the case of the applicant is liable to be awarded 56 marks and apparently awarding 54 marks as contemplated by the respondents is totally discriminatory and arbitrary. Moreover, the respondents have not disclosed that how many marks the last selected candidate got.

5. The respondent No.3 has filed reply. It has been submitted in the preliminary submissions that the respondents were directed to reconsider the case of the applicant as per the prevalent policy, in the next High Power Committee meeting whenever it is first held after the date of said order. In compliance of the said order, the case of the applicant No.2 was reconsidered for compassionate appointment and an inspection team visited the residence of the applicant on 08.03.2016 and submitted report for processing the case. The case of the applicant No.2 was processes as per weightage point system in the light of guideline issued by respondent No.2. Subsequently the case of the applicant No.2 was evaluated as per the criteria prescribed for weightage point system in which he scored 54 points. So the High Power Committee has examined and evaluated the case of applicant No.2 less than 55, therefore the case of the applicant No.2 was rejected and was accordingly intimated to him vide order dated 22.02.2017 (Annexure A-1).

6. I have heard the learned counsel for both the parties and have also gone through the documents attached with the O.A.

7. From the pleadings it is clear that the applicants had applied for appointment on compassionate ground after the death of his father and it is also clear from the pleadings that vide order dated 03.07.2015 (Annexure A/4) this Tribunal has directed the following order:-

“8. In view of the aforesaid the impugned order dated 25.02.2004 is quashed. The respondents are directed to reconsider the case of the applicant, as per the prevalent policy, in the next High Power Committee meeting, whenever it is first held after the date of this order.”

8. In the present case, the only dispute for adjudication is that whether the case of the applicant is to be considered as per policy prevalent after the order of this Tribunal or at the time when the matter of the applicant was considered earlier. The submission made by the learned counsel for the respondents is that the Tribunal has directed the

respondents to reconsider the case of the applicant as per prevalent policy in the next High Power Committee meeting. It is specifically argued by the learned counsel for the respondents that after the order of this Tribunal the inspection team has visited the residence of the applicants on 08.03.2016 and submitted the report for processing the case. **Needless to say that as per order of the Tribunal specific direction has been given to the respondents to reconsider the case of the applicant as per prevalent policy, meaning thereby the matter of the applicant No.2 is to be reconsider only.** So, it is amble clear from the wording of the order of this Tribunal, that the policy which is prevalent at the time of consideration at the first time is to be taken into account. Further, the direction for the respondents is to put the case of the applicant No.2 to the next High Power Committee for reconsideration. So, I do not find any substance on the argument of the learned counsel for the respondents that the matter is to be reconsidered at the time of consideration in the High

Power Committee after the order of the Tribunal. So the argument put forth by the counsel for the respondents is rejected.

8. In view of this position, Annexure A/1 is quashed and set aside. Respondents are directed to comply with the order dated 03.07.2015 of this Tribunal passed in O.A. No.1014/2012 in letter and spirit. The said exercise shall be done within two months from the date of receipt of this order.

9. Original Application is allowed in above terms. No costs.

**(Ramesh Singh Thakur)
Judicial Member**

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