

**Central Administrative Tribunal
Ernakulam Bench**

O.A 180/00936/2016

Wednesday, this the 26th day of June, 2019

CORAM

HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER

Syama Sasi, D/o.Late Pushpa K.Sasi
Edathara House, Thonniyakavu P.O
North Paravur, Ernakulam District

..... **Applicant**

(By Advocate Mr.P.Ramakrishnan)

V e r s u s

1. The Bharat Sanchar Nigam Limited
represented by its General Manager (Personnel)
Corporate Office, 5th Floor, Bharat Sanchar Bhawan
Janpath, New Delhi – 110 001
 2. The Chief General Manager Telecom
Kerala Circle, Thiruvananthapuram – 695 033
 3. The Union of India, represented by the Secretary
Ministry of Personnel, Public Grievances and Pension
Department of Personnel and Training,
New Delhi – 110 001
- **Respondents**

(By Advocate – Mr.V.Santharam for R1-2 and Mr.P.G.Jayan for R3)

This Original Application having been heard on 26.6.2019, the Tribunal on the same day delivered the following:

O R D E R (ORAL)

Per: Mr.Ashish Kalia, Judicial Member

This matter is remanded back by the Hon'ble High Court by setting aside the order passed by this Tribunal on 11.4.2018, whereby it was directed to the

respondents to consider the case of the applicant for compassionate appointment ignoring the negative point of 35 on the ground of delay in approaching the respondents for consideration. The Hon'ble High Court has observed vide its order dated 27.5.2019 in OP(CAT) No.128/2018 that:

“5. We find that the CAT has only considered the rejection of the claim on the basis of the deduction of points attributed to delay in filing the application for compassionate appointment. The rules pertaining to the appointment under compassionate grounds, and the objections filed by the BSNL has not been adverted to at all.

We are therefore, of the opinion that the impugned order is not sustainable and needs to be quashed. We do not however express ourselves on merits of the claim of the 1st respondent for appointment under compassionate grounds in accordance with the rules laid down. The Tribunal is directed to dispose of the application after considering the claim of the applicant afresh, as also the objections filed by the BSNL, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of this judgment. No costs.”

2. Today, this matter was listed for disposal. Heard the learned counsel for the parties at length and perused the records.

3. The factual position is admitted by both sides. Learned counsel for the applicant has submitted at the Bar that the mother of the applicant was died on 7.2.1995 and at that time, the applicant was minor and immediately on attaining majority on 23.6.2011, she had applied for employment under compassionate grounds. Same was rejected by the impugned order at Annexure A-11. In Annexure A-11, from serial nos.1 to 7, the total points awarded to the applicant is 60 and in serial no.8, (-35) points is awarded to the applicant on the ground of belated request and the total marks comes to 25 only, which made the applicant ineligible for compassionate ground appointment.

Aggrieved by this, applicant has approached this Tribunal for redressal of her grievance and as narrated herein above, this Tribunal has allowed the Original Application and the Hon'ble High Court has remanded back the matter for considering afresh.

4. During the course of argument, learned counsel for the respondents submitted that compassionate ground appointment is given by the employer to meet the immediate indigence of the family of the deceased employee Smt.Pushpa. Her husband was alive after her death on 7.2.1995. But, he did not apply or approached the respondents for seeking appointment on compassionate ground. It can be inferred that there is no indigent circumstances for the family. Otherwise, he might had approached the respondents and he should have been considered for the same under the Scheme dated 27.6.2007, which is statutory in nature. In the Scheme itself it is provided that if the delay in seeking compassionate appointment is more than 10 years, then negative points will be deducted. The same is done in the case of the applicant who has approached the respondents after the lapse of 16 years from the death of her mother in 1995. Learned counsel for the respondents tried to convince this Tribunal that they have acted in accordance with law and rule position. He has cited the Hon'ble Supreme Court's decision in **National Institute of Technology and Others v. Niraj Kumar Singh** in 2007 2 SCC 481. In this case, the petitioner was given appointment on compassionate grounds after the passage of 15 years of period from the date of death of government servant, which was set aside by the Hon'ble Supreme Court. He

has also relied upon Hon'ble Supreme Court's decisions in **Eastern Coalfields Limited v. Anil Badyakar and Others** in 2009 13 SCC 112; **State of J&K and Others v. Sajad Ahmed Mir** in 2006 KHC 886; **Local Administration Department and Another v. M.Selvanayagam Kumaravelu** in 2011 KHC 4341 and **Shimsa T.C v. Perinjanam Service Cooperative Bank, Thrissur and Others** in 2014 KHC 479.

5. In a nutshell, learned counsel for the respondents submits that delay is a very vital factor in approaching the respondents for compassionate ground appointment.

6. In the present case also, the applicant has approached the respondents after the lapse of 16 years, though the circumstances beyond the control of the applicant because she was minor. But the fact remains that the father could have got appointment on compassionate ground immediately after the death of his wife. But he never approached the respondents. Taking all the facts and circumstances of the case into account, this Tribunal is of the view that the compassionate appointment can only be sought in order to meet out the indigency occurred due to the sudden death of the government employee. To cope up the same, an appointment is given on compassionate basis, as a welfare measure. But this cannot be claimed as a right in inheritance. In case genuine penury is there, then any surviving member can seek compassionate appointment immediately to overcome the hardship faced by the family of deceased, but certainly not after 16 years of after attaining the age of majority.

Thus, I am of the view that the impugned order dated 19.4.2016 does not require any interference.

7. The Original Application lacks merit and accordingly it is dismissed.

No costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

SV

List of Annexures of the Applicant

Annexure A-1 - True copy of the death certificate of Pushpa K. Sasi dated 01.03.1995 issued from the Corporation of Cochin.

Annexure A-2 - True copy of the legal heirship certificate dated 28.04.2011 issued from the Taluk Office, Paravur.

Annexure A-3 - True copy of the service particulars of Smt. Pushpa K. Sasi.

Annexure A-4 - True copy of the application for compassionate appointment submitted by the applicant dated 20.11.2010.

Annexure A-5 - True copy of the certificate dated 25.06.2011 issued from the Taluk Office, Paravur.

Annexure A-6 - True copy of the medical certificate dated 18.07.2011, issued from the Taluk Head Quarters Hospital, North Paravur.

Annexure A-7 - True copy of the income certificate dated 21.02.2012 issued from the Taluk Office, Paravur.

Annexure A-8 - True copy of the death certificate of K. Sasi dated 14.06.2012 issued from the Corporation of Cochin.

Annexure A-9 - True copy of the Pension Payment Order dated 11.04.2013 issued from the Department of Telecom.

Annexure A-10 - True copy of the intimation letter dated 23.05.2016 of the National Commission for Scheduled Castes.

Annexure A-11 - True copy of the rejection order No. R&E/ENK-60/SS/26 dated 19.04.2016 of the 1st respondent.

Annexure A-12 - True copy of the guidelines dated 27.06.2007 issued by the 1st respondent.

Annexure A-13 - True copy of the office memorandum dated 16.01.2013 along with scheme for compassionate appointment issued by the 3rd respondent.

List of Annexures of the Respondent Nos. 1 & 2

Annexure R1(a) - True copy of the letter No. 14014/6/94-Estt (D) dated 09.10.1998 issued by the Ministry of Personnel, Public Grievances & Pension, Department of Personnel and Training.

Annexure R1(b) - True copy of letter No. 273-18/2005-Pers. IV dated 27.06.2007.

Annexure R1(c) - True copy of letter No.268-79/2002-Pers.IV dated 27.12.2006.

Annexure R1(d) - True copy of the letter dated 18.03.2015 addressed to the Commission.

Annexure R1(e) - True copy of the letter dated 30.04.2016.

Annexure R1(f) - True copy of the check list.

...