

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00017/2019
 With
 M.A. No. 040/00101/2019

Date of Decision: This the 18th day of September 2019

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

Smti. Anuradha Deb
 Age – 37 years
 W/o Late Premangshu Deb
 R/o Mrityunjoy Bhawan Santipara
 P.O. – Rongpur, P.S. – Silchar,
 District – Cachar, Assam, Pin – 788009.

...Applicant

By Advocates: Sri H.I. Choudhury, Sri G. Uddin & Sri P.A. Talukdar

-Vs-

1. Deleted.
2. The Bharat Sanchar Nigam Ltd (BSNL)
 Represented by the Chairman &
 Managing Director, Corporate Office
 Statesman House, Barakhama Road
 New Delhi.
3. The Bharat Sanchar Nigam Ltd (BSNL)
 Represented by the Chief General Manager
 Office of the Chief General Manager, BSNL
 Assam Circle, Panbazar, Guwahati – 781001.
4. The Bharat Sanchar Nigam Ltd (BSNL)
 Represented by the General Manager
 Office of the General Manager, BSNL
 E-10B Exchange Bldg, 3rd Floor
 Dhaccaipatty, Silchar – 788001.

...Respondents

By Advocate: Sri B. Pathak, BSNL Advocate

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):

M.A. No. 101/2019 has been filed by the respondents for deletion of respondent No. 1 i.e. Union of India, represented by the Secretary to the Govt. of India, Ministry of Communication. M.A. has been allowed and accordingly, respondent No. 1 is deleted from the list of respondents.

2. By this O.A., applicant makes a prayer for setting aside and quashing of the impugned letter No. SC/EZ 15(10)/ACG/35 dated 08.05.2018 issued by respondent No. 4 i.e. Bharat Sanchar Nigam Ltd (BSNL), office of the General Manager, BSNL, E-10B Exchange Bldg. 3rd Floor, Dhaccaipatty, Silchar – 788001, by which it was informed the applicant that the Circle High Power Committee vide proceeding dated 20.04.2018, rejected the appointment of the applicant as “out of consideration”.

3. Brief facts as narrated by the applicant is that the applicant is the legally married wife of Late Premangshu Deb, who expired on 25.07.2013, while he was serving as Office RM in the office of the Bharat Sanchar Nigam Ltd (BSNL), under office of the General Manager, BSNL, Silchar. After expiry of her husband, the applicant being legally married wife and being eligible, is entitled for

compassionate appointment under the Central Government policy guidelines on Compassionate Ground Appointment issued by DOPT vide O.M. 14014/6/94-Estt(D) dated 09.10.1998, as amended from time to time. All the instructions on compassionate appointments have been consolidated vide another O.M. No. 14014/02/2012-Estt(D) dated 16.01.2013. In this guideline, in clause 8, it is stated as 'TIME LIMIT FOR CONSIDERING APPLICATIONS FOR COMPASSIONATE APPOINTMENT' which reads as follows:-

"Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M. No. 14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case. So vide Office Memorandum No. 14014/3/2011-Estt.(D) dated 26.07.2012, reviewed the three years time limit for making compassionate appointment and it has been decided to withdraw the instructions contained in the O.M. dated 05.05.2003 and in clause 4 of the said O.M., held that the cases of compassionate appointment may be regulated in terms of instructions issued vide O.M. dated 09.10.1998 as amended from time to time. The onus of examining the penurious condition of the dependent family will rest with the authority making compassionate appointment."

4. The learned counsel for the applicant further submitted that the impugned order dated 08.05.2018 is arbitrary, illegal and not sustainable in law inasmuch as:-

Firstly - so-called speaking order did not disclose any thing about the assessment of the indigent conditions of the case of the applicant for last three consecutive years, as stated in impugned order while considering her case as out of consideration. Moreover, even after filing of RTI application/Appeal, the proceeding which is

mentioned in the impugned order had not been provided, which itself amount to colourable exercise of power to deprive the applicant's case.

Secondly – as per documents which were provided by the authority reveals that the case of the applicant was processed and in cheek list with reference to weightage point system was assessed dated 25.03.2015, wherein the NET point awarded to applicant 60. Again from letter dated 20.04.2018, issued by Dy. GM (HR & Admn), Assam Circle, reveals that the case of the applicant was under category of list of candidate of "Out of consideration" prepared dated 05.04.2018 where in serial number of the applicant is 34 and NET point shown as 65, during consideration for three consecutive years i.e. 2015, 2016 and 2017. Admittedly the applicant's husband expired on 25.07.2013 and thereafter immediately she being helpless widow surviving with one minor child applied for compassionate ground, but the authority rejected her claim only on 08.05.2018. At the relevant point of time, the central Government policy guidelines on Compassionate Ground Appointment issued by DOPT vide O.M. No. 14014/6/94-Estt.(D) dated 09.10.1998, as amended from time to time, holding in the field and thereafter all the instructions on compassionate appointments have been consolidated vide another O.M. No. 14014/02/2012-Estt(D) dated 16.01.2013, so the case of the applicant will not be attracted any of the subsequent change of policy as projected by respondents.

Thirdly – assuming but not admitting the respondents took a decision for consideration of case of the applicant as per weightage point system and further the case of the applicant was found scoring more than 55 NET points in category of living indigent condition, but without proper verifying of her case as regard to her condition of living in destitute with minor child, without source of income, but reject her claim in violation of natural justice and relevant provision of compassionate appointment.

5. The respondents have filed written statement on 28.05.2019. At para 5 (a) and 5 (c), they have explained in detail as to how they have not been able to accommodate the applicant for appointment on compassionate ground due to higher wightage

being scored by other candidates. However, they admitted that the weightage given to the applicant should have been 65 instead of 55 as initially given.

6. The applicant has filed rejoinder to the written statement on 28.06.2019 wherein at para 6, he has pointed out that the respondent authorities cannot reject the case of the applicant/deponent by applying some formula of their own choice limiting only 03 years period for consideration.

7. I have heard Sri H.I. Choudhury along with Sri G. Uddin, learned counsel for the applicant and Sri B. Pathak, learned counsel for the respondents/BSNL with detail presentation. I have also gone through the records submitted by both the parties.

8. It is a fact that the respondent authorities adopted the scheme of order of the Govt. of India for compassionate appointment. Amongst others, one of the conditions was validity of waiting period for compassionate appointment for a period of 03 years. However, this has been subsequently removed by Govt. of India vide their O.M. No. 14014/3/2011-Estt.(D) dated 26.07.2012. Accordingly, the respondent authorities having adopted Govt. scheme and also procedure for selection cannot reject the representation of the applicant on the ground that it has been 'Out

of Consideration'. As such, the impugned order No. SC/EZ.15(10)/ACG/35 dated 08.05.2018 is not justified and liable to be set aside. Accordingly, the same is hereby set aside. The representation of the applicant shall continue to remain valid as per Govt. orders from time to time on the subject, as and when her turn comes for consideration, they should process it as per the prescribed norms/procedure.

9. O.A. stands disposed of accordingly. No order as to costs.

**(NEKKHOMANG NEIHSIAL)
MEMBER (A)**

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