

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

Original Application No.21/983/2017

**Reserved on: 18.06.2019
Pronounced on: 25.06.2019**

Between:

G. Narendar,
S/o. G. Narayana, Ex. RM,
Aged 33 years, Door No. 3-13,
Khanapur Village, CBIT Post,
Rajendranagar Mandal, RR District.

... Applicant

And

1. Union of India,
Ministry of Communications & Information Technology,
Department of Telecommunications, New Delhi,
Rep. by its Secretary.
2. Bharat Sanchar Nigam Limited,
Sanchar Bhavan, 20, Ashoka Road,
New Delhi,
Rep. by its Chairman and Managing Director.
3. The Chief General Manager,
Bharat Sanchar Nigam Ltd,
A.P. Circle, Hyderabad – 500 001.
4. The Circle High Power Committee,
Bharat Sanchar Nigam Ltd,
A.P. Circle, Hyderabad – 500 001.
6. The Accounts Officer Pay (C),
Telephone Bhavan, Saidabad,
Hyderabad.

... Respondents

Counsel for the Applicant ... Mr. Meherchand Nori

Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC
Mr. M.C. Jacob, SC for BSNL

CORAM:

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

ORDER

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

2. The applicant has filed the OA for not considering him for compassionate appointment.

3. Brief facts of the case are that the applicant's father died while working for the respondents on 06.06.2003. Being in indigent circumstances, the mother of the applicant approached the respondents to consider his son for compassionate appointment on 24.07.2004, which was considered and rejected on 17.6.2017. Aggrieved over the same, the OA has been filed.

4. The contentions of the applicant are that the mother of the applicant is drawing meagre family pension of Rs.5975/- and got terminal benefits of Rs.3,36,569/- in the year 2003. The brother of the applicant is working as Labour earning Rs.1500 per month. As on date of making application for compassionate appointment, 1998 guidelines pertaining to the compassionate appointment have to be adopted. Instead, the respondents have applied the revised norms of 2014 and even while applying the revised norms, they did not indicate the number of points allotted to each attribute for deciding as to whether compassionate appointment could be given or not. The respondents have not issued any notice to the applicant before awarding points to him. The criteria for awarding such points has not been indicated in the scheme or the guidelines. Therefore, the action of the respondents in declaring the applicant as ineligible since he has got less than 55 points is irregular and

illegal. The applicant cites the judgment of the Hon'ble Supreme Court reported in 1991 (3) SCC 38 = AIR 1991 SC 1216, wherein it is observed that before making adverse entry, the same has to be communicated to the applicant. Compassionate appointment should be offered if there is a vacancy available in the respondents organization, provided that the applicant is eligible. Guideline No. 16(e) indicates that the request for compassionate appointment to the cadre of Group D should be with greater sympathy. The applicant further took support of the Hon'ble Supreme Court judgment in 2000 (6) SCC 493, 2011 (4) SCC 2009, 2011 (1) SCC 86 and in the case of Canara Bank & Anr. Vs. M. Mahesh Kumar, in Civil Appeal No. 260/2008, to support his cause.

5. The respondents, in their reply statement, resisted the contentions of the applicant by stating that the father of the applicant expired on 06.06.2003 leaving behind widow and two sons and a married daughter. The wife of the deceased employee made an application on 24.07.2004 for considering her younger son, who is the applicant in the present OA, for compassionate appointment. The respondents formulated a policy for compassionate appointment by proceedings dt. 27.06.2007, wherein it was decided to continue with the policy guidelines for appointment issued vide DOPT OM dt. 09.10.1998 introducing weightage point system. Assessment criteria would be to consider those who secure more than 55 or more relative merit points. Candidates who get equal to or more than 55 points are considered as indigent and those secure less than 55 are placed in non-indigent circumstances. The applicant obtained only 38 points against 55 points required. Therefore, he was not considered

for compassionate appointment. Accordingly, the impugned order dt. 17.06.2017 was issued.

6. Heard learned counsel for both sides and perused the documents on record.

7 (I) The respondents states that his application for compassionate appointment was submitted on 24.07.2004, whereas the respondents state that the application with all the relevant details was received only in 2011 and thus, there was a delay on the part of the applicant in submitting the required details for considering his case. The weightage points have been allowed based on the details furnished by the applicant. Hence, the question of issue of notice before awarding points does not arise. It is a matter of policy of the respondent organization as to how to process compassionate appointment applications. This Tribunal cannot go into the policy evolved by the respondents. Nevertheless, the respondents while rejecting the case of the applicant, issued the impugned order wherein the requisite details about the number of points obtained by the applicant on different attributes and also those considered along with him need to have been furnished so that the order could have been described as a speaking and reasoned order. The respondents have explained in the reply statement that the applicant got only 38 marks as against 55 points required and therefore, he could not be considered. The same should have been stated in the impugned order so that the applicant would not have any grievance. Also, the points allotted to each attribute, if given, would have been helpful. Any decision of any administrative authority, which involves a civil

consequence, to a citizen need to necessarily mention that the reason for the decision taken. In the absence of reason, decision taken by the administrative authority would not stand scrutiny of law as per the observations of the Hon'ble High Court of Jharkhand in Jit Lal Ray v. State of Jharkhand, WP(C) No. 469 of 2019, decided on 26-04-2019. Therefore, on both counts, we find that the action of the respondents is not legally tenable.

II. As per DOPT instructions dated 16.01.2013, it would be appropriate for the respondents to depute an official from their organization to assess the indigent circumstances of the applicant and also to guide as to the way he should apply for compassionate appointment. This will enable the respondents to take appropriate decision after evaluating the ground reality. The Hon'ble Supreme Court in a catena of judgments directed that compassionate appointment has to be issued essentially based on the indigent circumstances in which the family of the deceased employee is living. Therefore, after assessing the actual circumstances in which the family is living, rather than on details provided by the applicant through documents, the case of the applicant can be fairly processed. Further, the respondents were expected to conduct High Power Committee meeting in each year for considering all the pending applications till the end of the financial year. The respondents have not followed this norm. This Tribunal has come across cases where certain mistakes in allotting marks to different attributes have been noticed, in respect of cases processed by the respondents. Therefore, it is fair for the applicant to know as to the number of marks

allotted to each attribute as the entire decision is based on the same. In the present case, absence of marks allotted to each attribute has definitely not helped the cause of the applicant.

III. Thus, keeping the rules of the respondent organization and the observations of the Hon'ble Supreme Court referred in the OA, the OA is allowed with the following directions:

- a) The respondents to reconsider the request of the applicant for compassionate appointment as per their policy dt. 01.10.2014.
- b) The respondents to provide the details of marks allotted to the applicant on each attribute.
- c) Time allowed to implement the order is three months from the date of receipt of this order.
- d) With the above directions, the OA is allowed.
- e) There shall be no order as to costs.

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

Dated, the 25th day of June, 2019

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