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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA**

OA No.1454 of 2010

Dated of order: 21.09.2015

**PRESENT:**

THE HON'BLE MR. JUSTICE G. RAJASURIA, JUDICIAL MEMBER  
THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER  
.....

1. Smt. Jyotsna Paul wife of Late Purnendu Sekhar Paul, aged about 44 years, by profession Housewife.
2. Shri Tapas Paul son of Late Purnendu Sekhar Paul, aged about 24 years, by profession unemployed both of them residing at Qrs No. B/1/8, Room No.4, CC Block, Salt Lake, Kolkata-700 064.

.....Applicants

For the Applicant: M/s.B.R.Das & J.R.Das, Counsel

**-Versus-**

1. Union of India service through the Secretary to the Govt. Of India, Ministry of Telecommunication Department, Bharat Sanchar Bhawan, New Delhi-110 001.
2. Chief Managing Director, BSNL, Bharat Sanchar Bhawan, New Delhi-110 001.
3. Bharat Sanchar Nigam Limited through Chief General Manager, Bharat Sanchar Nigam Limited, Government of India Enterprise, having its office at Chief General Manager, Telephone Stores, 3A, Chowringhee Place at Kolkata-13.
4. Additional General Manager/RE Recruitment BSNL, Calcutta Telephones, Taher Mansion, 8, Bentinck Street, 3<sup>rd</sup> Floor, Kolkata-700 001.
5. Assistant General Manager (A), having its Office of the Chief General Manager Telecom Stores 3A, Chowringhree Place, Kolkata-700 013.

.....Respondents

For the Respondents : Mr.S.Panda, Counsel



ORDERJUSTICE G. RAJASURIA, JM:

Heard both.

2. This OA has been filed seeking the following relief(s):

“(i) An order granting leave to the applicants under Rule 4 (5) (a) of the Central Administrative Tribunals (procedure) Rules, 1987 to move this application jointly;


(a) For an order quashing and/or setting aside the letter dated 27.6.2007 issued by the Asstt. Director General (Pers.IV) (Annexed herewith as A-11) rejecting the prayer of applicants for appointment of applicant No.2 herein on compassionate ground;

(ii) An order and/or direction upon the respondent authority to offer compassionate appointment to applicant No.2 following prayer of applicant No.1 on repeated occasions for such compassionate appointment to any of the posts available and save the family being totally helpless;

(iii) An order/direction upon the respondents to dispose of the representations made to them on repeated occasions praying for compassionate employment/appointment of applicant No.2 in any available post with immediate effect;

(iii-A) An order holding that reduction of defendants weightage point from 20 to 15 at the time of making correction against accommodation weightage point is bad in law and arbitrary and the applicants were entitled to the score point of 20 even after correction of accommodation weightage point;

(iii-B) An order holding that the “Applicant’s Weightage Point” of 15 for a widow seeking appointment and nil for son/daughter seeking appointment as contained in Annexure-A to the BSNL Circular dated 27.6.2007 bearing No. 273-IB/2005-Pers.IV are bad in law and the applicants were entitled to be considered for the purpose of achieving 55% against total score point of 85 or the respondents should modify the Weightage Point System by incorporating score points against Applicant’s Weightage when son/daughter is seeking appointment and accordingly, the applicants are entitled to be reconsidered.



(iv) An order/direction upon the respondents to place all records/papers of the case before the Hon'ble Bench with copy to the Ld. Advocate of the applicant for conscionable justice;


(v) An order/direction directing the respondents to make such financial assistance to the applicant No.2 as considered fit by the Hon'ble Tribunal as suitable alternative to the compassionate appointment, if no such vacancy be available and the family suffering very badly be saved;

(vi) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

(extracted as such)

3. Indubitably and indisputably, the germane facts absolutely necessary for the adjudication of this OA could succinctly and precisely be set out thus:

4. One Purnendu Sekhar Paul, while working as a Mazdoor under the Respondent-Authorities (BSNL) died in harness during 2006 leaving behind his widow, his two unmarried sons (the Applicant No.2 is one of them) and his dependent mother. There after his dependent mother also died. It so happened that the widow namely Jyotsna Paul, petitioned the respondent authority concerned on 30.10.2006, for providing appointment on compassionate ground in favour of her second son, the applicant no.2. Whereupon, the case of the applicant No.2 was considered by the BSNL by awarding points on different components as per the circular dated 27.06.2007 and rejected the candidature. Being dissatisfied with the system of awarding marks, the applicants, challenged and impugned the item no.4 in Form A of the circular dated 27.06.2007, namely the weightage point system for assessment of Indigent condition, by filing this OA.



5. The Learned Counsel for the Applicant would draw our attention to the said item no.4 in form A of the circular dated 27.06.2007 which contemplates awarding of '15' points for the widow seeking employment on compassionate ground. His contention is that if a widow herself wants to get appointment on compassionate ground then she would be able to get '15' additional points whereas, when the widow seeks for her son, the appointment on compassionate ground that '15' points would not be available. This is disparity and discrimination to the bereaved family members. Accordingly, he would pray for striking down the said clause.

Per contra, the Learned Counsel for the Respondent-BSNL would vehemently refute the argument putforth by the Learned Counsel for the Applicants on the ground that the weightage point system was devised by an expert committee taking into account various factors involved in considering the cases for providing appointment on compassionate ground and simply because it is not acceptable to the applicant such a condition cannot be struck down as incongruous etc.

6. The point for consideration is as to whether item no.4 of the weightage point system enabling the authority to add '15' points more to the widow when she aspires<sup>to</sup> to get appointment on compassionate ground, is justified or not.

7. The Learned Counsel for the Applicants would stress upon the point by pointing out that such awarding of '15' points additionally to the widow when she aspires<sup>to</sup> to get appointment on compassionate ground, is unconstitutional as the same facility is not provided to the son of the deceased.



Furthermore, in the recommendations made in the Study Report on Employment on Compassionate Grounds, as found set out in GI Dept of Per & Trg OM no. 32/4/98-Welfare dated the 29<sup>th</sup> July, 1998 (printed in Chapter 32 of Swamy's Complete Manual on Establishment and Administration at page 452), nowhere it is found stated that such preferential mark should be given to the widow when she herself aspires instead of her children to get employment on compassionate ground. However, the Learned Counsel appearing for the Respondent-BSNL would point that there is no unconstitutionality in the said weightage point system arises as the expert body in its wisdom thought it proper to give '15' points additionally to the widow when she aspires for such appointment and that too, in view of item no.7 which is referred to as the negative point.

No doubt, it is a settled proposition of law that the CAT while considering matters of this nature, is not expected to simply strike down the conditions provided in the scheme or part of it as unconstitutional. However, the CAT can highlight the illegality, irregularity or mistake, if any, in the scheme so that the concerned authority could reconsider it properly and appropriately and resort to remedial measures.

8. The contention of the Learned Counsel for the Applicants that if a son or a daughter of a deceased employee applies for appointment on compassionate ground, he/she would not be given '15' points under item no.4 and whereas, if a widow of a deceased employee applies for such appointment on compassionate ground, she would be given the '15' additional points and that thereby the said item no. 4 is <sup>making the</sup> ~~faking~~ way for discrimination on unjustifiable ground, in our considered opinion, is a sound argument, and it deserves

1-1-98

consideration by the appropriate authority. The widow and the children constitute one family. The Hon'ble Supreme Court and the DoP&T instruction would also refer to the said one unit concept. The basic object behind giving appointment on compassionate ground to a member of a bereaved family is to support the family as a whole and not an individual. When such is the criterion, the question of singling out the candidature of the widow and giving her additional '15' points, is neither here nor there. As such, suffice to say that such discrimination is not going to serve the purpose of the scheme for compassionate appointment. Wherefore, we are of the considered opinion that such a feature contained in the said item no.4, requires reconsideration at the appropriate level. The contention of the Respondents that item no.7, which refers to giving negative point, if the widow is an earning member, balances the mark under item no.4, is not at all akin to reason. As such, we would liable to issue the following direction:

The appropriate BSNL authorities shall consider this aspect in consultation with the DoP&T and Telecom Ministry and arrive at a conclusion within a period of four months from the date of receipt of a copy of this order and communicate the final decision to the applicants within one month thereafter.

9. This OA is accordingly disposed of. No costs.

(Jaya Das Gupta)  
Admn. Member

(Justice G. Rajasuria)  
Judicial Member

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