

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

**LIBRARY**

No. OA 576 of 2012

Date of order : 30.8.2015

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Mr. R. Bandyopadhyay, Administrative Member

SMT. MINU SARDAR & ANR.

VS

UNION OF INDIA & ORS. (BSBL)

For the applicants : Mr.S.Ghosh, counsel

For the respondents : Mr.S.Panda, counsel

O R D E R

Ms. Bidisha Banerjee, J.M.

This application has been filed seeking the following reliefs :

- a) To issue direction/order directing the respondents to consider the case of the applicants for appointment on a suitable post on compassionate ground in place of father of the applicant No.2 who died in harness while working under Bharat Sanchar Nigam Limited, 8 Bentinck Street, Taher Mansion (3<sup>rd</sup> Floor), Kolkata -1.
- b) A direction upon the respondents to produce all the relevant records of the case, so that conscionable justice may be rendered between the parties.
- c) Setting and/or quash the order dated 19.5.05 passed by Sub-Divisional Engineer, Recruitment-II, Calcutta Telephone, BSNL, 8 Bentinck Street, Kolkata-1.
- d) Issuance of any other order/orders direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- e) Leave granted to file the application jointly under Rule 4(5)(a) of CAT (Procedure) Rules, 1987.

2. The undisputed facts are that the applicant No.1 is the widow of one Sufal Chandra Sardar and the applicant No.2 is his son. The said employee Sufal Chandra Sardar died while in harness on 7.5.03 while serving under Calcutta Telephones. They are aggrieved due to non-consideration of their case for employment assistance on compassionate ground.

3. The respondents have emphatically declared that the case was considered under Weightage Point System circulated under memo dated 27.6.07 considering the financial status on the basis of basic family pension, number of dependents, terminal benefits, left out service, applicant's

weightage, accommodation and monthly income of the earning member of the family. It was allotted 54 points. The assessment criteria for recommendation of indigent condition of family by Circle High Power Committee was that cases with 55 or more NET WEIGHTAGE POINTS would be prima facie treated as eligible and cases with NET WEIGHTAGE POINTS below 55 would be treated as non-indigent and rejected. Since the case secured 54 points the case was rejected and accordingly the applicants were intimated of the rejection vide letter dated 19.5.05. After that, the widow made an application. The case was investigated by an Welfare Officer and placed before the Circle High Power Committee of Calcutta Telephones with other deserving cases pursuant to the DOT/ND circular dated 10.2.99. It was considered in the meeting dated 16.3.05 but it was not recommended due to limited number of vacancies. Subsequently the case was considered in terms of Weightage Point System. Since the case scored only 54 points against the minimum benchmark of 55 points, it was regretted by the authorities.

The respondents have raised the plea of bar of limitation, waiver and acquiescence.

4. Ld. Counsel for the applicant has submitted that the respondents have failed to disclose the individual scores of the cases where appointment was granted and comparative assessment of the candidates considered by the High Power Committee.

5. We have noted a recent judgment of the Hon'ble Apex Court in **Canara Bank -vs- M.Mahesh Kumar [AIR 2015 SC 2411]** wherein it has been decided that the guidelines that were prevailing or holding the field at the time of the death of the employee are to be applied to a compassionate appointment case. The Hon'ble Apex Court having duly considered the decisions rendered in the following matters –

- i) **Sushma Gossain & Ors. -vs- UOI & Ors. [(1989) 4 SCC 468]**
- ii) **M.G.B.Gramin Bank -vs- Chakrawarti Singh [(2013) 13 SCC 583]**
- iii) **Umesh Kr. Nagpal -vs- State of Haryana [(1994) 4 SCC 138]**

- iv) *State of Manipur -vs- Md. Rajaodin* [(2003) 7 SCC 511]
- v) *SAIL -vs- Madhusudan Das & Ors.* [(2008) 15 SCC 560]
- vi) *Sanjay Kumar -vs- State of Bihar* [(2000) 7 SCC 192]

observed as follows :

"Considering the scope of the Scheme 'Dying in Harness Scheme 1993' then in force and the facts and circumstances of the case, the High Court rightly directed the appellant-bank to reconsider the claim of the respondent for compassionate appointment in accordance with law and as per the Scheme (1993) then in existence. We do not find any reason warranting interference."

6. In the said matter the Hon'ble Apex Court noted that there was a dying in harness scheme floated on 8.5.93 which was in force at the time of death of the employee. The respondents' claim on 30.6.99 was rejected recording that there was no indigent circumstance for providing employment to the respondents. The said matter was again considered on 7.11.01. In the meantime an administrative circular dated 14.2.05 introduced ex gratia payments in lieu of compassionate appointment. The Hon'ble Apex Court noted that 2005 scheme provided for ex gratia payment in lieu of compassionate appointment which stood superseded by the scheme of 2014 which revived the scheme providing for compassionate appointment.

7. In the aforesaid legal backdrop we notice that at the material time, when the employee died in harness no Weightage Point System was prevalent in the respondents' organisation. The case was considered since there was no bar, but it could not be favoured with appointment due to limited number of vacancies. It is the later Weightage Point System which affected the consideration of the present applicant making them ineligible to be sent to the High Power Committee for consideration. However, the respondents are conspicuous by their silence on the number of vacancies available at the material time and the comparative assessment of the candidates made then

8. We also note that the terminal benefits received by the family is a basic family pension of Rs.2660 + 1054 and Rs. 2,38,520, which is too meagre.

9. In such view of the matter we direct the authorities to give a fresh consideration to the case of the applicants in accordance with law and to pass appropriate orders within three months from the date of communication of this order.

10. The OA is accordingly disposed of. No order is passed as to costs.

(R. BANDYOPADHYAY)  
MEMBER (A)

(BIDISHA BANERJEE)  
MEMBER (J)

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