

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
(CIRCUIT SITTING AT NAINITAL)**

Dated: This the 28th day of June 2019

Original Application No. 331/00438 of 2017

Hon'ble Ms. Ajanta Dayalan, Member – A

Gajendra Singh, S/o Late Jagdish Prasad Singh, R/o Krishna Nagar Colony I.D.P.L. Veerbhadra Pishikesh, District Dehradun, Uttrakhand.

.....Applicant

By Adv: Shri Dinesh Gahatori

V E R S U S

1. Assistant Director (Establishment), office of the Chief General Manager, Bharat Sanchar Nigam Limited (BSNL), Uttranchal Te3lecom Circle Windlas Complex Rajpur Road Dehradun.
2. Assistant General Manager (H.R/R.C) Bharat Sanchar Nigam Ltd, New Tehri, Uttrakhand.
3. District Manager BSNL, New Tehri, District Tehri Garhwa.

.....Respondents

By Adv : Shri D.S. Shukla

O R D E R

Heard Shri Dinesh Gahatori, learned counsel for the applicant and Shri D.S. Shukla, learned counsel for the respondents.

2. Misc. Delay Condonation Application No. 331/16 of 2017 filed by the applicant for condoning delay in filing this OA has already been allowed by this Tribunal vide order dated 31.08.2018.
3. Learned counsel for the applicant states that the applicant – Gajendra Singh, son of late Shri Jagdish Prasad Singh, Ex-Phone Mechanic, applied for compassionate appointment, subsequent to the death of his father on 01.05.2008 while in service. The request for compassionate appointment was rejected vide impugned order dated 17.01.2013 (Annexure A-1). Learned counsel for the applicant states that the ground given in the impugned order are that the applicant secured net 53 marks, whereas minimum 55 marks are required for consideration by High Power Committee of BSNL Cooperate office. Learned counsel for

the applicant, however, states that the marks allotted to the applicant are incorrectly calculated on two grounds – (i) Against item (iii) 'Left-out Service', against maximum weightage points of 15, he has been awarded only 14 points, though 'left-out service' of his father was 14.6 years at the time of death, which should have been rounded to 15 years. In that case, he would have been entitled for 15 points, thus making a difference of one point; (ii) 5 negative points have been awarded to the applicant on account of 'Income from Other Sources' being Rs. 1500/- per month. Learned counsel for the applicant states that as per guidelines of the department for allocation of weightage points (Annexure A-2), if spouse was a earning member, 5 negative points were to be awarded for income upto Rs. 4000/- per month, whereas if spouse was not a earning member, no negative point was to be awarded for income upto Rs. 4000/- per month. He states that the income was not from the property, but by way of doing some petty jobs and the spouse was not an earning member. As such, award of 5 negative points is also not correct.

4. According to the counsel for the applicant, if weightage points were awarded correctly, he would have obtained 6 more points, thus totalling 59 points (incorrectly mentioned as 58 points in the OA). In that case, he would have been entitled for consideration of his case before High Power Committee. He, therefore, pleads that the reliefs sought in the OA need to be granted to him.

5. Learned counsel for the applicant further submits that he first approached the Hon'ble High Court which by order dated 13.01.2017 (Annexure A-5) passed in Writ Petition No. SS 87 of 2017 has transferred this matter before this Tribunal on the ground of alternative remedy being available.

6. Learned counsel for the respondents on the other hand contests the claim of the applicant. He states that the impugned order dated

17.01.2013 is very detailed and specific and gives grounds for award of weightage points as well as for rejection of his application. He further states that the points awarded are correct and keeping in view the procedure laid down by the department vide its order dated 27.06.2007 (Annexure A-2). He further states that this procedure has been applied in all the cases uniformly and the same has also been applied in the case of the applicant. He further states that the left-out service of the applicant's father was less than 15 years and as such the applicant was awarded 14 points. With regard to negative points, he states that as income was not from property but from other sources, spouse was treated as an earning member and not a non-earning member. Therefore, weightage points given to the applicant are correct. These being less than 55 points, the case of the applicant could not be placed before High Power Committee for consideration.

7. Learned counsel for the respondents, however, states that in case the applicant had any grievance with regard to the weightage points allotted to him, he could have preferred an appeal as per para 6 of the Policy dated 27.06.2007. The counsel further states that no such appeal has been filed by the applicant.

8. In view of the above, I find that the applicant has an alternative remedy available to him of approaching the department by filing an appeal.

9. The OA is, therefore, premature and the same is dismissed with liberty to the applicant to approach appropriate authority in the department by filing an appeal. There is no order as to costs.

(Ajanta Dayalan)
Member – A

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