

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
(Circuit Bench at Nainital)

Transfer Application No. 331/00001/2017

Dated: This the 26th day of July, 2019.

PRESENT:

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

Nitesh Kumar, S/o Late Nathi Ram, R/o Bhudpur, Post Office Naya Gaon
Pelio, District Dehradun .

. . . Applicant

By Adv: Shri H.C. Joshi

V E R S U S

1. General Manager, Bharat Sanchar Nigam Ltd. , Dehradun.
2. Assistant General Manager (Administration), Office of General
Manager Telecommunication, District Dehradun.
3. Superintendent Incharge Central Telegraaph Office, Dehradun.
4. Bharat Sanchar Nigam Ltd through its Chairman cum Managing
Director, BSNL Office, New Delhi - 110001.

. . . Respondents

By Adv: Shri D.S. Shukla

O R D E R

Delivered by Hon'ble Ms. Ajanta Dayalan, Member(A)

This TA was initially filed in Hon'ble High Court of Uttarakhand at
Nainital by Writ Petition No. 2293/16 which has been transferred to this
Tribunal vide order dated 22.03.2017. The matter is pending since then.

2. Learned counsel for the applicant states that the matter relates to
compassionate appointment of the applicant Nitesh Kumar who is son of
Late Nathi Ram who was initially appointed and later regularized in Group
'D' post on 19.08.1989 in Bharat Sanchar Nigam Limited (BSNL).

3. According to the applicant's counsel, the father of the applicant died
in harness on 14.04.2014. The mother of the applicant had already

expired on 06.06.2009 and one brother of the applicant also died in Kargil war. All his sisters were married prior to death of his father, hence the applicant had applied for compassionate appointment. The same has been rejected vide impugned order dated 09.07.2014 (Annexure-4 of TA) on the ground that the applicant is married and he does not come in the definition of family of the deceased employee.

4. The case of the applicant, as pleaded by the counsel for the applicant, is that the applicant is son of deceased Government servant and as per para 2(b)(ii) of the GOVERNMENT SERVICES (REGULATION OF COMPASSIONATE APPOINTMENT) BILL, 2014, "Dependent Family Member" means '.....son (including adopted son).....'. Hence, son is clearly covered under the definition of the dependent family member of the deceased employee.

5. Learned counsel for the applicant further states that on an enquiry by the applicant in the department, the department has given an office order dated 02.03.2015 (page 45/37 of TA) which is the approval of the GMTD, Dehradun for dismissal of his father from service and no order of disciplinary authority was conveyed to him except this office order.

6. Learned counsel for the respondents on the other hand fairly concedes that the impugned order dated 09.07.2014 (Annexure -4) seems to reconsideration as the only ground given in this order for non-consideration of compassionate appointment case is that the applicant, who is the son of deceased BSNL employee, is married and does not come in the definition of dependent family member of the deceased employee.

7. Heard learned counsels for both parties and perused the pleadings.

8. Prima facie it is found that the grounds given in the impugned order dated 09.07.2014 are not convincing as in case of son, there was never any dispute about the fact that the marriage of the son of deceased

employee was not relevant factor for consideration of case for compassionate appointment. The definition of dependent family member produced before the court also substantiates this view. Besides, it is also noted that G.I. O.M. dated 16.01.2013 provided by the learned counsel for the respondents also gives the definition of dependent family member which includes ‘.....(b) son (including adopted son).....’. Hence, ground for rejection of claim of the applicant for compassionate appointment is not acceptable and the impugned order dated 09.07.2014 needs to be set aside.

9. It is further noted that as per the BSNL order dated 27.06.2007, in case of compassionate appointment, if a person is aggrieved by the decision of the Committee, he has a right to file an appeal for re-consideration. This remedy has not been exhausted by the applicant as yet.

10. In view of the above, the applicant is directed to first approach the organization, in case he is aggrieved with the order dated 09.07.2014, for redressal of his grievance.

11. The TA is disposed of in above terms. No costs.

(Ajanta Dayalan)

Member (A)

Anand...