
(2013) 10 JH CK 0045

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5184 of 2011

Nicholas Surin

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Citation : (2014) 1 JLJR 1

Hon'ble Judges : Aparesh Kr. Singh, J

Bench : Single Bench

Advocate : Ram Kishore Prasad and Praful Jojo, for the Appellant; Bijay Kr. Pathak, for the Respondent

Judgement

Aparesh Kr. Singh, J.—Heard learned counsel for the parties. The petitioner is seeking quashing of the order dated 15.7.2011 issued by the respondent No. 5, Divisional Engineer (Administration) Office of the Senior General Manager, BSNL, Ranchi, by which his application for compassionate appointment has been rejected. He also seeks direction upon the respondents to appoint him on compassionate ground in lieu of death of his father Michael Surin, who died in harness, 26.2.2003.

2. The petitioner is said to have made an application for compassionate appointment on 9.3.2004 with all requisite papers. It is the contention of the petitioner that decision has been taken after a delay of almost eight years to reject the same on wholly illegal grounds by awarding lesser points prescribed under the criteria in an arbitrary manner. Learned counsel for the petitioner submits, by way of rejoinder to the counter affidavit of the respondents, that the petitioner should have been awarded 10 points on the question of accommodation as he has no house and lands but he has been awarded zero points by the respondents. The cut-off point, according to the petitioner, is fixed as 55 marks. The petitioner has been awarded 53 marks arbitrarily, which resulted denial of the compassionate appointment. The bone of contention on the part of the petitioner is that arbitrary allotment of zero points on the item of

accommodation under the weightage point system as has been evolved by the respondents has been done in the case of the applicants. It is contended on behalf of the petitioner that a residential certificate was submitted at the time of making application issued by the Circle Officer, Kamdara, district-Gumla, which, however, indicating 2.1 acres of land belonging in the name of the great grand father of the petitioner Lida Munda. However, the petitioner by way of rejoinder to the reply of the respondent has enclosed the genealogy table prepared by himself, according to which, the original property was in the name of his great grandfather Lida Munda, which has gone several fragmentation into smaller parcels. The petitioner being sibling of fourth generation of Lida Munda his great grandfather and son of Michael Surin. Therefore he only inherited much smaller portion of land out of total residential ancestral land in the name of his great grand father. He submits that he does not have any house and he is living in a rented house at Ranchi. In such circumstances, the respondents were obliged to take into account lack of proper accommodation of the petitioner while awarding points on that score. Therefore, impugned order rejecting his case for compassionate appointment is illegal and requires to be interfered with.

3. The respondents have supported the stand as contained in the impugned order. Learned counsel for the respondent-BSNL submits that a scientific basis has been evolved for consideration of the rival claims of such applicants, who seek appointment on compassionate ground. As per the policy, which is enclosed as Annexure-A-5 dated 27.6.2007, the weightage point system has been evolved providing for marks for such items such as (1) Dependant's weightage (2) basic family pension (3) left over service (4) applicant's weightage (5) Terminal benefits (6) accommodation. Negative points have also been evolved under the heads of Monthly Income of any surviving member of the family and belated requests. In such manner the assessment criteria have been laid down. Cases with 55 or more net points shall be prima-facie treated as eligible for consideration by Corporate Office High Power Committee for compassionate appointment. Cases of less than 55 marks shall be treated as non-indigent and rejected. Based upon such yardstick, the respondents have disclosed that the petitioner has fetched 53 points upon evaluation of his candidature on all such enumerated items under the weightage point system. It is true that on the ground of accommodation he has been awarded zero points based upon the residential certificate of petitioner himself which discloses that his ancestor had 2.1 acres of land. In such circumstances, he cannot be said to be having no accommodation, therefore, zero marks has been awarded to the petitioner. It is submitted that the petitioner is now trying to improve his case stating that he has no house and he is living in a rented accommodation in Ranchi by filing a rejoinder to the further reply where he has produced genealogy table. In the circumstances, therefore, no infirmity should be attached to the impugned order of rejection by which the claim of the petitioner has been rejected.

4. Learned counsel for the petitioner, in response, submits that the respondents have arbitrarily kept the matter pending for long eight years and this approach of

the respondents in the matter of compassionate appointment has been disproved by learned Single Judge by the Patna High Court in the case of Amin Ansari Vs. The State of Bihar and Others,

5. I have heard learned counsel for the parties at length and have gone through the relevant materials on records. From the facts, which have borne on record and have been recorded in earlier part of this order, it is apparent that the petitioner had made an application within time after the death of his father on 26.2.2003 i.e. on 9.3.2004. The respondents have rejected it on 15.7.2011 on the ground that the petitioner has secured 53 points under the weightage point system as per Annexure-A-5 which is criteria evolved as per the policy of the respondent-BSNL enclosed as Annexure-A-5 dated 27.6.2007. It appears that the petitioner's case was considered, after receipt of wanting documents on 28.3.2005 from the GMTD, Ranchi, by the High Power Committee on 4.5.2005. The aforesaid committee considered 32 cases in accordance with vacancy available where the petitioner's name figured at serial No. 70 in the waiting list. Thereafter, Head Office of the BSNL had stayed any appointment of compassionate ground. The policy of point weightage system were evolved, which is annexed as Annexure-A-5 dated 27.6.2007 to the supplementary affidavit filed on behalf of the respondents on 19.8.2013 whereunder his case was reconsidered by placing before 6th Circle Higher Power Committee. On 15.7.2011, on such evaluation, the petitioner has fetched 53 points on the basis of evaluation of different item under point weightage system while the minimum net point has been fixed as 55 marks for treating any such applicant as eligible candidate. It is also true that at the time of submission of the application, the petitioner had submitted a residential certificate showing that he is a resident of village-Salegututu, P.O.-Salegututu, P.S.-Kamdara, District-Gumla and descendant of Lida Munda in whose name 2.1 acres of land were registered. The petitioner, however, had not enclosed any details of the devolution of the said land in the name of his ancestor to make out his case that he is having much less parcel of land in his name after the death of his father. The said document i.e. the genealogy table has now been brought on record, prepared by the petitioner himself, which is annexed to the rejoinder to the reply filed on behalf of the petitioner on 21.10.2013. Therefore, the respondents could not be blamed for awarding zero points on the item of accommodation, as the petitioner's own certificate showed that 2.1 acres of land was in the name of his ancestor. In the circumstances, awarding 53 points after evolution on the basis of weightage point system which is the basis for the issuance of the impugned order cannot be faulted with. Therefore, no interference is required in the writ petition.

6. However, the respondents would reconsider the case of the petitioner if he is able to show that he has much lesser parcel of land in his name or does not have any accommodation as such by way of any cogent and legally admissible documents in his support within a reasonable time. This writ petition is accordingly, disposed of in aforesaid manner.