
(2022) 09 CAT CK 0045

In the Central Administrative Tribunal

Case No : Original Application No. 200, 00306 Of 2018

Vijay Batham

APPELLANT

Vs

Bharat Sanchar Nigam Limited & Ors

RESPONDENT

Date of Decision : 26-09-2022

Acts Referred:

Citation : (2022) 09 CAT CK 0045

Hon'ble Judges : Akhil Kumar Srivastava, Member, J

Bench : Single Bench

Advocate : Sunil Rao, Sapan Usrethe

Final Decision : Dismissed

Judgement

Akhil Kumar Srivastava, Member J

1. Heard.

2. This Original Application has been filed by the applicant challenging the order dated 15.09.2017, passed by the respondents, whereby the claim of the applicant for grant of compassionate ground appointment has been rejected.

3. From the pleadings, the case of the applicant is that the father of the applicant Shri Baldev Batham was working with the respondent department and thereafter died in harness on 24.10.2013 (As per Annexure A/2). After the death of the father of the applicant, the applicant applied for the compassionate appointment after completing all the requisite formalities. The copy of application for grant of compassionate appointment is annexed as Annexure A/3 with the Original Application. Thereafter, the application of the applicant for grant of compassionate appointment was rejected by the respondent department on the ground that after having evaluated the claim of the applicant as per the policy, the marks obtained by the applicant under the compassionate appointment policy are less. Thereafter the applicant submitted legal notice/representation and also applied under the RTI Act for the relevant instructions.

4. The main grounds urged as submitted by the applicant are that the case of the applicant was dealt with in a most mechanical manner and deserves not to be rejected. In response to the information sought under RTI, it was communicated that no instruction is available for grant of compassionate appointment and respondents are in a process to trace the same.

5. The respondents have filed the reply, wherein prima facie, it has been submitted by the respondents that there is delay of 5 years in filing Original Application. It has been further submitted by the respondents in their reply that after having examined by the office for Compassionate Ground Appointment, the documents and information furnished by the applicant, the applicant has got 38 points instead of necessary minimum 55 point for entitlement for compassionate ground appointment as per the policy guidelines issued by the BSNL. The copy of policy guidelines is annexed as Annexure R/1 with the reply to the Original Application. The case of the applicant was also sent to the High Power Committee to the office of CGMT, BSNL Bhopal, for further review, but the case of the applicant was rejected by the HPC also. The copy of the report of HPC is annexed as Annexure R/2 with the reply to this Original Application.

6. This Tribunal has considered the rival contentions for both the parties and also gone through the documents annexed herewith.

7. The counsel for the applicant vehemently argued that detailed representations of the applicant were submitted from time to time before the competent authority, but nothing has been done by the respondent authorities. They dealt with the applicant in insensitive manner while learned counsel for the respondents has argued that the BSNL is following the scheme of compassionate ground appointment (CGA) issued by the DOP&T vide O.M. No. 14014/6//94-Estt(D) dated 09.10.1998. The objective of this scheme is to grant appointment on compassionate ground to a dependent family members dying in harness or who is retired on medical ground. While considering the request for appointment on compassionate ground, balanced and objective assessment of the financial condition of the family has to be made taking into consideration its assets and liabilities and all other relevant factors such as presence of earning member, size of family, ages of children, own house and essential needs of family like education, marriage and medical need.

8. After hearing arguments of learned counsel for both the parties and considering the entire record, it is pertinent to note that the department as per letter No.273-18/2005-Pers-IV dated 27.06.2007, to bring uniformity in assessment of indigent condition of the family for offering compassionate ground appointment, weightage point system was enforced.

9. Hon'ble Supreme Court in the case of Bhawani Prasad Sonkar V. Union of India, in para 20 of the judgment held as given below:

"20. Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An appointment for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependents of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts.

10. On the basis of policy guidelines regarding compassionate ground appointments, evaluation of applicant was done by the competent authority and applicant has got only 38 points, while minimum 55 points are required to get compassionate ground appointment as per the policy. Therefore, the applicant failed in the evaluation process and hence, his compassionate ground appointment was rejected by the respondents.

11. So far as the application of the applicant is concerned on the ground of merit, it is devoid of any merit. Applicant is not entitled for compassionate ground appointment.

12. Accordingly, this Original Application for compassionate ground appointment is hereby dismissed. No order as to cost.