

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.320 of 2015

Arvind Kumar, aged about 44 years, s/o Late Ram Khelawan Das, Ex-TOA(P), O/o GMTD, Katihar, at present R/o in the house of Ramayan Sah, Mohalla Aambagan, Halim Chak, P.O. & P.S. Kishanganj, District Kishanganj, now R/o in the house of Sr. Lal Bahadur Singh (BSF), Mohalla Roll Bagh, P.O. & P.S. Kishanganj, District-Kishanganj

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Communications, Govt. of India, New Delhi.
2. The Chief Managing Director, Bharat Sanchar Nigam Limited (A Govt. of India Enterprises), Corporate Office, 5th Floor Bharat Sanchar Bhawan, Janpath, New Delhi.
3. The Assistant Director General (Pers IV) Personnel- IV Section), Bharat Sanchar Nigam Limited (A Govt. of India Enterprises), Corporate Office, at 5th Floor Bharat Sanchar Bhawan, Janpath, New Delhi.
4. The Chief General Manager, Telecom, Bihar Circle, Bharat Sanchar Nigam Limited, Bihar Telecom Circle, Patna.
5. The Deputy General Manager (Establishment), Telecom, Bihar Circle, Bharat Sanchar Nigam Limited, Bihar Telecom Circle, Patna.
6. The Assistant General Manager (Establishment), Telecom, Bihar Circle, O/o the Chief General Manager, Telecom Circle, Patna.
7. The Assistant Director, Telecom (Recruitment), Bihar Circle, Patna, O/o the Chief General Manager, Telecom Bihar Circle, Patna.
8. The General Manager, Telecom District, Katihar, B.S.N.L., Katihar.
9. The Divisional Engineer (Admin), O/o General Manager, Telecom District, Katihar.
10. The Sub Divisional Officer, Phones, B.S.N.L., Kishanganj

.... Respondents

Appearance :

For the Petitioner : Mr. Pradip Kumar, Advocate.
For Union of India : Mr. Kumar Priya Ranjan, Advocate.
Mrs. Gunja, Advocate.
For the B.S.N.L. : Mrs. Renuka Sharma, Advocate.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 31-03-2016

Heard learned counsel for the petitioner and the respondents.

2. The challenge in the present writ application is to an order passed by the learned Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”)

on 9th of September, 2014 in O.A. No. 719 of 2013, whereby the claim of the petitioner for appointment on compassionate ground has been rejected.

3. The father of the petitioner died in harness on 10th of November, 2001 leaving behind his wife, the present petitioner, three brothers and one sister. It was on 2nd of January, 2002, mother of the petitioner applied for appointment of the petitioner on compassionate ground.

4. The claim of the petitioner for appointment on compassionate ground was considered by the Patna Circle High Power Committee (CHPC) in its meeting held on 25th of July, 2006 but was kept in the waiting list for want of vacancies under 5 per cent quota. Later on, the instruction dated 27th of December, 2006 was issued regarding new weightage point system. Under the new weightage point system, the petitioner got 29 points as against 83 and 61 points by the two candidates Biranji Das and Pankaj Kumar, who were offered appointment.

5. In view of the said fact, the claim of the petitioner for appointment on compassionate ground was found to be without any merit.

6. Learned counsel for the petitioner vehemently argued that the claim of the petitioner was considered, approved and kept in the waiting list for want of vacancies under 5 per cent quota in the meeting of the Patna Circle High Power Committee (CHPC) held on 25th of July, 2006. The name of the petitioner finds mention at Serial No. 2. Therefore, he is entitled to be appointed as per the policy which was in vogue at that time. The case of appointment on compassionate ground cannot be considered in the light of the subsequent policy.

7. We find that even on the basis of said argument, the petitioner is not entitled for appointment on compassionate ground as in the said list the name of the petitioner appears at Serial No. 2. It is not the case of the petitioner that the candidate above him has been appointed. It is only in case, a candidate lower than the petitioner is

appointed, the petitioner can be said to have any grievance. No appointment could be made out of the said list as there was no vacancy available for appointment on compassionate grounds. Therefore, under the old policy, the petitioner cannot claim any appointment on compassionate grounds. Even under the new policy, his weightage gradation is much less than the candidates who have been considered and appointed.

8. In view thereof, we do not find any error in the order passed by the learned Tribunal which may warrant interference by this Court.

9. The writ application is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Sujit

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