

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1373 of 2016

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Manjay Kumar, son of Late Ram Mangal Thakur, Resident of Village- Repura,
P.O- Bishundutpur, P.S. Karja, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The Bharat Sanchar Nigam Limited through its Chief General Manager, Bihar Circle, 'R' Block, Patna- 800001.
2. The General Manager, Telecom District Bharat Sanchar Nigam Limited, Muzaffarpur.
3. The Deputy General Manager (Administration), office of the General Manager, Telecom District Bharat Sanchar Nigam Limited, Muzaffarpur.
4. The Divisional Manager, in the office of the General Manager, Telecom District Muzaffarpur, Motipur Division, Muzaffarpur.
5. The Sub-Divisional Officer, Telecom Exchange Motipur, Bharat Sanchar Nigam Limited, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate.

For the Respondent/s : Mr. Yogendra Prasad Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 26-07-2016

The challenge in the present writ petition is to an order passed by the Central Administrative Tribunal, Patna Bench, Patna on 08.08.2014, whereby an Original Application filed by the petitioner for appointment on compassionate ground was dismissed.

The Tribunal found that the appointment claimed by the petitioner was considered in terms of the Scheme framed by the

respondents. He scored 34 weightage points which was much less than cut off marks, which were 55. The details have been given in paragraph no. 4 of the order of the Deputy General Manager (Administration) (Annexure-9) , which reads as under:

“4. As per this weightage point system, case of the applicant was examined and applicant have scored only 34 points as per the break up of points given below:

Item	Points
(1) Dependent weightage (5)	20
(ii) Pension (4350/- + IDA)	00
(iii) Left Out Service (10 Yr 3 months)	10
(iv) Applicant weightage	00
(v) Terminal Benefits(Rs. 692532/-)	04
<u>(vi) Accommodation (living in own house)</u>	<u>00</u>
Total	34 (less than the cut off points 55)

Learned counsel for the petitioner points out that in the order dated 16.05.2014, of which paragraph No. 4 is the part, it has been mentioned that there are four family members of the deceased including two married sons whereas the petitioner is unmarried son of the deceased.

The argument of learned counsel for the petitioner is that there are six family members and not four. It is pointed out that the wives of the married sons are also the family members, but they have not been taken into consideration while determining the weightage points.

We do not find any merit in the said argument. The wife of a married son is the member of the family of the husband and not of the deceased. Therefore, the wife of a married son cannot be said to be the dependent upon the deceased for which the compassionate appointment can be claimed or can be sought for.

The other argument raised by the learned counsel for the petitioner is that the land holding of the petitioner has not been taken into consideration for grant of weightage points. No such fact was pleaded before the authorities or even before the Tribunal. Therefore, such argument cannot be examined in a writ petition. Still further, the land holding of the petitioner would be a factor against the compassionate appointment of the petitioner and not in his favour.

In view of the said fact, we do not find any merit in the present petition. The same is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.07.2016
Transmission Date	