

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11214 of 2014

Shailendra Kumar Choudhary, aged about 42 years, son of Late Chaudhary Yogendra Prasad, Ex-TTARTTC, Patna, resident of village - Anaith (Arrah), P.S. - Nawada (Arrah), District - Bhojpur.

.... 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), Bihar Circle, Patna, O/o the Chief General Manager, Telecom, Bihar Circle, Patna.
6. The Assistant General Manager (Establishment), Bihar Circle, Patna O/o the Chief General Manager, Bihar Circle, Patna.
7. The Assistant Director, Telecom (Recruitment), Bihar Circle, Patna, O/o the Chief General Manager, Telecom Bihar Circle, Patna.
8. The Deputy General Manager, RTTC, Patna.

.... Respondents

Appearance :

For the Petitioner : Mr. Pradip Kumar, Advocate.
For the BSNL : Mr. Ashok Kumar Dubey, Advocate.
Smt. Mamata Vijaya, 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 12th of March, 2014 in O.A. No. 604 of 2013, whereby the claim of the petitioner for appointment on compassionate ground has been rejected.

3. The father of the petitioner died on 7th of May, 2004 leaving behind his wife, the present petitioner, two brothers and one sister. It was on 29th of July, 2004, the petitioner applied for appointment on compassionate ground.

4. The claim of the petitioner for appointment on compassionate ground was considered and approved by the Circle HPC 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 26 points as against 83 and 61 points by the two candidates Biranji Devi 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 against 5 per cent quota in the meeting of the Circle HPC held on 25th of July, 2006. The name of the petitioner finds mention at Serial No. 10. 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. 10. It is not the case of the petitioner that the entire list stand exhausted or that the nine candidates above him have 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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