



WP.No.18671 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

WP.No.18671 of 2023
and WMP.No.17961 of 2021

1. Union of India
Chairman-cum-Managing Director
Bharat Sanchar Nigam Limited
New Delhi

2.The Chief General Manager
Chennai Telephone District
Bharat Sanchar Nigam Limited Ltd,
Chennai Telephones,
No.10, Millers Road,
Kilpauk, Chennai – 10.

... Petitioners

v.

1. The Registrar
Central Administrative Tribunal
Chennai Bench, Chennai

2.Miss.Rabekha

... respondents

Prayer : Petition filed under Article 226 of the Constitution of India
seeking to issue writ of Certiorari to call for the records of the order dated
03.02.2023 made in OA.No.1119 of 2019 on the file of the Central



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Administrative Tribunal, Chennai Bench and quash the same.

For Petitioner : Mr.S.Gopinathan

For Respondents : Ms.Geethanjali
for Mr.V.Neethidurai for R2.
R1 - Tribunal

ORDER

(Made by the Hon'ble Mr.Justice S.M.SUBRAMANIAM)

Under assail is the order dated 28 2018 passed in OA number 1119 of 2019. The Union of India represented by its Chairman-cum-Managing Director, Bharat Sanchar Nigam Limited (BSNL) is the writ petitioner before this court.

2. The second respondent filed OA before the Central Administrative Tribunal Chennai to set aside the order of rejection dated 29.10.2018 and for further direction to provide appointment on compassionate grounds.

3. The Central Administrative Tribunal after adjudication disposed of the OA with a directions to the respondents to consider the case of the petitioner denova taking into account the current dependency, current



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financial position and reckoning the delay from 2013, till the date of application and on the basis of the same decision to be taken.

4. The learned Central Government panel counsel appearing on behalf of the petitioners would submit that the father of the second respondent died on 29.12.2000. None of the legal heirs of the deceased employee immediately submitted an application seeking appointment on compassionate grounds. Since there was a family dispute a civil suit was instituted in the year 2002 for declaration. The civil dispute ended before the High Court in second appeal in the year 2013. Thereafter, an application was filed by the second respondent seeking appointment on compassionate grounds which was rejected by the authority. Challenging the said order the second respondent filed OA before the tribunal and the tribunal issued a direction to reconsider the application submitted by the second respondent for providing compassionate appointment.

5. The learned senior panel counsel would submit that the tribunal has not considered the long delay in submitting the application which is in violation of terms and conditions of the scheme of compassionate



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appointment. More so, the second respondent or her mother submitted any application during the relevant point of time. Therefore the authorities have scrutinized the application with reference to the application seeking compassionate appointment and with reference to the terms and conditions of the scheme and rejected. The Tribunal directed the authorities to reconsider the application which is in violation of the policy and thus the present writ petition came to be instituted.

6. The learned counsel for the second respondent would oppose by stating that there was a family dispute during the relevant point of time and civil suit was filed. Only after reaching finality in the civil dispute, application seeking compassionate appointment was filed. Thus there was no delay on the part of the second respondent in filing the application for compassionate appointment, soon after disposal of the second appeal in the year 2013, the application was submitted.

7. The fact remains that the employee died on 29.12.2000, while he was in service, admittedly no application was submitted seeking compassionate appointment soon after the death of an employee. The



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very purpose and object of the scheme of compassionate appointment is to mitigate the circumstances arising on account of sudden death of an employee. Policy is not to provide one public appointment to the legal heir of the deceased employee. Policy is to ascertain whether death of an employee caused or resulted in indigent circumstances in the family. Therefore, assessment of penurious circumstances of the family of the deceased employee is the basic criteria for considering the application seeking compassionate appointment.

8. The compassionate appointment is a special scheme. It is a concession and can never be claimed as an absolute right. The scheme is not under the constitutional scheme of appointments and violative of Articles 14 and 16 of the Constitution of India. Thus providing of compassionate appointment in large in number would result in infringement of the rights of the candidates, who all are aspiring to secure public employment through open competitive process. Therefore, the department is restricting the compassionate appointment with reference to the post earmarked for providing compassionate appointment. That being so, the relative merits regarding indigent circumstances and other



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factors are taken into consideration for providing priority in compassionate appointments.

9. In the present case, the employee died in the year 2000 and the application itself was filed in the year 2016, mere family dispute existed for about 13 years would not be a ground to condone the long delay in submitting the application for compassionate appointment. When the family of the deceased employee has not submitted any application for about 16 years from the date of death of the employee, the factual inference is to be drawn that the penurious circumstances, if at all existed immediately after the death of an employee, became vanished on account of efflux of time.

10. Therefore, the application submitted long years after the death of an employee itself is a ground to reject the application by the competent authority. The very purpose and object for providing appointment will be defeated if it is considered after a lapse of many years.



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11. The tribunal though not granted a positive direction but directed the respondents to consider the case of the petitioner de novo taking into account the current dependency. The current dependency cannot be taken into consideration, since 19 years lapsed from the date of death of the deceased employee. The indigent circumstances prevailed during the relevant point of time, the employee died alone is to be and taken into consideration for assessing the penurious circumstances. Therefore, the very consideration extended by the tribunal is beyond the scope of scheme of compassionate appointment.

12. We are of the considered opinion that the Courts are not expected to extend any misplaced sympathy in such nature of cases. Large scale compassionate appointments would affect the rights of meritorious candidates who are all longing to secure public appointment. Pertinently in compassionate appointment no merit assessment is made. Reservation rules are not followed. Competitive exams are not conducted. Death of an employee alone is taken into consideration for appointment. Therefore, large scale compassionate appointments may result in an administrative inefficiency, since relative merit assessments



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have not been made.

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13. In the present case the employee died in the year 2000, application was filed in the year 2016 and the OA was filed in the year 2019, almost 24 years lapsed the 2nd respondent has reached the age of 37 years. Considering the facts and circumstances, we are of the opinion that the directions issued by Central administrative tribunal in the impugned order would do no service to the cause of justice, but result in another round of litigation.

14. With the above observations the order impugned passed by the Central Administrative Tribunal in OA.No.1119 of 2019 dated 03.02.2023 is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J) (M.J.R., J)
22.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To
1. The Registrar
Central Administrative Tribunal
Chennai Bench, Chennai.



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S.M. SUBRAMANIAN, J.
and
M. JOTHIRAMAN, J.

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