



WEB COPY



W.P.No.17934 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

**W.P.No.17934 of 2022
&
WMP.No.17267 of 2022**

- | | | |
|---|---|-------------|
| 1 | The Chief General Manager
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
Anna Salai, Chennai 600 002. | |
| 2 | The General Manager
Chengalpattu S.S.A. B.S.N.L,
No. 29, Eldams Road,
Chennai 600 018. | |
| 3 | Asst. General Manager (Estt) II,
BSNL, Chennai Telephones District,
O/o.Chief General Manager,
No. 10 Millers Road, Chennai-600 010. | ... |
| | | Vs |
| 1 | The Registrar
Central Administrative Tribunal,
High Court Campus, Chennai-104. | |
| 2 | R.Anu Bharathi | ... |
| | | PETITIONERS |
| | | RESPONDENTS |



W.P.No.17934 of 2022

PRAYER: The writ petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of 1st respondent in O.A. 967 / 2019 dated 08.04.2022 in disposing the O.A filed by the 2nd respondent with directions and quash the same.

For Petitioners	... Ms.Sunita Kumari
Respondent No.1	... Tribunal
For Respondent No.2	... Mr.S.Silambanan, Senior Counsel for Mr.R.Surya Prakash

ORDER

(Order of the Court is made by *S.M.SUBRAMANIAM, J.*)

The present writ petition has been instituted challenging the order dated 08.04.2022 passed in O.A.No.967 of 2019.

2.The Chief General Manager, BSNL is the first petitioner in this writ petition. The second respondent namely R.Anu Bharathi filed the original application before the Tribunal seeking compassionate appointment by challenging the order of rejection passed by the writ petitioners.



W.P.No.17934 of 2022

WEB COPY

3.The father of the second respondent was an employee in BSNL and died on 13.06.2004 while he was in service. At the time of the death of the employee, the second respondent, who is the daughter of the employee, was a minor aged about 10 years. Thus, she was not eligible even for submitting an application seeking compassionate appointment.

4.The learned Senior Counsel Mr.S.Silambanan would submit that the wife of the employee filed an application seeking appointment on compassionate ground in the year 2004 and it was not considered.

5.A family dispute arose and a civil suit was instituted regarding the claim of pensionary benefits and pension. The family dispute was resolved in the year 2013 and thereafter, the pensionary benefits are received by the eligible legal heirs in the year 2015.

6.By the time, the second respondent crossed the age of 18 years. She has submitted an application seeking Compassionate appointment on



W.P.No.17934 of 2022

28.03.2016. The said application was rejected by the writ petitioners on the ground that under the scheme assets/liabilities of the family of the deceased official, support arrangement, constitution of family and overall assessment of the condition of the family, the Circle High Power Committee has to decide the issues. In the present case, the Circle Assessment Committee considered the criteria fixed for providing for compassionate appointment and awarded 37 marks to the second respondent. The minimum required marks for consideration is 55. Since the petitioner was not falling within the zone of consideration, her case was not considered for compassionate appointment.

7.The learned counsel for the petitioner would submit that the merit assessment was made based on the indigent circumstances and the other criteria fixed for providing compassionate appointment. Since the second respondent was not within the zone of consideration, she was not considered for appointment.

8.The learned senior counsel Mr.S.Silambanan, would oppose by



W.P.No.17934 of 2022

stating that the family circumstances was not considered with reference to the facts but lesser marks were awarded merely on the ground that there was a delay in submitting the application seeking compassionate appointment. If adequate marks are awarded without reference to the delay, then the petitioner would fall within the zone of consideration.

9.This Court is of the considered opinion that the assessment of penurious circumstances of the family and other eligibility criteria contemplated under the scheme is to be assessed by the Circle High Power Committee. Admittedly, there was an enormous delay even in submitting an application seeking compassionate appointment.

10.Question arises in this case is, whether the application submitted by the second respondent is maintainable under the scheme or not.

11.Admittedly, the second respondent was a minor at the time of the death of the employee. Therefore, she was not eligible for compassionate appointment. The wife of the deceased employee filed an application and on



W.P.No.17934 of 2022

account of family dispute, she has not persuaded the application. Therefore,

no other legal heirs of the deceased employee are eligible to seek appointment of compassionate grounds. The application submitted after a lapse of 12 years from the date of death of an employee is not maintainable under the scheme. The time limit prescribed under the scheme is 5 years from the date of the death of an employee. Thus, the application itself is liable to be rejected in limine.

12.All public appointments are to be made under the constitutional scheme of appointments and by following the recruitment rules in force. The scheme of compassionate appointment is a concession and cannot be claimed as an absolute right. Scheme being violative of Article 14 & 16 of Constitution of India, scope of the scheme cannot be expanded by providing appointment on compassionate appointment grounds, which would otherwise infringe the fundamental rights of the citizen, seeking public appointments through open competitive process. Lakhs and lakhs of youth of our great nation are longing to secure public employment on merits and through open competitive process. Compassionate appointments are made



W.P.No.17934 of 2022

without any merits assessment. Rule of reservation has not been followed.

Mere death of an employee alone is taken into consideration for providing public employment. The object of the scheme is not to provide one appointment to the family of the deceased employee. The object is to provide employment to the deserving family. Therefore, the penurious circumstances that arose on account of the death of an employee are to be assessed by the competent authority for providing compassionate scheme appointments. Delay in submitting application is vital. The penurious circumstances, if at all existed at the time of death of an employee, it became vanished on account of efflux of time. Therefore, delay is also considered as a ground to reject an application seeking compassionate appointment.

13. Large scale compassionate appointments in public services would undoubtedly result in infringement of the constitutional rights of meritorious candidates. Therefore, the scheme is to be implemented scrupulously following the terms and conditions. The Courts are not expected to expand the scope of the scheme merely based on misplaced sympathy. Misplaced sympathy in public employment by the Court would result in an



W.P.No.17934 of 2022

unconstitutionality or may cause miscarriage of justice.

WEB COPY

14. Therefore, we are of the considered opinion that the second respondent is not even eligible to submit an application with reference to the date of death of her father, who was an employee in BSNL. The application itself was submitted after a lapse of 12 years from the date of death of the employee. Thus, the grounds raised by the second respondent are untenable and beyond the scope of the scheme of compassionate appointment. Consequently, the impugned order dated 08.04.2022 passed in O.A.No.967 of 2019 by the first respondent is set aside and the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
sms

[S.M.S., J.] [M.J.R., J.]
11.12.2024

To

The Registrar
Central Administrative Tribunal,



High Court Campus, Chennai-104.

WEB COPY



W.P.No.17934 of 2022



WEB COPY



W.P.No.17934 of 2022

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

sms

W.P.No.17934 of 2022
&
WMP.No.17267 of 2022

11.12.2024