



W.P.No.27911 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN**

W.P.No.27911 of 2024

L.Arputharaj

... Petitioner

VS

1.The Chief General Manager
Bharat Sanchar Nigam Ltd,
(BSNL) No:60, Ethiraj Salai
Egmore, Chennai 600 008.

2.The Deputy General Manager
Bharat Sanjeev Nigam Ltd,
(BSNL) No:60, Ethiraj Salai
Egmore, Chennai 600 008.

3.The Assistant General Manager
Bharat Sanjeev Nigam Ltd,
(BSNL) Trichy.

4.The High Power of Committee
(BSNL) Co-operate office
New Delhi.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records relating to the order passed by the Central Administrative Tribunal at Chennai in O.A.No.29/2024 and quash the same and directing the 1st respondent to provide compassionate appointment for the petitioner at BSNL by considering the petitioner's representations dated 15.02.2022 and 28.04.2022.

For Petitioner : Mr.X.Selvam Sounder

ORDER

(Order of the Court was made by Dr.ANITA SUMANTH.,J)

Heard Mr.X.Selvam Sounder, learned counsel for the petitioner. No notice to the respondents is necessary in light of the order that is passed now in this Writ Petition.

2.The present writ petition has been filed challenging order dated 01.07.2024 of the Central Administrative Tribunal (CAT/Tribunal) confirming the order passed by the Bharat Sanchar Nigam Limited (BSNL) rejecting the representation of the petitioner seeking compassionate appointment in place of his father who had passed away due to sudden ill-health.



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3.The petitioner's father had been employed as a Telephone Mechanic (TM) in BSNL, Trichy. He had passed away on 01.01.2004 leaving behind his widow and two sons, the older of whom is the petitioner herein. The petitioner's mother had approached BSNL seeking compassionate appointment in the position of her deceased husband.

4.The application has come to be rejected by an order passed on 28.10.2013 by the High Powered Committee of the BSNL Corporate Office, New Delhi in the following terms:

'The ex-official expired on 01.01.2004 at the age of 41 years survived by his wife, and three sons. The family is living in rented house. The (pre-revised) family pension is Rs.2810/- + IDA and other terminal benefits were Rs.1,40,635/-. Keeping in view the assets, liabilities of the family of the deceased official, support arrangement, involved time period, long term commitments/responsibility and overall assessment of the condition of the family, the committee did not agree to offer Compassionate ground Appointment to you and recommended for rejection of the request under provisions of the scheme for the purpose in accordance with instructions of Department of Personal & Training laid down in O.M.No.14014/6/1994-Estt(D) dated 9.10.98.'

5.The rejection of the mother's application is based on Compassionate Appointment Scheme dated 09.10.1998 as modified vide



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Circular dated 27.06.2007. The authorities have noted that the family was in receipt of family pension plus IDA and other terminal benefits as well as in possession of other assets and hence did not satisfy the premise for compassionate appointment. The Committee also notes the substantial lag between the demise of the employee and the representation.

6.The petitioner had attained majority in 2012 itself notwithstanding which the application for compassionate appointment had come only from his mother. The application of the petitioner for compassionate appointment had been made only on 27.11.2017. That application had come to be disposed on 28.02.2018 by the authority conveying the view that the application is not even liable to be processed or considered. The order states thus:

'Kindly refer to your letter dated 27.11.2017 requesting appointment on compassionate ground, as a dependent of your father (Late) Sri.A.Lawrance Ex-TM, BSNL, Trichy.

Your father expired on 01.01.2004. 13 years lapsed. Already the request of your mother Smt.L.Vijagulamary alias Vasantha for Compassionate ground Appointment has been rejected by the High Power Committee, BSNL Corporate Office, New Delhi and the same was informed to her vide this office letter No.E214/L/2004/11 dt 28.10.2013. Hence your application cannot be considered for processing.'



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7.The rejection is on the grounds of substantial delay of thirteen years and the fact that his mother had earlier applied for compassionate appointment which had also been rejected. Order dated 28.02.2018 has become final and the petitioner did not contest the same. Out of the blue, and without reference to fact that his application had already been rejected, he addressed a reminder on 01.04.2023 to the Manager, Bharath Sanchar Nigam Limited, Trichy, reiterating his request for compassionate appointment.

8.The attempt was clearly intended only to elicit a response from the authority, which, if adverse, may serve as a cause of action to be agitated before the CAT. By a communication dated 13.05.2023, the third respondent states as follows:

'Kindly refer to your Lr dated 01.04.2023, regarding request for Compassionate Ground Appointment, in this regard this Office already informed to you vide Lr.No.E214/AL/2004/11 dt 20.10.2013 & Lr.No.E214/AL/2004/13 dated 28.02.2018.

This is for your kind information please.'

9.The petitioner has challenged the above order before the CAT, seeking a direction to the respondents to give him a suitable job in BSNL on compassionate basis. The Tribunal has passed the impugned order on



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01.07.2024 rejecting the petitioner's application primarily on the grounds that

- (i) the petitioner's father had expired as early as on 01.01.2004 while the petitioner's application had been filed only on 27.11.2017 with a substantial delay
- (ii) the petitioner's application had been rejected on 28.02.2018 but the petitioner had not challenged that order
- (iii) the petitioner's mother had applied earlier and her application had been rejected on 28.10.2013 which order had also not been challenged
- (iv) in order dated 28.10.2013, the authority has noted that even the mother's application had been belated and moreover, the family was in possession of assets
- (v) reliance was placed on the judgment of the Supreme Court in the case of *Fertilizers Chemicals Travancore Ltd. & Others v Anusree.K.B.* (Civil Appeal No.6958 of 2022, dated 30.09.2022).

10.Mr.X.Selvam Sounder, learned counsel appearing for the petitioner accedes to the sequence of dates and events that we have noted in supra. Hence, there is no dispute in regard to the critical dates, being



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01.01.2004, when the petitioner's father passed away, 2012, when the petitioner had attained majority, 28.10.2013 when the petitioner's mother's request for compassionate appointment had been rejected, 27.11.2017, when the petitioner made a request for compassionate appointment and 28.02.2018 when the petitioner's application was also rejected.

11.The specific argument put forth is that in order dated 28.02.2018, which order has, in fact, not been challenged, the application has merely been closed and has not been processed on merits. Hence, the petitioner would plead that the application be remanded to the superior authority for consideration as per the extant scheme governing compassionate appointments.

12.We have heard learned counsel for the petitioner in detail and have carefully considered the facts and circumstances arising in the matter. We are not inclined to intervene for several reasons. Firstly, we agree with the Tribunal that the plea of the petitioner vide representation dated 01.04.2023 for compassionate appointment is unduly delayed.

13.There are also no reasons or justification available on record for the delay on the part of the petitioner in approaching the authority



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seeking compassionate appointment so belatedly, particularly when he had attained majority in 2012 itself.

14.That apart, the petitioner's application has been closed on 28.02.2018 and the petitioner has not challenged this order. Hence we see no justification in the petitioner yet again making a representation on 01.04.2023 seeking the same relief of compassionate appointment. Having not challenged the order passed in 2018 and allowing it to become final, the conclusions of the Tribunal adverse to the Petitioner do not call for intervention.

15.The scheme for grant of compassionate appointment has the object of providing immediate financial succour and assistance for the dependent family of a employee who has died in harness.

16.A belated application would normally lead to the inference that there is no unmanageable financial distress caused to the family. However, the Scheme has envisaged instances of belated requests for compassionate appointments and addresses such requests in the following terms:

'BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT

(a) Ministries/Departments can consider requests for compassionate appointment even where the death or



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retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.

(b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.'

17. Clause-8 extracted above, states that belated appointments (of around 5 years or so) may be considered by the Secretary of the Department of Ministry who will bear in mind the object of compassionate appointment being immediate relief. It is only in very specific circumstances where they believe that intervention is required that they would exercise such discretion.

18. Thus, a belated request is an exception to the rule and cannot be taken to be the norm. Moreover, the cause of delay, if any, should be reasonable as indicated in that Clause itself. In the present case, the delay



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in filing of the application by the petitioner is 13 years, which, in our view, is unduly long. There is also no justification for the delay.

Moreover, the period of 5 years stipulated in Clause 8(a) should be computed from the date of demise of the employee and not, as the learned counsel for the petitioner would seek to do, from the date of attainment of majority of the applicant. This clear from 8(b) above.

19. That apart, we are also of the considered view that the demise of an employee cannot give way to a continuing cause of action leading to each family member taking a shot at seeking compassionate appointment as and when they attain the age of majority. In any event, in this case, the petitioner has attained majority in 2012, but has approached the authorities only in 2017.

20. Scheme dated 27.06.2007 only puts into play a modified methodology for computing the eligibility for appointment on compassionate basis and has no relevance in this matter.

21. In light of the discussion, we find no merit in this writ petition and dismiss the same. No costs.

[A.S.M., J] [G.A.M., J]
30.09.2024

Index: Yes
Speaking order



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Neutral Citation: Yes

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