



2021 INSC 564

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 6019 OF 2021
(Arising out of SLP(C)No.16404 of 2018)

THE CHIEF GENERAL MANAGER,
TELECOMMUNICATION, BSNL & ORS.

APPELLANT(S)

VERSUS

VIDYA PRASAD

RESPONDENT(S)

O R D E R

Leave granted.

The present appeal is directed against the judgment and order dated 13.12.2017 passed by the High Court of Judicature at Allahabad granting compensation to the respondent of Rs.10 lakhs in lieu of compassionate appointment which was arbitrarily denied to him by the Officers of the appellants.

The brief facts of the case relevant for the purpose are that the father of the sole respondent while working as a Telephone Mechanic died while in service on 07.02.2003. The respondent submitted his application seeking compassionate appointment on 15.10.2004 and formalities were completed by him as demanded by the Department on 03.07.2005. The Scheme which was applicable at the time of death of his father and also the date on which he submitted his application for compassionate appointment with all

formalities being complied with was of year 1998 in vogue for seeking compassionate appointment.

It is not disputed by the appellants that in terms of the Scheme of 1998, the respondent was eligible in seeking compassionate appointment. The new Scheme (weightage point system Scheme) in supersession of the 1998 Scheme was introduced by the appellants on 27.06.2007 and immediately thereafter the candidature of the respondent was considered by the Committee constituted seeking compassionate appointment and after consideration the application was rejected pursuant to a communication dated 15.09.2007 and the reason for rejection of his application is referred as under:

Late Shri Ram Bux Ex.P/M TDM Etawah, expired on 07.02.2003 at the age of about 52 years and Eight month survived by his wife and two son including Shri Vidhya Prasad Widow Smt. Badala Devi is getting pension of Rs.3170/- per month and living in own house.

As per standing instructions dated 27.06.2007 BSNL HQ for offering compassionate ground appointment weightage point system has been provided in respect of items with positive points and negative points, (a) cases with 55 or more Net Points shall be prima facie treated as eligible for consideration by BSNL HQ High Power Committee for compassionate ground appointment and (b) cases with Net Points below 55 shall be treated as non indigent and rejected.

That came to be challenged by the respondent initially

by filing an application before the Tribunal and further travelled to the Division Bench of the High Court and this is the ground reality that because of long pendency in Courts, attention could not be paid to decide the matters expeditiously and only because the delay being caused his legitimate right of fair consideration seeking compassionate appointment has been denied to him.

The Division Bench of the High Court under the impugned judgment observed that although he has a right of fair consideration in seeking compassionate appointment but by the time matter travelled to the Division Bench of High Court, he crossed the age of 50 years and it was considered not possible to permit him of seeking employment. Taking totality of the matter into consideration in lieu of employment granted him a lumpsum compensation of a sum of Rs.10 lakhs.

We have heard counsel for the parties for quite some time and we are of the view that delay was admittedly attributable to the appellants in not putting heed to the application submitted for seeking compassionate appointment.

In the given case, either on the death of his father or on the date on which he submitted his application for compassionate appointment, the Scheme of 1998 was in vogue for seeking compassionate appointment, and as observed he was eligible under the Scheme 1998 but his application remained pending until the new Scheme was introduced on

27.06.2007 and thereafter rejected by a letter dated 15.09.2007.

The facts are conspicuous and manifest in that the delay in entertaining the application for fair consideration in seeking employment submitted by the respondent is indisputably attributable to the appellants and for the afore-stated reason, he has been deprived of seeking compassionate appointment, which he was otherwise entitled to under the Scheme of 1998. It is always said that delay denies justice and the present respondent became victim of the total inaction on the part of the appellants and its officials in not putting heed to the application which was submitted by the family of the deceased employee, who died while in service. The indigent family who has lost their bread winner in seeking compassionate appointment to which one of the dependent was otherwise entitled to under the law because of irresponsible attitude and red tapism which is prevalent in the office of the appellants.

At the same time, it cannot be ignored that by the time the matter travelled to the Division Bench of the High Court, the respondent crossed the age of 50 years and certainly it was not possible to consider him for employment at such a belated stage, but the respondent at least could not have been left in lurch.

Taking into consideration the totality of the matter, we consider it appropriate that the respondent be entitled

at least for a cost of Rs.5 lakhs to be imposed on the appellants of causing delay in passing appropriate orders on his application which was furnished by him for seeking compassionate appointment.

Consequently, the judgment of the High Court impugned dated 13.12.2017 is modified as stated above and the appeal is accordingly disposed of. The payment of Rs.5 lakhs shall be made over to the respondent within a period of four weeks from today, failing which he will be entitled for interest @ 9% per annum until actual payment.

Pending application(s), if any, shall stand disposed of.

..... J.
(AJAY RASTOGI)

..... J.
(ABHAY S OKA)

NEW DELHI
SEPTEMBER 28, 2021