

भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)
मुख्य महाप्रबंधक का कार्यालय,
महाराष्ट्र दूरसंचार परिमंडल
'ए' विंग, 4थी मंजिल, प्रशासकीय भवन, जूहू रोड,
सांताक्रुझ (पश्चिम), मुंबई - 400 054.
(भर्ती- अनुभाग)

Bharat Sanchar Nigam Ltd
(A Govt. of India Enterprises)
Office of the Chief General Manager
Maharashtra Telecom Circle.
'A' Wing, 4th floor, Admn. Bldg.,
Juhu Road, Santacruz (W), Mumbai-54
(Recruitment Section)

To,
Chief General Manager, Western Telecom Project, Santacruz, Mumbai-54,
Chief General Manager, Western Telecom Region, Dadar, Mumbai-28,
Chief General Manager, Telecom Factory, Deonar, Mumbai-88,
Chief General Manager (IT), ITPC Pune,
All SSA/Unit Heads in Maharashtra Telecom Circle,
Chief Engineer (Civil), Mumbai/Kolhapur/Nagpur/Kalyan,
Chief Engineer (Electrical), Mumbai/Nagpur,
Chief Architect, Santacruz, Mumbai-54,
www.maharashtra.bsnl.co.in/intranet.

No.Rectt-V/CHPC/CORR/2018/5

Dated at Mumbai 11.04.2018

Sub:-Compassionate Ground Appointment .

Ref:-This office letter No. Rectt-V/34/Circle HPC/Corr/2017/27 dated 6.03.2018

Kindly refer the letter cited above on the subject. In this connection it is intimated that while examining new Compassionate Ground Appointment cases received in this office for the year 2017-18 it is still observed that many SSAs are not following the guidelines/instructions issued in this regard which causes great difficulty/delay in finalizing the eligible cases for placing the same before the Circle High Power Committee. Even after issue of instructions vide this office letter dated 06.03.2018 some SSAs are sending CGA cases without proper scrutiny at their end.


Further, it is requested to follow the FAQ (Frequently Asked Questions) on compassionate ground appointment issued by DOP&T vide letter No. 14014/02/2012-Estt.(D) dated 30.05.2013(copy enclosed) in connection with letter dated 09.10.1998.

In respect of calculation of weightage point for Family Pension (pre-revised) kindly follow the order No.273-18/2005-Pers.IV dated 22.10.2013 (copy enclosed) in addition to letter dated 27.06.2007.

In respect of accidental death CGA cases kindly follow the instruction mentioned in the order dated 05.02.2016 & submit the documents as per BSNL CO New Delhi letter No.273-18/2013/CGA/Estt.IV dated 02.06.2016 (copy enclosed).

It is therefore, advised to adhere to the instructions scrupulously before sending the CGA cases to this office so that Circle HPC could be conducted well in time.

This is issued with the approval of competent authority.


(Pushpaja Bhaskaran)
Asst. General Manager (DE & R)
O/o CGMI, Mumbai-54
Tele No : 022 26467579.

No.14014/6/94-Estt(D)
Government of India
Ministry of Personnel
Public Grievances & Pensions
Department of Personnel and Training

New Delhi
October 9, 1998

OFFICE MEMORANDUM

Subject: Scheme for compassionate appointment under the Central Government - Revised consolidated instructions.

The undersigned is directed to say that the existing instructions for making compassionate appointment under the Central Government have since been reviewed in the light of the various court judgements and other decisions including those taken on the various recommendations contained in the Fifth Central Pay Commission Report as well as the Study Reports of 1990 and 1994 prepared by the Department of Administrative Reforms and Public Grievances on the subject and they have accordingly been revised/simplified and consolidated as in the enclosed scheme which will supersede all the existing instructions on the subject. This may be brought to the notice of all concerned for information, guidance and necessary action.

Sd/-
(K.K. JHA)
DIRECTOR (ESTABLISHMENT)

SCHEME FOR COMPASSIONATE APPOINTMENT

1. OBJECT

The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.

2. TO WHOM APPLICABLE

To a dependent family member-

(A) of a Government servant who-

- (a) dies while in service (including death by suicide); or
- (b) is retired on medical grounds under Rule 2 of CCS (Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group 'D' Government servants); or
- (c) is retired on medical grounds under Rule 38 of CCS (Pension) Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group 'D' Government servants); or

(B) of a member of the Armed Forces who-

- (a) dies during service; or
- (b) is killed in action; or
- (c) is medically boarded out and is unfit for employment.

Note I "Dependent Family Member" means:

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred to in (A) or (B) of this para.

who was wholly dependent on the Government servant or member of the Armed Forces at the time of his death, in harness or retirement on medical grounds, as the case may be.

Note II "Government servant" for the purpose of these instructions means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or adhoc or contract or re-employment basis.

Note III "Confirmed work-charged staff" will also be covered by the term 'Government servant' mentioned in Note III above.

Note IV "Service" includes extension in service (but not re-employment) after attaining the normal age of retirement in a civil post.

Note V "Re-employment" does not include employment of ex-serviceman before the normal age of retirement in a civil post.

3. AUTHORITY COMPETENT TO MAKE COMPASSIONATE APPOINTMENT

- (a) Joint Secretary incharge of administration in the Ministry/Department concerned.
- (b) Head of the Department under the Supplementary Rule 2(10) in the case of attached and subordinate offices.
- (c) Secretary in the Ministry/Department concerned in special types of cases.

4. POSTS TO WHICH SUCH APPOINTMENTS CAN BE MADE

Group 'C' or Group 'D' posts against the direct recruitment quota.

5. ELIGIBILITY

- (a) The family is indigent and deserves immediate assistance for relief from financial destitution; and
- (b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

6. A. EXEMPTIONS

Compassionate appointments are exempted from observance of the following requirements:-

- (a) Recruitment procedure i.e. without the agency of the Staff Selection Commission or the Employer Exchange.

- (b) Clearance from the Surplus Cell of the Department of Personnel and Training/Directorate General of Employment and Training.
- (c) The ban orders on filling up of posts issued by the Ministry of Finance (Deptt. of Expenditure).

B. RELAXATIONS.

- (a) Upper age limit could be relaxed wherever found to be necessary. The lower age limit should, however, in no case be relaxed below 18 years of age.

Note I

Age eligibility shall be determined with reference to the date of application and not the date of appointment;

Note II

Authority competent to take a final decision for making compassionate appointment in a case shall be competent to grant relaxation of upper age limit also for making such appointment.

- (b) Secretary in the Ministry/Department concerned is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules in the case of appointment at the lowest level e.g. Group 'D' of Lower Division Clerk post, in exceptional circumstances where the condition of the family is very hard provided there is no vacancy meant for compassionate appointment in a post for which the dependent family member in question is educationally qualified. Such relaxation will be permitted upto a period of two years beyond which no relaxation of educational qualifications will be admissible and the services of the person concerned, if still unqualified, are liable to be terminated.

Note

In the case of an attached/subordinate office, the Secretary in the concerned administrative Ministry /Department shall be the competent authority for this purpose.

- (c) In the matter of exemption from the requirement of passing the typing test those appointed on compassionate grounds to the post of Lower Division Clerk will be governed by the general orders issued in this regard:-

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(i) by the CS Division of the Department of Personnel and Training if the post is included in the Central Secretariat Clerical Service; or

(ii) by the Establishment Division of the Deptt. of Personnel and Training if the post is not included in the Central Secretariat Clerical Service.

(d) Where a widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirement of possessing the educational qualifications prescribed in the relevant rules provided the duties of the post can be satisfactorily performed by her without possessing such educational qualifications.

DETERMINATION/AVAILABILITY OF VACANCIES

- 7.
- (a) Appointment on compassionate grounds should be made only on regular basis and that too only if regular vacancies meant for that purpose are available.
- (b) Compassionate appointments can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' or 'D' post. The appointing authority may hold back upto 5% of vacancies in the aforesaid categories to be filled by direct recruitment through Staff Selection Commission or otherwise so as to fill such vacancies by appointment on compassionate grounds. A person selected for appointment on compassionate grounds should be adjusted in the recruitment roster against the appropriate category viz SC/ST/OBC/General depending upon the category to which he belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point, if he is ST/OBC he will be adjusted against ST/OBC point and if he belongs to General category he will be adjusted against the vacancy point meant for General category.
- (c) While the ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family member of Government servant on casual daily wage/ad-hoc/contract basis against regular vacancies, there is no bar to considering him for such appointment if he is eligible as per the normal rules/orders governing such appointments.

- (d) The ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy.
- (e) Employment under the scheme is not confined to the Ministry/Department/Office in which deceased/medically retired Government servant had been working. Such an appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment.
- (f) If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Ministry/Department/Office to take up the matter with other Ministries/Departments/Offices of the Government of India to provide at an early date appointment on compassionate grounds to those in the waiting list.

RELATED REQUESTS FOR COMPASSIONATE APPOINTMENT

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

WIDOW APPOINTED ON COMPASSIONATE GROUNDS GETTING

A widow appointed on compassionate grounds will be to continue in service even after re-marriage.

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10.

WHERE THERE IS AN EARNING MEMBER

- (a) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the Government servant, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.
- (b) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.

1. MISSING GOVERNMENT SERVANT

Cases of missing Government servants are also covered under the scheme for compassionate appointment subject to the following conditions:-

- (a) A request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which the Government servant has been missing, provided that:-
 - (i) an FIR to this effect has been lodged with the Police;
 - (ii) the missing person is not traceable, and
 - (iii) the competent authority feels that the case is genuine;
- (b) This benefit will not be applicable to the case of a Government servant:-
 - (i) Who had less than two years to retire on the date from which he has been missing; or

- (ii) Who is suspected to have committed fraud, or suspected to have joined any terrorist organisation or suspected to have gone abroad.
- (c) Compassionate appointment in the case of a missing Government servant also would not be a matter of right as in the case of others and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such appointment under the scheme;
- (d) While considering such a request, the results of the Police investigation should also be taken into account; and
- (e) A decision on any such request for compassionate appointment should be taken only at the level of the Secretary of the Ministry/Department concerned.

PROCEDURE

- (a) The proforma as in Annexure may be used by Ministries/Departments/Offices for ascertaining necessary information and processing the cases of compassionate appointment.
- (b) The Welfare Officer in each Ministry/Department/Office should meet the members of the family of the Government servant in question immediately after his death to advise and assist them in getting appointment on compassionate grounds. The applicant should be called in person at the very first stage and advised in person about the requirements and formalities to be completed by him.
- (c) An application for appointment on compassionate grounds should be considered in the light of the instructions issued from time to time by the Department of Personnel and Training (Establishment Division) on the subject by a committee of officers consisting of three officers - one Chairman and two Members - of the rank of Deputy Secretary/Director in the Ministry/Department and officers of equivalent rank in the case of attached and subordinate offices. The Welfare Officer may also be made one of the Members/Chairman of the committee depending upon his rank. The committee may meet during the second week of every month to consider cases received during the previous month. The applicant may also be granted personal hearing by the committee, if necessary, for better appreciation of the facts of the case.

- (d) Recommendation of the committee should be placed before the competent authority for a decision. If the competent authority disagrees with the committee's recommendation, the case may be referred to the next higher authority for a decision.

UNDERTAKING

A person appointed on compassionate grounds under the rule should give an undertaking in writing (as in Annexure) that he will maintain properly the other family members who were dependent on the Government servant/member of the Armed Forces in question and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith.

REQUEST FOR CHANGE IN POST/PERSON

When a person has been appointed on compassionate grounds to a particular post, the set of circumstances, which led to such appointment, should be deemed to have ceased to exist thereafter. -

- (a) He/she should strive in his/her career like his/her colleagues for future advancement and any request for appointment to any higher post on consideration of compassion should invariably be rejected.
- (b) An appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on considerations of compassion should invariably be rejected.

SENIORITY

- (a) The inter-se seniority of persons appointed on compassionate grounds may be fixed with reference to their date of appointment. Their interpolation with the direct recruits/promotees may also be made with reference to their dates of appointment without disturbing the inter-se seniority of direct recruits/promotees.
- (b) Date of joining by a person appointed on compassionate grounds shall be treated as the date of his/her regular appointment.

GENERAL

- (a) Appointments made on grounds of compassion should be done in such a way that persons appointed to the post do have the essential educational, technical qualifications and experience for the post.

- (b) It is not the intention to restrict employment of a family member of the deceased or medically retired Group 'D' Government servant to a Group 'D' post only. As such, a family member of such Group 'D' Government servant can be appointed to a Group 'C' post for which he/she is educationally qualified, provided a vacancy in Group 'C' post exists for this purpose.
- (c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc.
- (d) Compassionate appointment should not be denied or delayed merely on the ground that there is reorganisation in the Ministry/Department/Office. It should be made available to the person concerned if there is a vacancy meant for compassionate appointment and he or she is found eligible and suitable under the scheme.
- (e) Requests for compassionate appointment consequent on death or retirement on medical grounds of Group 'D' staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case.
- (f) Compassionate appointment will have precedence over absorption of surplus employees and regularisation of daily wage/casual workers with/without temporary status.

- (g) Any request to increase the upper age limit of years for retirement on medical grounds prescribed in para 2(A) (b) and (c) above in respect of 'A'/'B'/'C' Government servants and to bring it in par with the upper age limit of 57 years prescribed therein for Group 'D' Government servants on the ground that the age of retirement recently (May, 1998) been raised from 56 years to 60 years for Group 'A'/'B'/'C' Government servants (which is at par with the age of retirement of 60 years applicable to Group 'D' Government servants) or on any other ground should invariably be rejected so as to ensure that the benefit of compassionate appointment available under the scheme is not misused by seeking retirement on medical grounds at the fag end of one's career and also keeping in view the fact that the higher upper age limit of 57 years has been prescribed therein for Group 'D' Government servants for the reason that they are low paid Government servants who get meagre invalid pension in comparison to others.

7. IMPORTANT COURT JUDGEMENTS

The ruling contained in the following judgements may also be kept in view while considering cases of compassionate appointment:-

- (a) The Supreme Court in its judgement dated April 8, 1993 in the case of Auditor General of India and other Vs. G. Ananta Rajeswara Rao [(1994) 1 S.C. 192] has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution, but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.
- (b) The Supreme Court's judgement dated May 4, 1994 in the case of Unish Kumar Nagpal Vs. State of Haryana and other [JT 1994(3) S.C. 525] has laid down the following important principles in its regard:-
- (i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.

- (ii) The posts in Group 'C' and 'D' (formerly Class III and IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other post i.e. in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.
- (iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.
- (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.
- (v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.
- (vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.
- (vii) Compassionate appointment cannot be offered by an individual functionary on an ad-hoc basis.
- (c) The Supreme Court has held in its judgement dated February 28, 1995 in the case of the Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Amberkar and others [JT 1994(2) S.C. 183] that the High Courts and Administrative Tribunals can not give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.
- (d) The Supreme Court has ruled in the cases of Himachal Road Transport Corporation Vs. Dinesh Kumar [JT 1996(5) S.C. 319] on May 7, 1996 and Hindustan Aeronautics Limited Vs. Smt. A Radhika Thirumalai [JT 1996(9) S.C. 197] on October 9, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.

(e) The Supreme Court has held in its judgement in the case of State of Haryana and others Vs. Rani Devi and others [JT 1996(6) S.C. 646] on July 15, 1996 that if the scheme regarding appointment on compassionate ground is extended to all sorts of casual ad-hoc employees including those who are working as Apprentices, then such scheme cannot be justified on Constitutional grounds.