

COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

EIGHTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2015/Sravana 1937 (Saka)

EIGHTH REPORT OF THE COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Eighth Report (Sixteenth Lok Sabha) of the Committee to the House on the representation received from Sh. Saurabh Kumar regarding:- employment in CCSO/SAIL, Dhanbad on compassionate ground

2. The Committee considered and adopted the draft Eighth Report at their sitting held on 06 August, 2015.
3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

BHAGAT SINGH KOSHYARI

**Chairperson,
Committee on Petitions**

06 August, 2015
15 Shravana, 1937 (Saka)

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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(2014-2015)**

Shri Bhagat Singh Koshyari - *Chairperson*

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Shri Rajen Gohain
7. Dr. K. Gopal
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Smt. Krishna Raj
11. Shri Arjun Charan Sethi
12. Shri Kodikunnil Suresh
13. Shri Dinesh Trivedi
14. Shri Rajan Vichare
15. Shri Dharmendra Yadav

SECRETARIAT

1. Shri K. Vijaykrishnan - *Additional Secretary*
2. Shri Shiv Kumar - *Joint Secretary*
3. Shri Raju Srivastava - *Additional Director*
4. Md. Aftab Alam - *Deputy Secretary*
5. Shri Soumik Roy - *Executive Assistant*

REPORT

REPRESENTATION RECEIVED FROM SHRI SAURABH KUMAR S/O LATE R.B. SAHAY, SENIOR INSPECTOR I/C (COAL) at CENTRAL COAL SUPPLY ORGANISATION (CCSO)/ STEEL AUTHORITY OF INDIA LIMITED (SAIL), DHANBAD REGARDING COMPASSIONATE APPOINTMENT IN CCSO/SAIL, DHANBAD

A representation dated 'Nil' was submitted to the Committee on Petitions by Shri Saurabh Kumar seeking compassionate appointment in the Steel Authority of India Ltd. (SAIL).

2. The representationist *inter alia* stated that his father Late R.B. Sahay worked in CCSO/SAIL for 35 years. However, during the last 15 years of his service, due to prolonged exposure to pollution in the collieries, he contracted severe health ailments. He was diagnosed with COPD with Cor Pulmonale, Emphysema, High Blood Pressure and Diabetes, as a result thereof he could not perform his duties as he did normally. Accordingly, he appealed to the management to transfer him to a desk job and also to consider his son, the petitioner, for employment in his place. Though, initially the Management did not consider his request and forced him to continue to work in the collieries which further aggravated his health condition, later on, in view of his deteriorating condition, he was transferred to the Head Office in Dhanbad to work in the generator room where he again got exposed to toxic fumes emanating from the generator. The Petitioner further submitted that apprehending the fatal condition of his health, his father applied for appointment of the petitioner, in his place. Consequently, he appeared before a medical board which did not declare him medically invalid and therefore, his son could not be considered eligible for compassionate appointment. The Petitioner stated that his father continued to work under severe medical impairment and again approached the management to review the medical board report. However, before any action could be taken, he passed away on 7.04.2012 while his application was still under consideration.

The Petitioner, therefore, requested the Committee on Petitions to look into the matter and impress upon the concerned Authorities to extend the benefit of compassionate appointment to him.

2. The Committee on Petitions took up the representation for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the representation was referred to the Ministry of Steel on 18 September 2014, for eliciting their comments on the issues/points raised therein. In response thereto, the Ministry of Steel *vide* their communication dated 13 October, 2014 submitted as follows:-

"(a) *In the year 2009 a uniform guideline for dealing with cases for regulating requests for compassionate appointment was circulated across SAIL plants and Units. These guidelines provide for compassionate employment to dependents of the employee in the following cases:-*

Death/permanent total disablement of the employee due to accident arising out of and in course of employment- cases covered under NJCS agreement.

Medical Invalidation of the employee due to suffering from certain listed chronic debilitating diseases.

(b) *Late R.B. Sahay, who joined SAIL on 06.05.1977 was working as Sr. Inspector I/C (Coal) at CCSO, Dhanbad. He was under treatment at Bokaro General Hospital, Bokaro since 18.03.2012 where he expired on 07.04.2012 due to cardio respiratory arrest with diagnosis of COPD, infectious exacerbation, respiratory failure, DM as per death certificate dated 07.04.2012 issued by the Hospital.*

(c) *The death of Late R.B. Sahay was a natural death and not due to any accident arising out of and in course of employment. Therefore, the case does not qualify for compassionate employment under the rules of the Company.*

(d) *Pertinent to mention that earlier *vide* application dated 3 June 2010, Late Sahay applied for medical invalidation under uniform guidelines for dealing with compassionate cases citing ill health due to suffering from COPD with Cor Pulmonale, BP & Blood Sugar. After giving him opportunities thrice i.e. on 19.1.11, 16.2.11 and 30.4.11 for submission of required documents, his case was taken up by the Medical Board of Bokaro General Hospital on 30 April 2011 and the Board, on the basis of relevant documents of treatment & clinical investigation, did not find him medically invalid in terms of the scheme.*

(e) *He subsequently continued to attend his office duties at CCSO, Dhanbad and after almost one year i.e. on 26.3.2012, Late Sahay submitted an application for reconsideration of his case for medical invalidation which could not be considered*

as by the time the same was received by Bokaro General Hospital on 9.4.12, Late Sahay had expired on 7.4.12.

- (f) *Such cases of natural death, however, can be considered for enrolment under the Employee Family Benefit Scheme(EFBS) under which the legal heir can deposit an amount equal to PF and Gratuity amount with the company and he/she will receive the last Basic+ DA drawn till the normal date of superannuation on a month to month basis. After the normal date of superannuation the amount so deposited will be released to the legal heir. However, the family of Late Sahay did not opt for benefits under EFBS.*

The position that the case does not qualify for compassionate employment has also recently been communicated by CSSO to Smt Mira Sahay, w/o Late R.B. Sahay against her representation dated 27.6.2014."

3. In this context, when the Committee categorically desired to know that if the condition of Late Sahay was known to his superiors and why, then, no action was taken on his application for consideration of his case for medical invalidation, the Ministry in their written reply submitted :

"The medical ailment of Late Sahay was known to the Management of CCSO. As CCSO does not have a captive hospital, Late Sahay was extended proper Medical & Health Care by way of referrals / reimbursement for treatment taken locally from doctors/ physicians of his choice. It has been reported that Late Sahay was a habitual smoker.

Shri Sahay was treated at Christian Medical College & Hospital, Vellore in 1999 for Chronic Obstructive Pulmonary Disease (COPD) with Lower Respiratory Infection and was advised to stop smoking (Annexure-I). Further, while being examined at Apollo, Kolkata in Feb, 2012, he was referred to as ex-smoker for last 5 years (Annexure-II).

The application for consideration under the scheme for Medical Invalidation submitted by Shri Sahay was duly forwarded for examination by Medical Invalidation Board (MIB). The MIB took up the case of Shri Sahay on 16.02.11 and 30.04.11.

On his verbal request, Shri Sahay was redeployed from Patherdih Command area, HQs Jhorapokhar to CCSO Head Quarters Dhanbad Office vide transfer order dated 01/09/2011. He joined his new place of posting on 19.09.11. He was regular in his duties which is borne out from his attendance from 2008 onwards till his death (Annexure- III)."

4. The Committee specifically desired to know about the nature of medical invalidation sought by the deceased employee which was to be considered for compassionate appointment and also wanted to have a list of chronic debilitating diseases along with the factual information as

to whether high blood pressure and diabetes falls within purview, the Ministry submitted as under:

"The parameters/procedures framed for declaring an employee Medically Unfit in case of incapacitative Respiratory Diseases i.e. Chronic Obstructive Pulmonary Disease with Cor Pulmonale, one should fulfil all the criteria mentioned below at the time of appearing in the MIB:

- *COPD (chronic obstructive/ restrictive pulmonary disease) as confirmed by PFT in which FEV has to be \leq 40% of the predicted value at minimum 2 occasions, 4 weeks apart;*
- *hyperinflation of lungs in X ray and CT Scan;*
- *presence of Cor Pulmonale (a more debilitating condition in advanced COPD), presence of P pulmonale and Right Ventricular Hypertrophy in ECG (objective evidence)*
- *evidence of Cor pulmonale more accurately doubly confirmed by Enlarged Right Atrium \pm Enlarged Right Ventricle \pm Moderate to Severe TR*
- *With persistent ($>$ 3 months) Functional Class \geq NYHA III, despite adhering to standard treatment"*

5. When asked by the Committee to elaborate upon the grounds for not declaring Late Sahay medically invalid in terms of the scheme given the fact that Late Sahay was under constant hospitalization and undergoing treatment for respiratory illness the Ministry submitted that as per records of Medical Invalidation Board, Late Sahay appeared in the MIB in Bokaro General Hospital on 16.02.2011 for the first time. As he was not having any investigations, he was asked to reappear with the relevant investigations like Chest X ray, CT Scan, ECG, Echocardiography and Pulmonary Function Test (PFT) at least on two occasions 4 weeks apart. Subsequently, following investigations were done:

- ECG - on 17.02.2011
- Echocardiography - on 17.02.2011
- X ray chest and HRCT thorax - on 18.02.2011
- PFT - on two occasions on 17.02.2011 and 16.03.2011
- Blood investigations - on 21.02.2011

On 30.04.2011, he appeared in MIB with relevant investigations and as per record he was suffering from COPD. His Chest X ray and HRCT thorax were suggestive of emphysema which is suggestive of over inflation which is a radiological feature found in mild to moderate cases of COPD. Even his reports of PFT done on 17.02.2011 and 16.03.2011 showed subnormal FEV1 which again is suggestive that he was a case of COPD. But his ECG was absolutely normal and there was no P pulmonale or no other feature suggestive of Right Ventricular Hypertrophy (RVH). Again his Echocardiography done on the same day was absolutely normal. Size of all the four chambers was within normal limits. There were no features of Right Atrial or Right Ventricular Hypertrophy with no valvular lesions, that means there was no Tricuspid Regurgitation, which is usually present in RVH. His Left Ventricular Ejection Fraction (LVEF) was 56% which again was suggestive of a very good functioning heart.

After due investigation, it was found that Late Sahay was having a normal sized Right Atrium, normal sized Right Ventricle with very good functioning heart with LVEF of 56%. There was no evidence of Right Atrial or Right Ventricular Hypertrophy which is essential feature of Cor Pulmonale which is seen in severe advanced cases of Chronic Obstructive Lung Disease.

Further, he was not having any features of Cor Pulmonale as there was no Right Ventricular hypertrophy and ECG and Echocardiography were absolutely normal. There were no features of P pulmonale + RVH, with normal Right Atrium and Right Ventricle. His Echocardiogram was within normal limits with a LVEF of 56% with a very good pumping heart.

His blood investigations were also absolutely normal. Fasting blood sugar – 106 mg%, Serum Creatinine 0.7 mg%, Haemoglobin 15.5, Total leucocytes count 6100 /ml with differential of Neutrophils - 64%, Lymphocytes – 36%.

Further, as per guidelines under chronic debilitating lung diseases, COPD alone cannot fulfil the criteria for medical invalidation, rather COPD with Cor Pulmonale (which is a chronic debilitating condition seen in advanced COPD) fulfils the criteria for medical invalidation.

Therefore, in the absence of Cor Pulmonale (which is an incapacitating, debilitating condition in chronic advanced COPD) he was not declared medically invalid.

The list of Chronic debilitating diseases is annexed (Annexure-IV). As per the list of chronic debilitating diseases, high blood pressure and diabetes do not come under the purview."

6. In this context, the Ministry in a written submission further elaborated that the case of Late Sahay was considered by the Medical Invalidation Board. The medical condition of Late Sahay was

not debilitating in nature and though he was suffering with COPD but not Cor Pulmonale as evident by the Discharge Summary of Apollo Gleneagles Hospitals dated 24/02/12 that even after nine months of MIB, Pulmonary Function Tests (PFT) were not prescribed by the Hospital in case of Late Sahay (Annexure-V). Thus he was not suspected of having Cor Pulmonale.

7. On being enquired by the Committee about the reported cause of death of Late Sahay and categorically desired to know whether the cause of death was due to the work condition, the Ministry in their written reply submitted:

"The cause of death as per death certificate is "Cardio Respiratory Arrest" and the diagnosis was "COPD, Infection exacerbation, Respiratory Failure, DM".

During the hospital admission, prior to his death on 18/03/12, the Echo report at time of admission was normal (LVEF 56%). He was suffering from fever and the culture report was positive which is suggestive of infection. The infection is an acute condition which can occur in any case of COPD causing sudden death. Therefore, question of death due to work condition does not arise. As mentioned earlier, Shri Sahay was a habitual smoker."

8. In response to a query by the Committee as to why the management took so long (almost two years) to consider the review application of the medical report of Late Sahay, the Ministry in their written reply submitted as under:

"The application of Late Sahay for compassionate appointment under the scheme was considered by SAIL and he appeared in the Medical Invalidation Board(MIB) meetings held on 16/02/11 & 30/04/11. The request by Late Sahay dated 20/03/12 for review of the earlier MIB decision was received on 26/03/12 and was processed for consideration of MIB but, unfortunately, he expired on 07/04/12 before the MIB could be held."

9. The Committee thereafter took oral evidence of the representatives of the Ministry of Steel and Steel Authority of India Limited (SAIL) on 02.06.2015.

10. During evidence, the representative of the Ministry apprised the Committee that compassionate appointment are considered in two cases- when the death of the employee occurs while in service and due to an accident or when a medical board declares an employee medically unfit. The official submitted that in such cases the medical board has prescribed a list of following seven debilitating diseases:-

- (i) Advanced stage of cancer
- (ii) Chronic renal failure
- (iii) In-capacitative cardiac disease
- (iv) In-capacitative neurological disease
- (v) Psychiatric illness
- (vi) In-capacitative respiratory disease
- (vii) Permanent total disablement

The cause of death of Shri Sahay did not fall in any of the seven categories and thus, his next of kin is not eligible for compassionate appointment on ground of medical invalidation.

11. Responding to a query regarding life insurance coverage provided to the family of the deceased, the representative of the Ministry submitted that in cases of natural death, the family of the deceased is enrolled under the Employee Family Benefit Scheme under which the legal heir can deposit an amount equivalent to PF and Gratuity amount with the company and he or she will receive the last basic plus DA drawn till the normal date of superannuation on month to month basis. After the normal date of superannuation, the amount so deposited will be released to the legal heir. However, the family of the Late Sahay did not opt for EFBS.

12. The representatives of the Ministry further clarified that the PF and the gratuity would remain with the company and the family of the deceased would get it at the time of notional retirement of the deceased. Till such time the family would be drawing the same salary as the deceased employee could have drawn. Thus, the whole scheme would operate as if the deceased was still in employment.

13. The Committee desired to know about the basis on which only the seven medical conditions are prescribed for compassionate appointment on medical invalidation and when were these last reviewed. The representatives of the Ministry submitted that the prescribed lists followed are old but they were reviewed five years back.

14. The Committee then categorically desired to know the rules governing cases of compassionate appointment in Public Sector Undertakings and also as to whether the Petitioner

would be eligible for compassionate appointment under the Rules of Government of India. In response, the witness submitted that the Department of Public Enterprises exercise overall supervision of all Public Sector Units. The Department issues a general policy which is applicable to all the PSUs uniformly. Where the rules does not apply because of the nature of function of the PSUs, the PSU is empowered to frame its own rules under supervision of the Board of Directors.

15. The Committee, thereupon, made an observation that the case was genuine and even if this case did not fall in the list of seven diseases for declaration of medical invalidation, the Board and the Chairman of Management of the Company can consider the request of the Petitioner for providing compassionate appointment, as a special case, on humanitarian grounds.

OBSERVATIONS/RECOMMENDATIONS

16. In the representation, the Petitioner Shri Saurabh Kumar had stated that his father Late R.B Sahay was an employee in CSSO/ SAIL for 35 years. However, during the last 15 years of his service, due to prolonged exposure to pollution in the collieries, he contacted severe health ailments. His late father, approached the Management time and again to transfer him to a desk job and also to consider his son, the Petitioner, for employment in his place. The Management, however, did not consider his request and forced him to continue to work in the collieries. In view of his father's deteriorating health and physical condition, the Management, at last, transferred him to the Head office in Dhanbad to work in the generator room where he again got exposed to toxic fumes emanating from the generator. The Petitioner further submitted that his father appeared before the Medical Board to declare him medically invalid and thus, consider his son for compassionate appointment. However, the Medical Board declared him medically not invalid, thereby, debarring his son's eligibility for the compassionate appointment. The Petitioner further submitted that his father after a period of one year, appealed for the review of the medical report but before any action could be taken, he passed away. He had therefore, sought intervention of the Committee in the matter of his compassionate appointment in SAIL.

17. The Committee note from the written submission of the Ministry of Steel that as per the Steel Authority of India Limited (SAIL), the case under reference is not covered under the Company's provisions for providing compassionate appointment and the same has been conveyed by the Company to the family of the deceased with the advice to opt for Employee Family Benefit Scheme (EFBS) under which financial help is provided to the deceased.

18. The Committee note that as per the guidelines currently, in vogue, in all the plants/units of SAIL, the compassionate appointment to dependents of the employee are granted in cases of (i) Death/ permanent total disablement of the employee due to accident arising out of and in course of employment- cases covered under NJCS agreement; and (ii)

Medical Invalidation of the employee caused due to suffering from certain listed chronic debilitating diseases.

19. In the context of the instant case, the Committee find that Late Sahay had applied for medical invalidation on 3.10.2010, in terms of the guidelines of the Company regulating the cases of compassionate appointment citing ill health, as he was suffering from COPD with Cor Pulmonale, BP & Blood Sugar. The Committee observe that his case was taken up by the Medical Invalidation Board (MIB) of Bokaro General Hospital (BGH) on 30.04. 2011 and, on the basis of relevant documents of treatment & clinical investigation, the Board did not find him medically invalid in terms of the Scheme. Consequently, he continued to attend his duties at CCSO, Dhanbad.

20. The Committee are constrained to observe that the medical condition of Late Sahay was known to the management of CSSO, Dhanbad as he was suffering from certain chronic disease such as COPD with Cor Pulmonale, high BP and diabetes for which he was undergoing treatment. Although, the request of Late Sahay for medical invalidation was not considered by the Medical Invalidation Board of Bokaro General Hospital on 30.04.2011, his second request for medical invalidation was not considered by the management of the Company with the desired element of urgency required in the matter which is evident from the fact that Late Sahay, in his deteriorating health condition, applied for Medical Invalidation on 26.03.2012 which was received by the said hospital on 09.04.2012. Thus, the management took about two weeks to forward the request of Late Sahay to the Hospital. The Committee are therefore inclined to conclude that management of the company caused delay in forwarding the request of Shri Sahay to BGH as a consequence thereof, Shri Sahay could not be medically examined by the MIB and he expired on 7.04.2012 i.e. just two days before his second request for Medical Invalidation even could be considered by the MIB in the light of fresh medical factual information it contained.

21. The Committee further note that such cases of natural death are not covered for compassionate appointment but can be considered for enrolment under the Employee

Family Benefit Scheme (EFBS) under which the legal heir can deposit an amount equal to PF and Gratuity amount with the company and he/she will receive the last drawn Basic Pay and Dearness Allowance drawn till the normal date of superannuation on a month-to-month basis. After the normal date of superannuation the amount so deposited would be released to the legal heir.

22. The Committee are of the view that the policy of providing financial help under the EFBS can only partially mitigate the financial problems of the bereaved family. The Committee, therefore, feel that in cases, such as the present one, a lump sum amount under the EFBS should be provided to the family of the deceased to enable them to take care of their immediate financial need.

23. In the present context, the Committee note and would also like to specifically point it out that on one hand the medical board prescribed incapacitative respiratory disease as one of the seven debilitating diseases, which merits the case for being considered for compassionate appointment on the grounds of medical invalidation, while on the other hand, death of an employee due to COPD is not reckoned as incapacitative respiratory disease. The Committee find it extremely insensitive on part of SAIL authorities to cite a technical classification of COPD with Cor pulmonale and not merely COPD as an incapacitative respiratory disease and overlooked the fact that the death was caused due to COPD.

24. The Committee further feel that the Authorities dealing with the case of Late R.B. Sahay did not consider his plea(s) with the desired level of sensitivity, urgency and compassion. The Committee are of considered opinion that prescribing a squeezed list of diseases for considering the case of compassionate appointment is unjustified. The Committee are aware that the working conditions in collieries and adjoining areas are prone to heavy air pollution causing significant damage to the human health and therefore, it is difficult to attribute a cause of illness to a particular reason. The Committee, therefore,

recommend that this list of debilitating diseases should be reviewed in light of the prevailing conditions of the work sphere.

25. The Committee have reasons to believe that in a case of similar nature in terms of the guidelines followed by the Government of India, the Petitioner would have perhaps been granted compassionate appointment for the very fact that his father had passed away while in the employment. The Committee, thus, feel that while considering the instant case, the humanitarian ground and subsistence of the dependant(s) should be the prime concern rather than denying it on some technical grounds. The Committee would further recommend that in the larger interest of the families of the deceased employees, it is imperative to ensure that a uniform set of standard Rules/ Guidelines for examining cases of compassionate appointments are followed in SAIL.

The Committee would like to be apprised about the action taken by the Ministry of Steel on the observations and recommendations made by the Committee in the Report within three months of the presentation of this Report to the House.