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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1144/2002
MA 906/2002

New Delhi this the 24th day of June, 2003

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri R.K.Upadhyaya, Member (A)

1. MTNL Executive Association,
Central Headquarters,
New Delhi
through its General Secretary,
Shri V.K.Tomar,
197, Ashoka Enclave, Part-I,
Faridabad.
2. R.K.Mudgil,
Flat No.465, Pocket No.10,
Sector 11, Rohini, Delhi-85
3. V.S.Tomar,
1132, Sector 29, NOIDA,
Distt. Ghaziabad.
4. P.K.Gupta,
B-2 B/134, Janakpuri,
New Delhi-58
5. B.S.Dalal, NPT,
463, Sarojini Nagar,
New Delhi.

..Applicants

(By Advocates Shri Dayan Krishnan alongwith
Shri Gautam Narayan)

VERSUS

1. Union of India,
through the Secretary,
Department of Telecommunications,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-1
2. The Secretary,
Department of Personnel and Training,
Government of India, North Block,
New Delhi-1
3. The Secretary,
Department of Pension and
Pensioners' Welfare, Govt.of India,
Nirvachan Sadan, New Delhi-1

..Respondents

(None for the respondents)

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O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J))

This OA has been filed by the applicants who are the Members of the MNTL Executive Association - applicant No.1 together with four other Members - seeking the following reliefs:-

" 8(a) declare paras 21 and 22 of Rule 37-A as ultra vires to the provisions of the constitution and violative of Article 14 of the constitution to the extent it restricts the guarantee of pension by the government only to optees on permanent absorption in the Bharat Sanchar Nigam Limited and exclude similarly placed optees on permanent absorption in the Mahanagar Telephone Nigam Limited and strike down the same accordingly.

(b) Pass any other or further orders as this Hon'ble Tribunal may deem fit and necessary in the facts and circumstances of the case".

2. Although notice on the OA was issued on 13.5.2002 to the respondents to file their reply and several opportunities have been given to them, no reply has been filed till date. It is also relevant to note that counsel/ proxy counsel have appeared on behalf of respondents on 13.12.2002 and 27.1.2003 seeking time for filing counter affidavit which has, however, not been done. ^{12/}~~13/~~ This case is listed at Serial No.3 in today's cause list under regular matters and none has appeared for the respondents. In the circumstances, we have proceeded to hear the matter in terms of Rule 16 of the CAT (Procedure) Rules, 1987.

3. Shri Dayan Krishnan, learned counsel has submitted that the relevant facts and issues raised in the present application are similar to the issues raised in OA 1321/2002

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which was disposed of by the Tribunal by order dated 23.4.2003 and OA 797/2002 which was decided on 29.4.2003, copies placed on record. He has submitted that the applicants are similarly placed like the applicants in those two OAs and pray for similar reliefs as mentioned in Para 1 above.

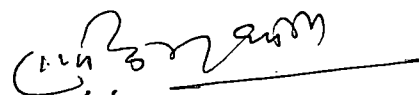
4. It is noticed that in OA 797/2002, following the earlier order of the Tribunal in OA 1321/2002 decided on 23.4.2003, it was observed that a direction had been given that the impugned order dated 8.4.2002 should be quashed and a further direction has been issued that the provisions of Rule 37-A inserted in Central Civil Services(Pension) Rules w.e.f. 30.9.2000 are directed to be made applicable to all those like the applicants who have not been absorbed in MTNL till that date. Learned counsel for the applicants has submitted that what is sought in the present application is exactly the same reliefs as have been granted by the Tribunal to other similarly placed persons in OA 1321/2002 and OA 797/2002. In the present case, the applicants have impugned the order dated 14.1.2002, copy of which has been placed at Annexure P 3 and in particular Paragraph (vii).

5. As noted above, the respondents have neither cared to file any reply affidavit, in spite of several opportunities having been granted to them to do so nor have cared to be present in Court to make any oral submissions. After perusal of the amended Rule 37-A of the CCS (Pension) Rules, 2000, which came into effect from 30.9.2000, ^{and} the averments made by the applicants in the OA and also considering the

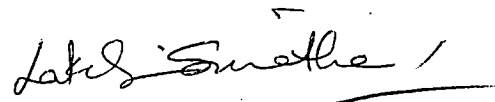
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submissions made by Shri Dayan Krishnan, learned counsel, it appears that the applicants in the present case are similarly situated as the applicants in the aforesaid two OAs. Accordingly, we see no reason why the applicants in the present case should not get the similar reliefs as have been granted to the applicants in OA 1321/2002 and OA 797/2002. In this view of the matter, the aforesaid orders of the Tribunal dated 23.4.2003 and 29.4.2003 are made applicable to the applicants in the present case who are similarly situated persons. Accordingly, the present application is allowed and the impugned order dated 14.1.2002 is set aside with a direction ^{to the respondents} to accord similar reliefs as have been granted to the applicants in the aforesaid two applications. No order as to costs.



(R.K.Upadhyaya)
Member (A)



(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

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