

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This 10<sup>th</sup> day of December 2019

**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J**

**Original Application No. 330/00260/2017**

**ALONG WITH**

**Original Application No. 330/00393/2017**

**ALONG WITH**

**Original Application No. 330/00937/2017**

1. Manbodh Ram, Age 74, S/o Late Ram Surat Ram, R/o C-2 (P) V.I.P. Road, Rehand Colony, Pipari, Mirzapur-231221, Retired on 31.12.2003 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Mirzapur.
2. Badri Singh, Age 71, S/o Late Raj Kumar Singh, R/o Vill. Tiwaripur, Post-Jigna, Distt. Sonbhadra-231313. Retired on 31.03.2006 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Mirzapur.
3. Ram Swaroop Ram, Age 72, S/o Late Raghunath, R/o Chilkatad Bazar, Shakti Nagar, Sonbhadra-231222. Retired on 30.04.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Mirzapur.
4. J.B.L. Srivastava, Age 72, S/o Late Rasbihari, R/o Jogiabari Road, Ghurahu Patti, Distt. Mirzapur-231001, Retired on 30.06.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Mirzapur.
5. Kuldeep Kumar Rawal, Aged 60, Legal heir, representative and widower of Late Patricia Uma Rawal (dead), who retired on 30.11.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Allahabad R/o 26-A/62, Muir Road, District Allahabad.
6. Smt. Sureela Devi, aged 63 years, Legal heir, representative and widow of Late Babu Lal (Dead) who retired on 31.12.2003 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt., Allahabad, R/o 68/17 Indraprasht Colony, Stanely Road, Mumfordganj, Allahabad.

Applicants

By Advocates: Shri N.K. Pandey/Shri S.R. Upadhyaya

**Versus**

1. Union of India through Secretary, Ministry of Telecom, Sanchar Bhawan, New Delhi-110001.
2. Chairman/Managing Director, Bharat Sanchar Nigam Ltd. Sanchar Bhawan, Janpath, New Delhi-110001.
3. Chief General Manager (Telecommunication), Bharat Sanchar Nigam Limited, U.P. (E) Circle, Hazaratganj, Lucknow-226001.
4. The General Manager, Telecom, District Allahabad. Bharat Sanchar Nigam Ltd., Allahabad-211001.
5. The General Manager, Telecom District Mirzapur, BSNL Office, Angarh, Mirzapur.

Respondents

By Advocate: Shri Arvind Singh/Shri D.S. Shukla

**ALONG WITH**

**Original Application No. 330/00393/2017**

1. Shyam Narain, Age 74, S/o Late Tapesar, R/o H. No. -88, Indra Nagar, Post – University, Gorakhpur. Retired on 31.01.2003 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Gorakhpur.
2. Ram Dhani Shukla, Age 73 S/o Late Ram Samujh, R/o H. No. -55, Indra Nagar, Post – University, Gorakhpur. Retired on 31.07.2004 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Gorakhpur.
3. Abdur Rahman, Age 73 S/o Mansur Ali R/o Village Gehuan Sagar, Post-Bargo, Distt.-Gorakhpur. Retired on 30.06.2004 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Gorakhpur.
4. Ram Niwash Prasad, Age 74, S/o Jamuna, R/o H. No. -83, Indra Nagar, Post – University, Gorakhpur. Retired on 31.08.2003 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Gorakhpur.
5. Dhruv Singh, Age 73, S/o Ghuran Singh, R/o H. No. -87, Indra Nagar, Post – University, Gorakhpur. Retired on 29.02.2004 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt. Gorakhpur.

6. Ram Kawal Prasad, Age 73, S/o Late Chooramani, R/o, H. No. – 148-A, Mahugharpur, Post- Shivpuri new Colony, Distt. Gorakhpur. Retired on 30.06.2004 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt., Gorakhpur.
7. Ambika prasad Singh, Age 75, S/o Late Thakur Singh, R/o Siddeswar Niwas, Durga Chok, Post-Shivpuri new Colony, Distt. Gorakhpur. Retired on 31.12.2001 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt., Gorakhpur.
8. Lalan prasad, Age 75, S/o Late Dhanai, R/o Subabazar, Post-Khorabar, Distt. Gorakhpur. Retired on 30.06.2001 as Senior Telecom Operating Assistant Grade IV from O/o General Manager Telecom Distt., Gorakhpur.
9. Chandrabhan, Age 75, S/o Late Dwarika Prasad, R/o H. No. C/187/356F, Alandadpur, Dist. Gorakhpur. Retired on 31.01.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom Distt. Gorakhpur.
10. Akshaybar Prasad Mishra, Age 73, S/o Late Rambharosa Mishra, R/o L.I.G.-66, Janpriya Vihar Colony, Distt. Gorakhpur. Retired on 31.07.2003 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom Distt., Gorakhpur.
11. Ishwar Datta Dubey, Age 74, S/o Late Ram Sunder Dubey, R/o H. No. 471-B, Nayak Hata, Post-Turkamanpur, Dist. Gorakhpur. Retired on 30.06.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom Distt. Gorakhpur.
12. Ram Sanwar Singh, Age 75, S/o Late Bashdeo Singh, R/o Vill. & Post-Lahsari, Dist. Gorakhpur. Retired on 31.01.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom Distt. Gorakhpur.
13. Amla Prasad, Age 75, S/o Late Saudagar Ram, R/o H. No. 116, A.V. Colony, Shahpur, Post – Gita Vatika, Dist. Gorakhpur. Retired on 31.07.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom Distt. Gorakhpur.
14. Nitya Nand Ram, Age 75, S/o Late Ram Nagina Ram, R/o H. No. B-202, A.V. Colony, Shahpur, Post-Gita Vatika, Dist. Gorakhpur. Retired on 31.01.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom Distt. Gorakhpur.
15. Shambhoo Yadav, Age 72, S/o Late Ghurahoo Yadav, R/o Vill-Sabarahad Baraicha, Post-Bojhi Bazar, Dist. Mau. Retired on 30.09.2004 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom Distt. Azamgarh.

Applicants

By Advocates: Shri N.K. Pandey/Shri S.R. Upadhyaya

**Versus**

1. The Bharat Sanchar Nigam Ltd. (BSNL), Through Chairman/ Managing Director, Sanchar Bhawan, Janpath, New Delhi-01.
2. The Chief General Manager Telecom, Bharat Sanchar Nigam Limited, U.P. (E) Circle, Hazaratganj, Lucknow-226001.
3. The General Manager, Telecom, District Gorakhpur. Bharat Sanchar Nigam Ltd., Gorakhpur.
4. The General Manager, Telecom District, Azamgarh, BSNL, Azamgarh.

**Respondents**

By Advocate: Shri Satish Kumar Mishra

**ALONG WITH****Original Application No. 330/00937/2017**

1. Katwaroo Prasad age 74 S/o Late Nanhoo, R/o Vill. Khamahriya Khurd Tola, Semradadi, Gopalpur, Annand Nagar, Maharganj, Retired on 31.01.2004 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
2. Adarsh Narayan Pandey age 74 S/o Late Bagwati Pandey, R/o H. No. 224 Shivpur, Sahbajganj, Gorakhpur, Retired on 31.12.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
3. Jagdish Lal Srivastav, age 74 S/o Late Shivraj Lal Srivastav, R/o H. No. 316-D, Humayunpur South, Gorakhpur Retired on 28.02.2003, as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
4. Shripati Yadav, age 77 S/o Late Ram Daur, R/o Vill Lohara Mira, Urwa Bazar, Gorakhpur, Retired on 30.06.2001 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
5. Noor Mohd. Khan age 73,, S/o Late Ramhan Ali Khan, R/o H. No. 250 Jafra Bazar, Near S.B.I Colony, Gorakhpur, Retired on 31.01.2004 as Senior Telecom Operating Assistant Grade IV from
6. Munni Singh age 75 S/o Late Shiv Pujan Singh, R/o H. No. 138- A.V. Colony Betia Hata North, Gorakhpur Retired on 28.02.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
7. Indrajeet Dubey, age 72, S/o Late Bindeshwari Dubey, R/o 365 Canal Road Rustampur, Gorakhpur, Retired on 31.07.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
8. Ramagya Singh, age 72, S/o Late Gaya Prasad Singh, R/o Vill- Navalpur, (Rasohi), Post Kirat Saray, District Mau, Retired on 30.06.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.

9. Jokhan Pasad Pandey, age 73 S/o Late Chindrika Prasad R/o Vill & P.O. Gadwal Khurd, Annand Nagar, Maharaganj, Retired on 30.06.2004 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
10. Dashrath Prasad Yadav, age 72,, S/o Late Lalsa Prasad Yadav, R/o Vill & P.O. Sarpataha Tola Mohanpurwa, Gorakpur, Retired on 31.01.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
11. Ram Jiut, age 72 S/o Late Ram Lagan, R/o H. No. 85 Indra Nagar, Telephone Colony University, Gorakhpur, Retired on 31.10.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
12. Raghav Saran Srivastava, age 71, S/o Late Lalta Prasad Lal, R/o 48 Sidharipur, Surajkund, Gorakhnath, Gorakhpur, Retired on 31.12.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
13. Rambujh Ram Yadav, age 72, S/o Late Ramjash Yadav, R/o H. No. 1-40, Taramandal Road, Siddharth Nagar, Gorakhpur Retired on 31.07.2005 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
14. Late Vishwanath Prasad (deceased official)through his legal heir and wife Smt. Sampati Devi R/o Vill & P.O. Jagdjshpur, Dharamdani, Kushi Nagar, Retired on 31.07.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
15. Ramdulare Prasad, age 74 S/o Late Siddhu Das, R/o H. No. 264-D, Betiahata South Shivpur Colony, Gorakhpur, Retired on 30.04.2003 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
16. Harikishan Gupta, age 75 S/o Late Rajkishor Gupta, R/o Vill & P.O. Amila, Distt. Mau,(U.P) Retired on 31.01.2002 as Senior Telecom Operating Assistant Grade IV from O/o General Manager, Telecom District Gorakhpur.
17. Ram Adhar Ram, age 72, S/o Bihari Ram, R/o Town & P.O. Bahadurganj, District Ghazipur, Retired on 31.07.2005 as Senior Telecom Operating Assistant Grade IV from O/o Telecom District Manager (BSNL) MAU (U.P).

.....Applicants

By Advocate: Shri S.R. Upadhyay/Shri N.K. Pandey

Versus

1. The Bharat Sanchar Nigam Ltd. (BSNL), through Chairman/Managing Director, Sanchar Bhawan, Janpath, New Delhi -01.
2. The Chief General Manager Telecom, Bharat Sanchar Nigam Limited, U.P. (E) Circle, Hazaratganj, Lucknow-226001.
3. The General Manager, Telecom, District Gorakhpur. Bharat Sanchar Nigam Ltd., Gorakhpur.
4. The Telecom District Manager, (BSNL), Mau (U.P).

.....Respondents

By Advocate : Shri V.K. Pandey

**ORDER**

1. All These three OAs are being decided with the consent of counsels for the parties by a common order as the controversy involved in these cases is similar and identical. The case of Manbodh Ram and others Vs. Union of India (O.A No. 330/00260/2017) is taken as leading case.
2. The dispute in the present case lies in very narrow compass viz. whether applicants are entitled to interest on the post retiral benefits and arrears when the respondents determined and calculated the pension by treating the applicants in Grade IV under 10% BCR scheme and also released the amount which were withheld from DCRG fund account of the applicants at the time of retirement and also provided difference of the pension and difference of the post retiral benefits but willfully and deliberately, respondents have not provided the interest on the said amount though all the applicants are legally entitled to get their post retiral benefits and arrears with 12% interest.
3. In their counter affidavit, the respondents admitted the factum of filing of appeals in Hon'ble High Court as well as in the Hon'ble Supreme Court and decision of the Hon'ble Apex Court dated 10.9.2013 in favour of the applicants. However, the respondents stated that there was no direction for payment of interest on the arrears of pay and allowances and the retiral benefits becoming due to the applicants which was given in the above mentioned judgments either by the Hon'ble High Court, Allahabad or by the

Hon'ble Apex Court, as such applicants have no legitimate claim for the direction seeking interest on the aforementioned amounts.

4. I have heard and considered the arguments of learned counsel for the parties and gone through the material on records.
5. Learned counsel for applicants placed reliance on the order of the Central Administrative Tribunal, Lucknow Bench passed by the Division Bench in O.A. No.594/2005 and other connected OAs on 8.2.2010 and submitted that in this judgment, while allowing the OAs, the respondents were directed to release the aforementioned amount recovered from the DCRG along with interest @ 6% per annum.
6. The counsel for the applicants also relied upon a judgment of Honble Apex Court passed in Civil Appeal No. 7113 of 2014 titled D.D. Tiwari through legal heirs Vs. Uttar Haryana Bijli Vitran Nigam Limited and others wherein the Hon'ble Apex Court awarded interest @ 9% on the delayed payment of pension and a penalty clause was also added that if this amount is not paid within six weeks from the date of receipt of copy of this order the same shall carry interest @ 18% per annum.
7. Learned counsel for respondents submitted that there was no direction for payment of interest in the judgments of the Hon'ble Apex Court and Hon'ble High Court, as such, applicants are not entitled to any interest.
8. I may refer to judgment dated 15.09.2016 passed by C.A.T, Bench Allahabad in O.A. No. 322 of 2015 titled Sheo Ram Upadhyaya and

others Vs. Union of India and others wherein direction was given that the applicants are entitled to interest @ 6%. The facts of the present O.As are identical to the facts of above-mentioned OA No. 322 of 2015 and the direction given in O.A. No. 322 of 2015 applies on all fours to the facts of the present case. Accordingly, O.As. are allowed. The applicants are entitled for interest @ 6% from the date on which the respondents withheld the amount of DCRG and also on the amount of difference of pay of retiral benefits and difference of pension till the date of actual payment. No order as to costs.

**(RAKESH SAGAR JAIN)**

Member (J)

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