

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00394/2016

Date of Order: This, the 22nd day of May 2020

**THE HON'BLE SMT. MANJULA DAS, MEMBER (J)
THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)**

Sri Gobinda Rabha
Retired Sr. TOA (P), House No. 3
Sarumataria, Dispur, Guwahati – 6.

...Applicant



By Advocates: Sri U.K. Nair, Sr. Advocate along with
Ms. N. Shyamal.

-Versus-

1. Deleted vide order dated 17.04.2017 in M.A. No. 040/00044/2017.
2. Bharat Sanchar Nigam Limited
Represented through the Chairman-
Cum Managing Director
Corporate Office, 10th Floor
Statesman House, New Delhi – 1.
3. The Chief General Manager (Telecom)
Assam Circle, Administrative Building
Panbazar, Guwahati – 1.
4. The General Manager (Telecom)
Kamrup Telecom District
Guwahati – 1.
5. The Deputy General Manager (P&A)
O/o General Manager, BSNL
Kamrup Telecom District, Guwahati-1.

...Respondents

By Advocate: Sri B. Pathak, BSNL Advocate

Heard on: 26.02.2020

Pronounced on: 22.05.2020

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):-

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunal Act, 1965 seeking for the following reliefs:-



“8.1 To quash and set aside the impugned order under No. GM(K)/GH/SDE (Vig.)/X-156/Gr/12-14/18 dated 11.08.15 issued by the DGM (P&A), O/o the GMTD, Kamrup, BSNL, Assam and grant all the consequential service benefits.

8.2 To quash and set aside the impugned order under No. GM(K)/GH/SDE(Vig.)/X-156/GR/13-14/22 dated 30.03.2016 issued by the appellate authority rejecting the appeal and grant all consequential benefits.

8.3 To direct the respondents to refund amount of Rs. 1,27,500/- recovered from the retirement benefits (leave salary) of the applicant with interest @ 18% till the date of refund with all consequential benefits.

8.4 Cost of the application.

8.5 pass any such order/orders as Your Lordships may deem fit and proper.”

2. Sri U.K. Nair, assisted by Ms. N. Shyamal, learned counsel appearing on behalf of the applicant submitted that while the applicant was working as Sr. TOA (P) Gr. IV in the office of General Manager, Kamrup Telecom District, BSNL, Panbazar, he was issued a memorandum of charge sheet under No.

GM(K)/SDE(Vig)X-156/GR/10-11/2 dated 28.07.2010 under Rule 36 of the BSNL Conduct, Discipline and Appeal Rules, 2006. The charge-sheet contains three Articles of charge. Enquiry was conducted and the Inquiry Officer found the charge not proved. He also recommended exoneration of the applicant. Enquiry report along with the Note of Disagreement was issued to the applicant vide letter dated 07.02.2014. Applicant represented against the Note of Disagreement vide his letter dated 31.03.2014. After taking into account all aspects, a penalty of reduced recovery of Rs. 1,27,500.00 was issued by the competent authority against pecuniary loss to BSNL account for an amount of Rs. 1,65,000/-, through detail speaking order No. GM(K)/GH/SDE(Vig)/X-156/GR/13-14/18 dated 11.08.2015.

3. The respondent authorities filed their written statement on 07.04.2017 wherein they have brought out that the proposed penalty of recovery against pecuniary loss to BSNL account from the applicant was with reference to the amount that could be recovered from the Franchised Private agency. They also





highlighted that Disagreement Note has already issued by the disciplinary authority with reference to the enquiry reports submitted by the Inquiry Officer. Moreover, the applicant is not governed by the CCS (Pension) Rules, 1972 but by the BSNL CDA Rules, 2006 which was correctly followed in the process of finalizing his disciplinary proceedings. Along with this written statement, the respondent authorities also submitted copies of relevant correspondence wherein it has been indicated that as many as 05 officials including the applicant were initiated disciplinary proceedings for major penalty and 02 officials for minor penalty. It is observed from the copies of the relevant correspondence enclosed by the respondent authorities that Sri Bipin Kumar Mishra, SDE (CMTS) Circle under whom the present applicant was taking shelter for any misdeed at all was also ordered to be recovered of an amount of Rs. 3,08,000/- in addition to initiation of disciplinary proceedings.

4. In the present case, hearing was concluded on 26.02.2020. During hearing, Sri B. Pathak, learned BSNL counsel for the respondents submitted that instead of

oral argument, he would like to give written argument. This was accepted. Accordingly, he had submitted his written argument on 26.02.2020. In this written argument, he repeated the same points of submission as already submitted by the respondent authorities in their written statement. He particularly emphasised once again that the applicant is not covered by the CCS Pension Rules, but covered by the BSNL CDA Rules, 2006. As such, invoking CCS Pension Rules in the case of the applicant is legally not maintainable.



5. We have once again gone through the Memorandum of charge-sheet issued to the applicant on 28.07.2010. It is indeed seen that the applicant had been initiated disciplinary proceedings under Rule 36 of the BSNL Conduct, Discipline and Appeal Rules, 2006. Enquiry had been conducted under same BSNL Rules, 2006. The penalty imposed upon the applicant vide order dated 11.08.2015 is also under BSNL Rules 2006.

6. Keeping in view of the above facts of the case wherein the applicant has been found to be guilty particularly for the points of the charge after due process of the relevant prescribed procedure under

BSNL Rule 2006 and also the inapplicability of CCS (Pension) Rules 1972 to the applicant, we found that present O.A. of the applicant is found devoid of merit and liable to be dismissed.

7. Accordingly, the O.A. is hereby dismissed. There shall be no order as to costs.



(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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