

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A/21/280/2014 & O.A/21/281/2014

HYDERABAD, THIS THE 23rd DAY OF DECEMBER, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Mr. B.V. Sudhakar, Admn. Member

OA/21/280/2014

T NAGABUSHANA CHARY,
S/o Sudarshanam,
HRMS No.200100594,
Aged about 37 years,
Occupation: Regular Mazdoor,
O/o Sub Divisional Engineer,
(Transmission and Maintenance),
Jagityal, Karimnagar District.

(By advocate: Dr. A.Raghu Kumar)

APPLICANT

AND

1. Union of India represented by its Secretary,
Department of Communications
Ministry of Communications and I.T,
20, Ashok Road, New Delhi 110001,
2. Bharat Sanchar Nigam Limited represented by its
Chairman and Managing Director,
Statesman House, Bharakhamba Road,
New Delhi 110001,
3. The Chief General Manager,
Andhra Pradesh Telecom Circle, BSNL,
Doorsanchar Bhawan,
Nampally Station Road, Abids,
Hyderabad-500001,
4. The General Manager, Telecom District, BSNL,
Karimnagar, Karimnagar District,
5. The General Manager, Telecom District,
BSNL, Sangareddy, Medak District,



6. The Divisional Engineer (Admn),
General Manager, Telecom District,
BSNL, Karimnagar, Karimnagar District,

Respondents

...
(By advocate: Mr. M.C.Jacob, SC for BSNL
Mrs. K Rajitha, Sr. CGSC)

OA/21/281/2014

Ch. LINGA CHARY,
S/o Brahmaiah,
HRMS No.200100480,
Aged about 43 years,
Occupation: Regular Mazdoor,
O/o Sub Divisional Engineer (Marketing),
Karimnagar, Karimnagar District.

(By advocate: Dr. A.Raghu Kumar)
APPLICANT

AND



1. Union of India represented by its Secretary,
Department of Communications
Ministry of Communications and I.T,
20, Ashok Road, New Delhi 110001,
2. Bharat Sanchar Nigam Limited represented by its
Chairman and Managing Director,
Statesman House, Bharakhamba Road,
New Delhi 110001,
3. The Chief General Manager,
Andhra Pradesh Telecom Circle, BSNL,
Doorsanchar Bhawan,
Nampally Station Road, Abids,
Hyderabad-500001,
4. The General Manager, Telecom District, BSNL,
Karimnagar, Karimnagar District,
5. The General Manager, Telecom District,
BSNL, Sangareddy, Medak District,
6. The Divisional Engineer (Admn),
General Manager, Telecom District,
BSNL, Karimnagar, Karimnagar District,

Respondents

...
(By advocate: Mr. M.C.Jacob, SC for BSNL
Mrs. K Rajitha, Sr. CGSC)

ORAL ORDER (COMMON)

(PER HON'BLE Mr. JUSTICE L.NARASIMHA REDDY,
CHAIRMAN)

Since the issue involved in both the O.As is similar,
they are disposed of with common order.

2.. Applicants were working as Part Time Casual Labour in the Department of Telecommunications from the year 1994. BSNL was formed with effect from 01.10.2000. Substantial number of regular employees of the Department of Telecommunications (DoT) have given their option to become the employees of BSNL. In the context of their post retirement benefits, Rule 37(A) of the Central Civil Service (Pension) Rules (for short CCS Pension Rules) was also amended protecting their right of leave, provident fund, etc. Correspondence ensued as regards the manner in which the casual employees, who are regularized after 01.10.2000 must be treated as BSNL employees, and an indication was also given to the effect that if regularisation has taken place earlier to the date of formation of BSNL, they can also be brought under the purview of BSNL.

3. Applicants were regularized by BSNL on 05.10.2001. Orders of DoT were also issued on 17.01.2002 stating that they shall be covered under Rule 37-A of CCS (Pension)



Rules. However, BSNL issued an order dated 10.05.2007 clarifying that the regular employees appointed after 30.09.2000 i.e., after formation of BSNL, shall be governed by the Employees Provident Fund (EPF) Scheme and not General Provident Fund (GPF) Scheme. Same is challenged in this OA.

4.. Applicants contend that though their appointment was subsequent to the formation of BSNL, DoT issued proceedings on 17.01.2002 bringing them under the purview of Rule 37-A of CCS (Pension) Rules and the same should not have been done, except in accordance with the procedure prescribed by the law. It is stated that it was not competent for the BSNL to take away the benefit conferred under the proceedings dated 17.01.2002.

5.. Respondents have filed counter affidavit. It is stated that it is only such of the Casual Mazdoors who were conferred with the Temporary Status by DoT by the time BSNL was formed, that were permitted to be brought under Rule 37-A of the CCS (Pension) Rules, in case they are regularized even after formation of BSNL. According to them, applicants were not conferred with the Temporary Status by DoT, by the time BSNL was formed, and accordingly they are liable to be governed only by the EPF



Scheme. Reliance is placed upon the order of this Tribunal in T.A.No.101 of 2010 and Batch, which in turn, was decided on the basis of a judgment of Hon'ble High Court of Karnataka in ***W.P.No.28602/2011 Managing Director cum Chairman, BSNL Vs. Smt. Renuka P. Garag.***

6.. We heard Dr.A.Raghu Kumar, learned counsel for applicant and Mrs.K.Rajitha, learned Senior Central Government Standing Counsel for Respondent No.1 and Mr.M.C.Jacob, learned Standing Counsel for Respondents No.2 to 6.



7.. Substantial part of the activity of DoT was corporatized and thereby BSNL came into existence. Quite a large number of employees at various stages, who are associated with such activity, were also given option to become the employees of BSNL. While there did not exist much problem as regards the regular employees, the one pertaining to the casual employees gave rise to some complications.

8.. Regularization of the Casual Mazdoors is a long term process passing through various stages. Firstly, Casual Employees are recognized only when the work of a regular nature of a particular duration is assigned to them. That is

followed by conferment of the Temporary Status. It is only thereafter, that regular appointment/absorption takes place.

9.. In case any Casual Mazdoor conferred with the Temporary Status came to be absorbed after the formation of BSNL, one view point was that the benefit on par with the regular employees of DoT must be extended to them. Applicants herein were regularized on 05.10.2001 i.e. one year after the formation of BSNL. They would have certainly been entitled to the benefit of GPF under Rule 37-A of the CCS (Pension) Rules, had it been a case where they were conferred with the Temporary Status by DoT as on 01.10.2000. Admittedly, applicants were not conferred with that benefit. The mere fact that the applicants were absorbed in the year 2001 by BSNL, does not make much difference, in this regard. After prolonged correspondence, respondents realised the mistake of issuing the order dated 17.01.2002, and issued the impugned order.



10. The point urged by the learned counsel for the applicant namely, that the respondents ought to have followed the procedure prescribed, would have certainly appealed to us, but for the fact that the same was dealt with in detail by this Tribunal in T.A.No.101 of 2010 and batch, that too following the Judgment of the Hon'ble Karnataka

High Court. If we interfere with the impugned order on technical grounds, we would be virtually opening an issue that has already been decided.

11. We do not find merit in the OAs and accordingly dismiss the same.

12. There shall be no order as to costs.

(B V SUDHAKAR)
MEMBER (A)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

vsn

