

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

O.A. No.020/01592/2013

Date of CAV:23.10.2019.

Date of Order :10.12.2019.

Between :

1. K.Krishna Reddy, s/o K.Narasa Reddy,
Aged about 56 yrs, now working as Telecom
Technical Assistant, H.R.No.198304163,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

2. V.Prabhakar, s/o V.Subrahmanyam,
Aged about 50 yrs, now working as Telecom
Technical Assistant, H.R.No.198402021,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

3. M.Ravindra Babu, s/o Masthanaiah,
Aged about 48 yrs, now working as Telecom
Technical Assistant, H.R.No.198501349,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

4. J.Muni Raja, s/o J.Kuppa Swami,
Aged about 59 yrs, now working as Telecom
Technical Assistant, H.R.No.197901993,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

5. N.Lokeswara Rao, s/o N.Devadanam,
Aged about 55 yrs, now working as Telecom
Technical Assistant, H.R.No.198204189,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

6. T.Nageswara Rao, s/o Ramanaiah,
Aged about 55 yrs, now working as Telecom
Technical Assistant, H.R.No.198104341,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.



7. M.Balaji Lal, s/o Manmohan Lal,
Aged about 57 yrs, now working as Telecom
Technical Assistant, H.R.No.197601702,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.



8. R.V.Amarnath, s/o R.Ramachandraiah,
Aged about 50 yrs, now working as Telecom
Technical Assistant, H.R.No.198602003,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

9. S.Venkateswarlu, s/o Chandraiah,
Aged about 49 yrs, now working as Telecom
Technical Assistant, H.R.No.197201293,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

10. T.Siva Sankar, s/o Ramanaiah,
Aged about 55 yrs, now working as Telecom
Technical Assistant, H.R.No.198402667,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

11. P.Parameswara, s/o P.Subba Rayulu Setty,
Aged about 45 yrs, now working as Telecom
Technical Assistant, H.R.No.199101271,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

12. B.Narayana Rao, s/o B.Alleaiah,
Aged about 55 yrs, now working as Telecom
Technical Assistant, H.R.No.198203972,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

13. G.Venkatesu, s/o G.Narasaiah,
Aged about 50 yrs, now working as Telecom
Technical Assistant, H.R.No.197701730,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.



14. K.Suryanarayana, s/o Ramanaiah,
Aged about 59 yrs, now working as Telecom
Technical Assistant, H.R.No.197601728,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

15. Shaik Ramthulla, s/o Shaik Hassan Saheb,
Aged about 56 yrs, now working as Telecom
Technical Assistant, H.R.No.198203701,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

16. T.Krishna Murthy, s/o T.Chengalarayalu,
Aged about 52 yrs, now working as Telecom
Technical Assistant, H.R.No.198204298,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

17. B.Raja Sekhar, s/o B.Venkata Subbaiah,
Aged about 60 yrs, now working as Telecom
Technical Assistant, H.R.No.197402834,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

18. P.Rajagopal, s/o P.Subbaiah,
Aged about 52 yrs, now working as Telecom
Technical Assistant, H.R.No.198203698,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

19. C.Janakiramaiah, s/o Ramanaiah,
Aged about 59 yrs, now working as Telecom
Technical Assistant, H.R.No.197701253,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

20. L.V.Sreedhara Charyulu, s/o L.V.Ramanuja
Charyulu, Aged about 54 yrs, now working as Telecom
Technical Assistant, H.R.No.198002123,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

21. A.Pullaiah, s/o A.Thikkaiah,
Aged about 54 yrs, now working as Telecom
Technical Assistant, H.R.No.198303438,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

22. L.Rajasekhar, s/o L.Pitchaiah,
Aged about 54 yrs, now working as Telecom
Technical Assistant, H.R.No.198103527,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

23. P.Malakondaiah, s/o Kondaiah,
Aged about 60 yrs, now working as Telecom
Technical Assistant, H.R.No.197708024,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

24. Shaik Abdul Rasheed, s/o Shaik Abdul Basheer,
Aged about 57 yrs, now working as Telecom
Technical Assistant, H.R.No.198304159,
Working under the control of General Manager,
Telecom District, BSNL, Nellore.

...Applicant s

And

1. The General Manager, Telecom District,
BSNL, Nellore-524 050.

2. The Chief General Manager, Telecom,
A.P.Circle, Door Sanchar Bhavan, Nampally
Station Road, Hyderabad-500 001.

3. The Chairman & Managing Director, BSNL
Corporate Office, Bharat Sanchar Bhavan,
4th floor, Janpath, New Delhi-1.

4. Union of India, rep., by its Secretary to
Government, Dept. Of Telecommunications,
New Delhi.

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Respondents

Counsel for the Applicants
Counsel for the Respondents

... Mr.K.Venkateswara Rao
... Mrs.K.Rajitha, Sr.CGSC
... Mr.M.C.Jacob, SC for BSNL



CORAM:

**THE HON'BLE MS.MANJULA DAS, MEMBER (JUDL.)
THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)**

: ORDER:

By MRS.NAINI JAYASEELAN, MEMBER (ADMN.)



This OA has been filed seeking a declaration that the letter no.E.46/NEPP/10-11/18, dated 07.07.2011, issued by the 1st respondent treating the revision of pay scale of the applicants from 01.10.2000 in the cadre of Telecom Technical Assistants from Rs.4500-7000/- (CDA) to Rs.5000-8000/- (CDA), corresponding to IDA pay scale of Rs.7100-200-10100/- as first upgradation for the purpose of Non-Executive Promotion Policy (NEPP), vide Para 6.4 of corporate office letter dated 23.03.2010, instead of granting first upgradation from NE-9 to NE-10 from 01.10.2004, as illegal, arbitrary, unjust and violative of Articles 14 and 16 of the Constitution, and consequently to hold that the applicants are entitled for the first upgradation from NE-9 to NE-10 from 01.10.2004, and second upgradation from NE-10 to NE-11 from 01.10.2011 under NEPP dated 23.03.2010 with all consequential benefits including the benefit of pay revision.

2. **Brief facts of the case:**

The applicants submitted that during the year 1990, the Department of Telecom (DOT) introduced a restructuring scheme with a view to rationalizing the existing cadres and also to meet the changing requirements in technology and at the same time achieving the objective of improving the productivity through training in different disciplines. Under the restructuring scheme, a new restructured cadre of Telecom Technical Assistants (TTA) was created by abolishing the old pre-restructured cadres viz., Technicians after observing specific norms as prescribed for each cadre. Two posts of TTAs were created in the scale of Rs.4500-7000/- (Rs.1320-2040/- IV Pay Commission scale) by abolishing 3 posts of Technicians. As per the scheme (a) All the Group-C employees born on regular establishment in Telecom Engineering Branch with qualifications of 3 years diploma (after 10th standard) in Electrical/Mechanical/Radio/Telecom/Electronic Engineering Standard by any Technical Institute recognised by the Central/State Government, (b) Technicians, who have 10+2 qualification or equivalent or higher qualifications like B.Sc., M.Sc., etc., (c) Technicians holding 2 years ITI Diploma Certificates after Matriculation are eligible to become TTAs in walk-in-group. All other Technicians, who do not possess the above qualifications, were appointed as TTAs on regular basis after passing the qualifying screening test, as the case may be. The applicants were all absorbed





in BSNL as TTAs on the formation of BSNL with effect from 01.10.2000. They further submitted that they were in CDA scale of Rs.4500-7000 prior to 01.10.2000. They were all granted CDA scale of Rs.5000-8000 from 01.10.2000, vide Corporate office letter dated 01.10.2002, and the corresponding IDA scale of Rs.5000-8000/- is Rs.7100-200-10100/-. They contended that the TTAs were unjustly granted a lower scale of Rs.4500-125-7000/- from 01.01.1996. On their representations as well as their respective Unions, the pay scale of Rs.4500-125-7000/- was revised to Rs.5000-150-8000/- on the basis of the job evaluation of Telecom Technical Assistants on 01.10.2000 as is revised/upgraded earlier in the case of Junior Telecom Officers (JTOs) from Rs.5500-175-9000/- to Rs.6500-100-10500/-, and the JTOs were given the benefit of pay fixation from 01.01.1996 itself. The matter was examined and the approval of BSNL Board was conveyed for grant of IDA pay scale of Rs.7100-200-10100/- (corresponding to CDA pay scale of Rs.5000-8000/-) against the existing CDA pay scale of Rs.4500-7000/- corresponding to IDA pay scale of Rs.6550-185-9325/- with effect from 01.10.2000 to all the TTAs, who had been absorbed in BSNL in CDA pay scale of Rs.4500-7000/- (IDA pay scale of Rs.6550-185-9325/-), as seen from letter



dated 01.10.2002 issued by the 3rd respondent. The administrative decision of giving CDA pay scale of Rs.5000-8000/- from 01.10.2000 was conveyed vide letter dated 07.08.2002, but the effect of the said scale by implication would be only from 01.01.1996 i.e., the date of revision of pay scales under V Pay Commission. Their pay was revised and refixed in the scale of Rs.5000-150-8000/- in accordance with fitment method at the stage corresponding to the stage which they had reached under CDA pay scale on 30.09.2000 i.e., on point to point basis as per orders of BSNL vide letter dated 07.08.2002. They were not given any promotion, but only their pay was revised from Rs.4500-125-7000/- to Rs.5000-150-8000/- from 01.10.2000, as per the Government of India's instructions (6) under FR.23 when the scale of pay of a post is revised upwards without involving higher responsibilities. The fixation of the pay was regulated under FR.23 and FR.22 (1) (a) (2) as per instructions (5.1), the official is entitled to the option to retain his old pay till the date on which he has earned his next increment. As per Para 6.4 of the letter dated 23.03.2010 on the subject of "Non-Executive Promotion Policy (NEPP) for the employees in the IDA pay scales of NE-1 to NE-10 of BSNL, clearly indicates that the restructured pay scale upgradation after 01.10.2000 and



before notification of the new policy should be treated as the first upgradation under the new policy. They submit that the higher pay scale of Rs.5000-8000/- (CDA scale) corresponding to IDA scale of Rs.7100-10100/- was granted to them from 01.10.2000 as revision of pay scale.

3. The applicants contended that ever since the creation of restructured cadre of TTAs, there has been a persistent demand from the staff side for upward revision of the scale of Rs.5000-8000/-. The above said demand was also considered by the Anomalies Committee and was agreed that the case of placement of TTAs in the pay scale of Rs.1600-2660/- (pre-revised) shall be recommended to Government. Accordingly, as per the agreement with three federations, the pay scale was revised from Rs.4500-7000/- to Rs.5000-8000/- with effect from 01.10.2000, i.e., the date on which the BSNL came into existence, although the employees had been demanding that these scales should be given effect from 01.1.1996. They submitted that on their absorption in BSNL from 01.10.2000, they were granted the revised scale from 01.10.2000, vide orders of the 3rd respondent dated 01.10.2002. The applicants therefore submitted that the revision of their pay scale from 01.10.2000 should not be treated as first



promotion under NEPP. That the similarly situated officials filed OA.No.30/2009 & batch before this Tribunal for the benefit of next higher pay scale of Rs.5500-175-9000 (CDA scales) corresponding to IDA scale of Rs.7800-225-11,175/- from 01.10.2000, or thereafter, as the case may be, in the cadre of TTAs on completion of 16 years of service from the date of their appointment as Technician etc.,. Their relief was rejected by accepting the submission of the respondents that OTBP/BCR promotions have no application for restricted cadres like TTAs as the TTAs were granted higher pay scale of Rs.5000-8000/-. The applicants submit that they would have lost the benefit of OTBP/BCR on completion of 16 and 26 years of service, if they had continued in DOT. Therefore, they contend that depriving of the TTAs the first financial upgradation under NEPP by treating the grant of higher pay scale of Rs.5000-8000/- (CDA scale) or corresponding IDA scale of Rs.7100-10100/- from 01.10.2000 as first upgradation, is illegal, unjust and arbitrary, and they are entitled for first upgradation under NEPP from 01.10.2004 from NE-9 to NE-10 and second upgradation from NE-10 to NE-11 from 01.10.2011. However, the respondents have treated the revised scale of Rs.5000-8000/- as the first upgradation and granted the second upgradation from NE-9 to NE-10 by orders dated 07.07.2011. They submitted representations to the second respondent on 07.01.2002, and since there was no response to the said representations, they have approached this Tribunal seeking the above relief.



4. It is submitted by the respondents in their reply statement that the applicants were working as Technicians in the erstwhile Department of Telecommunications (DOT) and were re-designated as Telecom Technical Assistants (TTA) during 1996 and 1997 and placed in the pay scale of Rs.4500-7000/- (V CPC). While working in the said post, BSNL was formed with effect from 01.10.2000 transferring all the employees of DOT on deputation basis. Thereafter, they were absorbed based on the option exercised by such employees. As the applicants exercised option to join BSNL, all of them were absorbed in BSNL in the IDA pay scale of Rs.6550-185-9325/- corresponding to the CDA pay scale of Rs.4500-125-7000/- as per the agreement dated 26.04.2002 between the service unions and Board of Directors of BSNL with effect from 01.10.2000 i.e., the date on which BSNL was formed. The BSNL, vide proceedings dated 01.10.2002 ordered upgraded CDA pay scale of Rs.5000-8000/- corresponding to IDA pay scale of Rs.7100-200-10100/- to all the TTAs absorbed in the BSNL in the IDA pay scale of Rs.6550-9325/- with effect from 01.10.2000. By virtue of the above order, all the applicants were placed in the upgraded IDA pay scale from 01.10.2000. BSNL introduced Non-Executive Promotion Policy (NEPP) for the non-executive employees working in the regular establishment as on 01.04.2008 providing time bound IDA scale upgradation commencing from 01.10.2000 by proceedings dated 23.03.2010. As per the Scheme, a non-executive

recruited by DOT prior to 01.10.2000, would be considered for first time upgradation notionally on completion of 04 years of service in the IDA pay scale as on 01.10.2000, and actual benefits from 01.04.2008.

The scheme further provides second upgradation to the next higher IDA pay scale after 7 years of service in the first upgraded non-executive IDA pay scale. The conditions for grant of such upgradations are also provided in the said scheme.

5. The BSNL by letter dated 20.08.2010 issued clarifications on various doubts raised by the units in regard to implementation of NEPP scheme to its employees and as per Item 45 in regard to Time Bound Promotions to TTA, the points raised and clarifications issued as under:

Sl.No.	Points raised	Clarifications issued
45	In the case of TTAS, whose pay scale has been upgraded from CDA scale of Rs.4500-7000 to CDA scale of Rs.5000-8000/- w.e.f 01.10.2000 what will be the date of first upgradation and what will be the date of second upgradation.	Any upgradation of the pay scale granted by BSNL on or after 01.10.2000 and before notification of NEPP will be treated as the first financial upgradation under NEPP. Accordingly, in the case of BSNL absorbed TTAs, the upgradation of pay scale w.e.f 01.10.2000 is to be treated as first upgradation and hence the second upgradation is to be granted w.e.f. 01.10.2007 ie; after completion of 7 years of service. In the case of BSNL recruited TTAs, the upgradations are to be regulated as per the provisions of Para 3.1 of NEPP order dt.23.03.2010.





6. Based on the above clarifications, all the applicants were extended second time bound upgradation under NEPP with effect from 01.10.2007 by proceedings dated 07.07.2011. As per Para 6.4 of the NEPP Scheme, upgradation of pay availed by a non-executive on the basis of existing OTBP/BCR Grade-IV/ACP schemes etc., or by way of conversion/restructuring pay scale upgradation after 01.10.2000 and before notification of the said policy would be treated as the first upgradation under the new policy. Thereafter, same has also been clarified vide proceedings dated 20.08.2010 and all the applicants were in the CDA pay scale of Rs.4500-7000/- at the time of formation of BSNL and they were granted corresponding IDA pay scale with point to point fixation benefits. The decision to upgrade their pay by revising the CDA pay scale of Rs.5000-8000/- and corresponding IDA scale was taken by the BSNL board by proceedings dated 01.10.2002. Hence, the contention of the applicants that they were entitled for first time bound promotion under NEPP with effect from 01.10.2004 is without any merit. Also the contention of the applicants that a new entrant would be better placed than the applicant is incorrect. The respondents contend that it is also pertinent to point out that the applicants never challenged their pay fixation at any point of time and, therefore, prayed to dismissed the OA.

7 Heard Mr.K.Venkateswara Rao, learned counsel appearing for the Applicants, Mr.M.C.Jacob, learned standing counsel appearing for BSNL, and Mrs.K.Rajitha, learned senior standing counsel appearing for R-4.



8 It is an undisputed fact that all the applicants were in the CDA pay scale of Rs.4500-7000/- at the time of formation of BSNL and they were granted corresponding IDA pay scale with point to point fixation benefits. The decision to upgrade their pay by revising the CDA pay scale of Rs.5000-8000/- and corresponding IDA scale was as per the BSNL Board, vide its proceedings dated 01.10.2002 and before such decision, no TTAs absorbed in the BSNL like the applicants, were granted the pay scale of Rs.5000-8000/- other than the OTBP/BCR officials inducted into the restructured cadre of TTAs coming under the purview of DOT order dated 20.04.1999 and 20.09.1999. Hence, the contention of the applicants that they are entitled for first time bound promotion under NEPP with effect from 01.10.2004, is without any merit .

9. Since the applicants availed revision of their pay scales with effect from 01.10.2000, the same was treated as first upgradation under the scheme. This point was clarified by the BSNL,



vide proceedings dated 20.08.2010. More importantly, the pay scale of Rs.5000-8000/- was prescribed in DOT only for the OTBP upgraded TTAs and not extended to others. Since it is the stand of the department that the applicants were granted revised pay by the BSNL from 01.10.2000 and the said contention no way related to NEPP scheme issued on 23.03.2010. The contention of the applicants that the position would have been better without higher pay scale was not the contention of all the TTAS in the BSNL.

10. It is the contention of the respondents that the representations submitted by the applicants were not received by the 2nd respondent or submitted through proper channel, and in case the applicants were also given first upgradation though they entered into the IDA pay scale corresponding to Rs.5000-8000/- from 01.10.2000, all such officials would be placed in the very same pay scale bringing in hierarchial anomaly. Hence, those officials already in the IDA pay scale corresponding to the CDA would be getting the benefit from 01.10.2004, and the applicants would be getting the benefit from 01.10.2007. Those TTAs, directly recruited in the BSNL, would be getting first upgradation only after 8 years in BSNL. The above procedure was adopted to avoid structural disparity.

11. In view of the above facts and the clarifications issued by the BSNL, we do not find any merit in this OA and the OA is accordingly dismissed. No order as to costs.



Sd-

(NAINI JAYASEELAN)
MEMBER (ADMN.)

Sd/-

(MANJULA DAS)
MEMBER (JUDL.)

Dated: this the 10th day of December, 2019

Dsn.