

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
Contempt Petition No.07/2020
In OA 320/2018**

Dated this the 18th day of February, 2021

**Reserved on : 27.01.2021
Pronounced on : 18.02.2021**

CORAM:

**Hon'ble Shri. Jayesh V. Bhairavia, Member (J)
Hon'ble Dr.A.K. Dubey, Member (A)**

- 1 Bipinchandar Gangadas Patel,
S/o Gangadas Mahji Patel, Aged : 55 yrs, Hindu, Male.
Residing at : A/15, Hiranagar Society,
Aksahr Chowk, Gopi Road, Vadodara – 390 020.
- 2 Sanjaykumar Ramniklal Narshana,
S/o. Ramniklal Motichand Narshana,
Aged 50 yrs, Hindu, Male.
Residing at: 8-Keya Apartment, Nr Harinagar Cross Road,
Gotri Road, Vadodara – 390 021.
- 3 Chetankumar Navnitlal Thakkar,
S/o. Navnitlal Vithlhadas Thakkar,
Aged 51 years, Hindu, Male.
Residing at D-81, Rajnagar Society,
B/h Mothers School, Gotri-Vasna Road,
Vadodara – 390 021. ... Applicants

By Advocate Shri P H Pathak

V/s

- 1 Mr P K Purvar,
Managing Director,
Bharat Sanchar Nigam Ltd.,
Or his successor in office,
BSNL Corporate Office,
New Delhi – 110 011.
- 2 Mrs Sowmya Ganesh,
Chief Accounts Officer (CA),
Or her successor in office,
Office of GMTD, Vadodara Telecom District,
Karali Baugh Telephone Exch. Bldg,
Vadodara – 390 018.

3 K S Parmar,
Assistant General Manager (Admin),
Or his successor in office,
AGM 3rd Floor, Telecom Bhavan,
Ahmedabad

4 V. Ramesh,
Chief General Manager
Or his successor in office,
Gujarat Circle, 7th Floor,
Telecom Bhavan, C.G.Road,
Ahmedabad. ... Respondents

By Advocate Shri Joy Mathew

ORDER

Per Shri Jayesh V Bhairavia, Member (J)

1 The instant Contempt Petition has been filed by three applicants of OA 320/2018 (out of five applicants) who have stated that this Tribunal has granted interim relief in terms of para 9(a) in OA 320/2018 vide order dated 15.06.2018. The said para 9(a) reads as under:-

“Pending admission and final disposal of this application be pleased to suspend further implementation and operation of the impugned order and restrain the respondents from recovering any amount from the applicants pursuant to the impugned decision.”

2 It is stated by the applicants of the present CP that during the pendency of this OA the respondents had called for application for willingness of employees for voluntary retirement as the respondents were facing financial crises. Pursuant to such declaration all the applicants tendered their application for voluntary retirement however in the meantime the respondents have issued order dated 24.12.2019 (Ann. A/3) whereby the O/o. Chief General Manager Telecom had informed all SSA, Head/CGM(F) BSNL Gujarat Circle immediate action required to withhold the amount from terminal benefits in respect of Executives who got extension of benefit of pay fixation under FR 22(1)(a)(i) to JTO who got lateral advanced promotion (JTO-LA) and post based promotion both during the period from 01.10.2000 to 30.09.2004 in identical IDA pay scale 11875-300-17275/-. It

is also stated in the said letter that recovery in respect of various executives have been initiated and in respect of remaining officers are yet to be affected, some of the officers have approached the Hon'ble Court and have got interim relief against recovery. **Many of these officers in respect of whom recovery was to be affected have opted for VRS under VRS 2019 Scheme.** It is, therefore requested that recovery in respect of all such employees be ensured while making payments to VRS optees.

Further, it is also stated in the said letter that “ in respect of executives those who have opted for VRS and have got interim relief from Hon'ble Court against recovery, for such executive amount corresponding to recoveries may be withheld from the amount payable to them subject to outcome of court cases to avoid excess payment to them and avoid difficulties in recoveries in future.”

3 It is stated by the applicants that in response to aforesaid letter dated 24.12.2019, the applicant no.1, i.e. Shri B G Patel had filed his reply dated 27.01.2020 (An A/2), wherein he has again requested the concerned authority that while revising his pay fixation, it is to be ensured that his pay should not be revised less than his junior Sh. R V Rafalia and thus, he being senior, his pay is to be fixed at par with his junior Sh. R V Rafalia. Further, it is requested that this Tribunal has also granted interim relief inspite of it the Circle Office, Gujarat BSNL issued instruction to SSA for withdrawal of stepped up pay and recovery by withholding the retiral benefits on VRS.

It is the grievance of the applicant that inspite of the interim relief granted in favour of the applicant restraining the respondents from effecting the recovery the respondents under the guise of letter dated 24.12.2019 withhold their retiral dues on their VRS.

4 Per contra the respondents have filed their reply and submitted the explanation as under:-

4.1 This Tribunal was pleased to issue notice in OA and granted ad interim relief in terms of para 9(a) of the OA. By way of ad interim

relief, the implementation and operation of the impugned order was stayed by this Tribunal. This Tribunal was also pleased to restrain the respondents from recovering any amount pursuant to the impugned order. The impugned order annexed as Ann. A/1 to the OA.

4.2 The impugned order dated 26.05.2018 only says that overpayment of pay and allowances will be worked out and intimated shortly before effecting recovery from June 2018, pay and allowance.

According to the respondents only the above order is stayed by this Tribunal by way of ad interim relief. It is stated that the respondents have not implemented the impugned order dated 26.05.2018 as per direction issued by this Tribunal vide order dated 15.06.2018. Therefore, the respondents have not committed any contempt as alleged by the applicants.

4.3 It is contended that similarly situated applicants who had filed OA 340/2019 also approached this Tribunal by way of CP-06/2020. This Tribunal was pleased to dismiss the said CP *in limine* vide order dated 28.02.2020 (Ann R/2).

5 Be that as it may. Both the OA 320/2018 and CP-07/2020 had been taken up for final hearing together along with OA 340/2019. Since respondents have categorically stated that the pay of the applicants which was stepped up and subsequently on receipt of clarification from BSNL Corporate Office, the said benefit has been withdrawn and consequently though the pay of applicants have been re-fixed and directed them to credit the overpayment, no action in this regard has yet been taken due to pendency of the present OA as well as other identical cases filed by similarly placed SDEs. Considering the statement made on behalf of respondents, which has not been rebutted by any of the applicants with documentary evidence, OA 320/2018 and OA 340/2019 has been dismissed. In view of the aforesaid dismissal of OA

320/2018, the CP-07/2020 will not survive for consideration. CP-07/2020 is dropped and notices are discharged. No costs.

(Dr A K Dubey)
Member(A)

(Jayesh V Bhairavia)
Member(J)

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