

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1437 OF 2001
ALLAHABAD THIS THE 6th DAY OF *may* 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Jagdish Chandra Pandey,
aged about 60 years,
S/o Late Sri Housla Pandey,
resident of S-19/61,
Varuna Bridge,
Varanasi.

.....Applicant

(By Advocate Shri H.S. Srivastava)

Versus

1. Union of India,
through the Secretary,
Ministry of Telecommunication,
Door Sanchar Bhawan,
New Delhi.
2. The Chief General Manager,
Telecom, Bharat Sanchar Nigam Limited,
U.P. (East) Circle,
Lucknow.
3. The Chief Accounts Officer (DOT cell),
Bharat Sanchar Nigam Limited,
U.P. (East) Circle,
Lucknow.
4. The General Manager Telecom District,
Bharat Sanchar Nigam Limited,
Varanasi-221002

.....Respondents

(By Advocate Shri R.K. Tewari)



O R D E R

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A. applicant has claimed the following reliefs:-

- "(i) To issue orders/directions to the respondents to pay the applicant pension @ Rs.4050/- per month, balance amount of Rs11798/- on account of retirement gratuity and balance amount of Rs7150/- on account of leave encashment and Rs13891/- on account of commuted value of pension.
- (ii) To issue orders/directions to respondents to pay interest @ 18% per annum on the withheld amount of pension commuted value, retirement gratuity and leave encashment from due date to the date of actual payment.
- (iii) To pass or issue any such other order/direction, which this Tribunal may deem fit and proper in view of the facts and circumstances of the case.
- (iv) To allow the costs of the suit."

2. Counsel for the respondents has taken a preliminary objection to the maintainability of O.A. on the ground that applicant has impleaded B.S.N.L. as respondents and Tribunal has no jurisdiction over B.S.N.L., therefore this O.A. has to be dismissed as not maintainable.

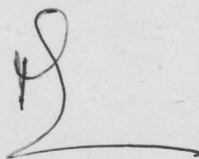
3. Counsel for the applicant submitted that he retired from service on 30.04.2001 and his grievance is against non fixation of his pension and gratuity as he had last drawn his pay as 800/- but gratuity was prepared @ Rs7600/- per month so being aggrieved he had even given a representation on 25.04.2001 (Page 48) but that was not decided. He however, submitted that during the pendency of this O.A. BSNL has given him a detailed show cause notice on 20.02.2001 pursuant to the order passed in O.A. No.1005/99 which is placed on record and by order dated 18.11.2002, B.S.N.L. has



cancelled applicant's promotion order to grade IV under 10% BCR as issued on 17.11.1998 and further informed him that consequent upon cancellation of the said order of promotion benefits including the arrears of enhanced pay and allowances paid to him will be completely withdrawn. Since applicant has retired, action will be taken in accordance with para 3 of the show cause notice.

4. Counsel for the applicant submitted that O.A. should be decided without touching the subsequent order as he would challenge the same separately in Hon'ble High Court of Allahabad. I don't think that would be proper course as ~~these~~ orders have already been issued by B.S.N.L. reverting the applicant by cancelling his promotion orders which would have direct bearing on this 1st O.A. as well, as he is seeking fixation of pension and gratuity on enhanced rate. Counsel for the applicant vehemently argued that these orders are ~~en facie~~ illegal, therefore, can't come in his way. Even if counsel for the applicant feels the orders passed now are illegal, he will have to challenge the same. Even in the present O.A. applicant has impleaded B.S.N.L. as respondents.

. We don't have jurisdiction over B.S.N.L. as no notification under section 14(2) of A.T. Act 1985 has been issued so far to bring B.S.N.L. within the purview of Tribunal. This view has already been taken by the Division Bench of this Tribunal presided over by Hon'ble Vice Chairman following the various judgements given by different courts on this point. Kindly refer to 2002 (1) ATSLJ H.C. 352 and 1999 (2) ATSLJ Bangalore 58.



5. In view of the above discussion, present O.A. is dismissed as not maintainable in Tribunal. Applicant shall however, be at liberty to seek redressal of his grievance in appropriate forum.

6. There will be no order as to costs.



Member-J

/Neelam/