

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/531/2017

Order reserved on 14.07.2021

DATE OF ORDER: 22.07.2021

CORAM

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER

N.L. Sharma S/o Shri Suraj Mal Sharma aged about 70 years, R/o 43 Krishan Nagar, Imli Phatak, Jaipur. Retired JTO (Staff No. 1518), Office of PGMTD, Jaipur.

....Applicant

Shri Anupam Agarwal, counsel for applicant (through Video Conferencing).

VERSUS

1. Union of India through the Secretary, Department of Telecommunication, Government of India, Sanchar Bhawan, 20, Ashoka Road, New Delhi.
2. The Controller of Communication Accounts, Rajasthan Telecom Circle, Jhalana Dungari, Jaipur.
3. Bharat Sanchar Nigam Limited, through the Chairman & Managing Director, Harish Mathur Lane, Janpath, New Delhi-110001.
4. The Principal General Manager Telecom District, Rajasthan Telecom Circle, Opp. GPO, M.I. Road, Jaipur.

.... Respondents

Shri A.S. Shekhawat, counsel for respondent Nos. 1 & 2 (through Video Conferencing)

Shri T.P. Sharma, counsel for respondent Nos. 3 & 4 (through Video Conferencing)

ORDER**Per: Hina P. Shah, Judicial Member**

The present Original Application has been filed by the applicant seeking directions against the respondents to implement the OM dated 15.03.2011 and his pension be revised w.e.f 01.01.2007 with all consequential benefits. Also that he should be paid arrears alongwith interest at the rate of 12% p.a. since till due paid for. He also prayed for the cost of litigation.

2. The brief facts of the case, as stated by the applicant, are that he retired on attaining the age of superannuation on 31.12.2006. He was served with PPO NO. RDOT/8-2/NLS-1993/7048 dated 13.03.2007 and his pension was fixed at Rs. 6000 + dearness relief. He was served with four charge sheets under Rule 16 of CCA Rules wherein he was punished with the penalty of reducing the punishment to withholding of increment for a period of one year without cumulative effect vide order dated 28.04.2006, stoppage of one increment for one year without cumulative effect vide order dated 06.04.2005 and punishment of censure vide order dated 02.04.2005

OA No. 291/531/2017

and 04.04.2005. The respondents had introduced Time Bound IDA Scale Up-gradation Policy for Group 'B' level officers vide order dated 18.01.2007, which was denied to the applicant. Therefore, applicant had filed OA No. 569/2012, which was disposed of vide order dated 24.08.2012 with a direction to file fresh representation, which was to be decided by respondents in accordance with law by reasoned and speaking order. The said representation was rejected vide order dated 18.12.2012 for which the applicant preferred another O.A. No. 187/2013, which was allowed vide order dated 25.05.2016, (Annexure A/2). Since the respondents failed to comply the same, the applicant filed Contempt Petition, which was disposed of vide order dated 11.09.2017, (Annexure A/3). The Government of India had implemented 6th Central Pay Commission w.e.f. 01.01.2006 and, accordingly, pay revision was done in BSNL w.e.f. 01.01.2007. A demand for revision of pension was made in respect of pensioners, who retired during 01.10.2000 to 31.12.2006, which was accepted by the Ministry of Communication and Information Technology, Department of Telecommunication vide OM dated 15.03.2011 revising the pension of pre-2007

pensioners of BSNL w.e.f. 01.01.2007. As the respondents failed to revise the pension, the applicant is getting pre revised pension on the basis of PPO dated 13.03.2007. When it came to the knowledge of the applicant that similarly situated employees are getting higher pension due to revision of pension vide OM dated 15.03.2011, the applicant requested the respondents to revise his pension, which was replied vide letter dated 19.08.2017, (Annexure A/5), stating that "The revision of pension as per 2nd PRC w.e.f. 01.01.2007 of the applicant was not done and under process due to court case pending". It is further stated that the alleged court case has nothing to do with the revision of pension. Therefore, he served a legal notice dated 05.10.2017, (Annexure A/1), to the respondents. As no action was still taken by the respondents, the applicant filed the present Original Application.

3. The respondent Nos. 3 to 4 vide their reply have raised plea of limitation and further stated that the orders passed in the earlier Original Applications are not disputed but stated that the applicant had failed to enclose the copy of order dated 24.08.2012. However,

the applicant has been granted 1st IDA up-gradation E1 to E2 pay scale 9850-250-14600 to 11875-300-17275 w.e.f 01.05.2006 and the pay of the applicant has been fixed on 01.05.2006 at Rs. 12475/-. As the directions of the Tribunal were complied with, the contempt petition filed by the applicant was disposed of vide order dated 11.09.2017. It is further stated that the pension of the applicant is revised and sent to CCA Jaipur, who is the sanctioning authority of pension case. The revised DCRG has already been released by CCA Jaipur vide letter No. RDOT/8-2/NLS-1993/7048 dated 14.09.2017 and revised PPO issued vide No. RDOT/8-2/NLS-1993/7048 dated 12.10.2017, (Annexure R/1 and R/2, respectively). They further stated that as the pension of the applicant has been revised by office of Controller of Communication Accounts, Rajasthan Telecom Circle, Jaipur, hence, nothing remains to be decided in this O.A. in view of the order dated 14.09.2017 and subsequent order dated 12.10.2017. The applicant is also not entitled for alleged interest demanded by him in the O.A. Accordingly, as the present O.A. has become infructuous, the same is liable to be dismissed.

4. The respondent Nos. 1 & 2 has also filed separate reply stating that the present O.A. is barred by limitation. The applicant retired from BSNL on 31.12.2006 and his pension was sanctioned by BSNL @ Rs. 6000/- vide order No. RDOT/8-2/NLS-1993/7048 dated 14.09.2017 and his pension has been revised on 12.10.2017. The concerned respondents had never denied revision of pension to the applicant. After receipt of complete case of the applicant from respondent No. 4 (Pension Sanctioning Authority), this office has issued order RDOT/8-2/NLS-1993/7048 dated 14.09.2017 and revised PPO issued vide No. RDOT/8-2/NLS-1993/7048 dated 12.10.2017. It is also stated that the applicant has also been paid arrears of revised pension and there is no question of payment of any interest as immediately after receipt of papers, they have made the payments. Therefore, as the O.A. is devoid of merits, the same deserves to be dismissed.

5. The applicant has filed a rejoinder denying the submissions of the respondents and further stated that mere release of DCRG or issuance of revised PPO did not absolve the respondents from their

responsibility of paying dues within the stipulated/reasonable period. In fact, as per the directions of the Ministry of Communication and Information Technology vide OM dated 15.03.2011, the respondents were under obligation to issue revised PPO and release the payment of arrears by 30th September 2011. Admittedly, the same has been directed in September/ October 2017, while the same has been released to the applicant in December 2017, which clearly proves that the respondents without there being any lawful justification have harassed the applicant and withhold the amount. In fact, the applicant had to file four court cases to get his lawful rights and those court cases had nothing to do with the revision of pension or payment of arrears as per OM dated 15.03.2011. Further, it being payment of pensionary dues, the applicant is entitled for interest and costs as prayed for in the O.A. Since it is recurring cause of action as non-payments of pensionary dues to the applicant, there is no question of limitation and in view of M. R. Gupta's case, the plea of limitation is unjustified as also the payments are made only after filing of the present O.A. The applicant further reiterates that as per OM dated 15.03.2011, the

benefits were to be issued and released before 30th September 2011, thus, the respondents have delayed the payments for more than six years. The said action on the part of respondents amounts to harassment and, therefore, the applicant is entitled for interest on the amounts besides cost as prayed for. Thus, any submission that nothing remains to be decided or paid is devoid of substance and deserves to be rejected and the present O.A. deserves to be allowed.

6. We have heard learned counsels for the parties at length through Video Conferencing and examined the pleadings on the said issue.

7. The applicant as well as the respondents have reiterated their stand taken earlier.

8. As seen from averments made by the parties, since the applicant has already been granted 1st IDA up-gradation w.e.f. 01.05.2006 and also his pay has been revised and revision of pension has been done as per 2nd PRC w.e.f. 01.01.2007, the question which now requires consideration is whether the applicant is entitled for interest on delayed payments and costs.

9. It is an admitted position that the applicant was initially appointed as Technician with DOT in 1967 and promoted as JTO in 1998. Thereafter, he was absorbed in BSNL w.e.f 01.10.2000 and he finally retired on attaining the age of superannuation on 31.12.2006. He was served with PPO No. RDOT/8-2/NLS-1993/7048 dated 13.03.2007 and his pension was fixed at Rs. 6000+ dearness relief. In his service career, he was served with four charge sheets under Rule 16 of CCA Rules, 1965. As respondents had introduced Time Bound IDA Scale Up-gradation Policy for Group 'B' Officers of BSNL vide office order dated 18.01.2007 and the same was denied to the applicant, he had approached the Tribunal and the said O.A. was allowed in favour of the applicant. Since respondents failed to comply with the directions of the Tribunal, the applicant was forced to file Contempt Petition, which was disposed of vide order dated 11.09.2017, (Annexure A/3), as it was noted by the Tribunal that the order of the Tribunal has been substantially complied with. In the meantime, Government of India had introduced 6th Central Pay Commission w.e.f. 01.01.2006. Accordingly, pay revision was made in BSNL w.e.f. 01.01.2007 and as there was demand by

pensioners for revision in pension in respect of those pensioners who retired during 01.10.2000 to 31.12.2006 and the said demand was accepted by the Ministry of Communication and Information Technology, Department of Telecommunication. Accordingly, vide O.M. dated 15.03.2011, (Annexure A/4), the pension of pre-2007 pensioners of BSNL was revised w.e.f. 01.01.2007. As per the said O.M, calculation of the revised pension was to be forwarded to the concerned by 30th April 2011 so that the pension could be paid at revised rates from July 2011. Even the arrears were directed to be paid by 30th September 2011. In lieu of the said O.M, no steps were carried out in the applicant's case. When applicant enquired about the same, his RTI notice was replied vide letter dated 19.08.2017, (Annexure A/5), stating that "the revision of pension as per 2nd PRC w.e.f. 01.01.2007 of the applicant was not done and under process due to court case pending."

10. There is no question of any limitation in the present case as the issue raised in the present O.A. is a recurring cause of action. On merits, it is seen that the pending court case had nothing to do with the

revision of pension w.e.f. 01.01.2007 as in the case of the applicant, all the punishments imposed upon the applicant were almost over in 2007 itself and, therefore, the action of respondents in denying the same despite O.M. dated 15.03.2011 is neither just nor legal. The court case was for grant of first financial up-gradation / IDA scale w.e.f 01.05.2006 and not against any punishment and, therefore, revision of pension as per 2nd PRC w.e.f. 01.01.2007 had no connection for non-payment of the same and, thus, respondents cannot take a plea that the same was an impediment for revision of pension. It is clear that only after filing of the present O.A., the respondents have granted 1st Time Bound IDA up-gradation from E1 to E2 IDA scale (Rs. 9850-250-14600 to Rs. 11875-300-17275) w.e.f. 01.05.2006 and pay of the applicant has been fixed as on 01.05.2006 at Rs. 12475/-. As per OM dated 15.03.2011, the revision of pension and payment of arrears were required to be completed by September 2011, but in the case of the applicant, respondents processed the claim for grant of 2nd PRC only on 19.09.2017. Thus, it is clear that the respondents have delayed the said payments by almost six years as the revised DCRG was released by

CCA Jaipur vide its letter No. RDOT/8-2/NLS-1993/7048 dated 14.09.2017 and revised PPO was issued vide letter No. RDOT/8-2/NLS-1993/7048 dated 15.09.2017 and RDOT/8-2/NLS-1993/7048 dated 12.10.2017. Therefore, as seen, it is the respondent Nos. 3 & 4, who are actually responsible for the delayed payments for which the applicant need not to suffer as he has faced enough mental agony and sufferings for which he is entitled for costs of litigation and he is also entitled for interest from the date the same was due till the date of actual payment is made to him. Accordingly, he is entitled for the interest at the rate applicable to GPF deposits at the relevant time.

11. In view of the observations made above, the claim of the applicant for interest on delayed payment of arrears as well as his revised pension is just and proper and, thus, he is entitled for the interest at the rate applicable to GPF deposits at the relevant time to be paid by respondent Nos. 3 & 4 from the date the said amounts were due to be payable till the actual date of payments is made to the applicant. He is also entitled for costs of litigation amounting to Rs.

OA No. 291/531/2017

10,000/- (Rupees ten thousand only), which amount also has to be paid by respondent No. 3 & 4. Ordered accordingly. This exercise shall be carried out within a period of three months from the date of receipt of a certified copy of this order.

12. Accordingly, the present Original Application is allowed with costs as stated above.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

Kumawat