

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

**O.A. No. 57/2012**

Jodhpur this the 13<sup>th</sup> day of September, 2013.

**CORAM**

Hon'ble Mr. Justice Kailash Chandra Joshi, Judl. Member  
Hon'ble Ms. Meenakshi Hooja, Adm. Member

Khangara Ram s/o Shri Bhola Ram, RM, Siwana, aged about 52  
years, posted under the control of S.D.E., Bharat Sanchar Nigam Ltd.  
Siwana, District Barmer

.....Applicant

(Through Advocate: Mr. Bhushan Singh )

Versus

1. Bharat Sanchar Nigam Ltd., New Delhi through Managing Director.
2. General Manager (District), Bharat Sanchar Nigam Ltd., Subhash Nagar, Pal Road, Jodhpur.
3. Telecom District Manager, Office of TDM (Govt. of India Enterprises), Barmer.
4. Sub Divisional Officer, Telegraph, Bharat Sanchar Nigam Ltd. Balotra.
5. S.D.E., Bharat Sanchar Nigam Ltd. Siwana, Dist. Barmer.

.....Respondents

(Through Advocate: Mr. Ankur Mathur, proxy counsel for Mr. Vinit Mathur, counsel for respondents)

**ORDER (Oral)**

The present OA has been filed by the applicant, Khangara Ram, challenging the impugned order 26.9.2011 (Ann.A/1) by which

claim of the applicant for stepping up of his pay at par with Shri Achla Ram has been rejected by the respondent department.

2. Brief facts of the case are that the applicant was initially appointed as Part-time Waterman on 1.7.1985 and Shri Achla Ram was appointed as Part-Time Waterman on 11.9.1985. It is averred that it was incumbent upon the respondents to grant TSM RM status to the applicant prior to Shri Achla Ram as the applicant is senior, but Shri Achla Ram was fixed in TSM status prior to the applicant. The applicant has submitted that the Fundamental Rules have been recognized by the BSNL and to remove the anomalies, provisions of stepping up of pay of senior at par with junior with a view to remove the genuine anomalies is permissible. In this regard, the applicant also filed representations dated 30.5.2011, 6.4.2011, 2.7.2011 and 16.8.2011, but the respondent department by way of impugned order dated 26.9.2011 informed the applicant that no benefit of stepping up can be granted to him as the date of appointment of Shri Achla Ram as RM is prior to the date of the applicant. Aggrieved of denial of stepping up at par with his junior, the applicant has preferred the present OA praying for the following reliefs:-

- a. by an appropriate order or direction, impugned order Annex.A/1 may kindly be quashed and set aside as if it was never passed against the applicant and the respondents may kindly be directed to allow the applicant benefit of stepping up equal to the salary of his junior Achala Ram forthwith.
- b. Any other appropriate order or direction which may be considered to be just and proper may be granted in favour of the applicant.

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- c. Cost of the application may kindly be awarded to the applicant.

3. The respondents by way of filing reply have denied the claim of the applicant and contended that the applicant was appointed on 1.7.1985 as Part-Time Mazdoor and he was holding the said post till 28.2.2001 whereas Shri Achla Ram was appointed in September, 1985 and he worked on the said post till 14.5.1993. Further, the applicant was working as full time Casual Labour from 1.3.2001 to 15.12.2004 whereas Shri Achla Ram was full time Casual Labour from 15.5.1993 to 11.2.1999. It is further stated that the services of Shri Achla Ram were regularized on the post of Regular Mazdoor w.e.f. 1.10.2000 whereas the applicant was regularized on the said post w.e.f. 16.12.2004. According to respondents, the applicant cannot be considered senior than Shri Achala Ram merely on the ground that the applicant was initially appointed before Shri Achla Ram as seniority of any incumbent is to be determined from the date of his regularization and not from the date of his initial appointment. The services of the applicant were regularized in the year 2004 i.e. after four years from the date of regularization of Shri Achla Ram in the year 2000. It is further contended that the order dated 26.9.2011 is in accordance with law and there is no illegality in the said order and therefore, the respondents have prayed for dismissal of the OA.

4. Heard both the parties. Counsel for the applicant contended that the applicant was appointed on 1.7.1985 and Shri Achla Ram was appointed in September, 1985 and in spite of the applicant being senior, he is getting lesser pay than Shri Achla Ram, therefore,


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the applicant is entitled to get stepping up of pay equal to Shri Achla Ram. The counsel for the applicant further contended that in the reply the respondent department has admitted this position and, there is no reason to deny stepping up of pay to the applicant. He further contended that regularization of service does not create any right because seniority is fixed from the date of initial appointment and from that point of view, the applicant is senior to Shri Achla Ram.

5. Per contra, the learned counsel for the respondents contended that originally the applicant was engaged on 1.7.1985 and Shri Achla Ram was engaged in September, 1985, but Shri Achla Ram was discharging duties as Full Time Casual Mazdoor from 15.5.1993 whereas the applicant started work as full time Casual Mazdoor from 1.3.2001. The services of Shri Achla Ram were regularized on the post of Regular Mazdoor w.e.f. 1.10.2000 whereas services of the applicant were regularized from 16.12.2004. Therefore, from the date of regularization of service, seniority is determined and fixed and accordingly, the applicant is drawing less pay than Shri Achla Ram and no case of stepping up is made out. It is further contended that the respondent department after due consideration of all the relevant facts fixed pay of both the persons.

6. Considered the rival contentions of both the parties and perused the record. In our considered view, the pay fixation has been made after regularization of services and as per reply the services of present applicant has been regularized later than that of

Shri Achla Ram. Therefore, we find no case of stepping up in favour of the applicant. Accordingly, the OA lacks merit and the same is dismissed with no order as to costs.



(MEENAKSHI HOOJA)  
Administrative Member



(JUSTICE K.C. JOSHI)  
Judicial Member

R/