CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA No.264/2013 with MA No.114/2013
OA No.270/2013 with MA No.115/2013
OA No.418/2013 with MA No.221/2013
OA No.419/2013 with MA No.222/2013
OA No.420/2013 with MA No.223/2013

Jodhpur, this the 23rd day of April, 2014

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial)
Hon'ble Ms Meenakshi Hooja, Member (Administrative)

Original Application No.264/2013 with MA No.114/2013

Poonam Chand Sharma s/o Shri Banshi Lal, b/c Brahman aged 58 years r/o Degana, Tehsil Degana, District Nagour. At present posted as T.M.Bharat Sanchar Nigam Limited Office, Degana, District Nagour (Raj).

.....Applicant

By Advocate: Mr. M.R.Chaudhary

Versus

1. Bharat Sanchar Nigam Limited through its Chief Managing Director, Corporate Office 4th Floor, Bharat Sanchar Bhawan, New Delhi- 110 001.

2. The Chief General Manager, Rajasthan Telecom Circle, Bharat Sanchar Nigam Limited, Sardar Patel Marg, C-Scheme, Jaipur (Raj.) 302008.

3. The General Manager, Telecom District, Bharat Sanchar Nigam Limited Nagour (Raj.)

.....Respondents

By Advocate : Mr. Kamal Dave

Original Application No.270/2013 with MA No.115/2013

Sharwan Lal Choudhary s/o Shri Hema Ram Choudhary, aged 56 years, r/o Nawa, Tehsil Nawa, District Nagour. At present posted as T.M., Bharat Sanchar Nigam Limited Office, Nawa, District Nagour (Raj).

.....Applicant

By Advocate: Mr. M.R.Chaudhary

Versus

1. Bharat Sanchar Nigam Limited through its Chief Managing Director, Corporate Office 4th Floor, Bharat Sanchar Bhawan, New Delhi- 110 001.

2. The Chief General Manager, Rajasthan Telecom Circle, Bharat Sanchar Nigam Limited, Sardar Patel Marg, C-Scheme, Jaipur (Raj.) 302008.

3. The General Manager, Telecom District, Bharat Sanchar Nigam Limited Nagour (Raj.)

.....Respondents

By Advocate : Mr. Kamal Dave

Original Application No.418/2013 with MA No.221/2013

Satya Narayan s/o Shri Jawari Lal, aged 57 years r/o Merta Road, Tehsil Merta City, District Nagour. At present posted as T.M.Bharat Sanchar Nigam Limited Office, Merta Road, District Nagour (Raj).

.....Applicant

By Advocate: Mr. M.R.Chaudhary

Versus

1. Bharat Sanchar Nigam Limited through its Chief Managing Director, Corporate Office 4th Floor, Bharat Sanchar Bhawan, New Delhi- 110 001.

2. The chief General Manager, Rajasthan Telecom Circle, Bharat Sanchar Nigam Limited, Sardar Patel Marg, C-Scheme, Jaipur (Raj.) 302008.

3. The General Manager, Telecom District, Bharat Sanchar Nigam Limited Nagour (Raj.)

.....Respondents

By Advocate : Mr. Kamal Dave

Original Application No.419/2013 with MA No.222/2013

Bhanwar Singh s/o Shri Nahar Singh, aged 57 years b/c Rajput, r/o Alai, Tehsil and District Nagour. At present posted as T.M., Bharat Sanchar Nigam Limited Office Alai, District Nagour (Raj).

.....Applicant

By Advocate: Mr. M.R.Chaudhary

Versus

1. Bharat Sanchar Nigam Limited through its Chief Managing Director, Corporate Office 4th Floor, Bharat Sanchar Bhawan, New Delhi- 110 001.

2. The chief General Manager, Rajasthan Telecom Circle, Bharat Sanchar Nigam Limited, Sardar Patel Marg, C-Scheme, Jaipur (Raj.) 302008.

3. The General Manager, Telecom District, Bharat Sanchar Nigam Limited Nagour (Raj.)

.....Respondents

By Advocate : Mr. Kamal Dave

Original Application No.420/2013 with MA No.223/2013

Poosa Ram s/o Shri Madan Lal, aged 53 years, b/c Mali r/o Jakhera, Tehsil and District Nagour. At present posted as T.M., Bharat Sanchar Nigam Limited Office, Jakhera, District Nagour (Raj).

.....Applicant

By Advocate: Mr. M.R.Chaudhary

Versus

1. Bharat Sanchar Nigam Limited through its Chief Managing Director, Corporate Office 4th Floor, Bharat Sanchar Bhawan, New Delhi- 110 001.

2. The chief General Manager, Rajasthan Telecom Circle, Bharat Sanchar Nigam Limited, Sardar Patel Marg, C-Scheme, Jaipur (Raj.) 302008.

3. The General Manager, Telecom District, Bharat Sanchar Nigam Limited Nagour (Raj.)

.....Respondents

By Advocate : Mr. Kamal Dave

ORDER (ORAL)

Per Justice K.C.Joshi, M(J)

Since similar controversy of law and facts involve in these OAs, therefore, these are being disposed of by this common order.

2. The applicants in these OAs have also filed Misc. Application Nos. 114/2013 (in OA No.264/2013), 115/2013 (in OA No.270/2013), 221/2013 (in OA No.418/2013), 222/2013 (in OA No.419/2013) and 98223/2013 (in OA No.420/2013) for condonation of delay in filing the above OAs. After considering the grounds mentioned in these MAs, in the interest of justice, the same are allowed.

3. For the sake of convenience we are taking facts of OA No.264/2013.

The applicant was initially appointed on the post of Lineman under Department of Telecom w.e.f. 16.12.1979 in the pay scale of Rs. 210-270 vide order dated 2.1.1980. One Shri Ram Naresh was also appointed as Lineman w.e.f.16.12.1979. Both of them were promoted to the next higher grade on 16.12.1995 and were in basic pay of Rs. 1110/- after granting the next higher pay scale of Rs. 950-1400. Thereafter the applicant was promoted to the post of Telecom

Mechanic on 11.3.2000 and his pay was fixed in the next higher grade of Rs. 4000-6000 at Rs. 4000/- as on 11.3.2000. Shri Ram Naresh was promoted as Telecom Mechanic w.e.f. 19.7.2004. Therefore, the applicant was senior to Shri Ram Naresh. It has been further stated that the Bharat Sanchar Nigam Limited (BSNL) was incorporated on 1.10.2000 and services of the personnel in the Department of Telecom were made over to the BSNL. Later on, options were called from the employees and based on the options, employees were absorbed in the BSNL. After absorption of the employees in the BSNL, the pay scales were revised and fixed and they were granted Industrial Dearness Allowance (IDA) pay scale in place of Central Dearness Allowance (CDA) pay scales. The applicant's pay was fixed as Rs. 5700/- as on 1.10.2000 in the pay scale of Rs. 5700-160-8100 whereas Shri Ram Naresh was fixed at Rs. 5770/- in the same pay scale. Therefore, an anomaly occurred in the pay drawn by the applicant and his junior. The applicant submitted representations and also raised his grievance through Union, but the applicant did not get any relief. The applicant has further stated that the applicant is getting basic pay of Rs. 18690/- in the pay scale of Rs. 13600-25420 whereas Shri Ram Naresh is getting the basic pay of Rs. 19120/- in the pay scale of Rs. 12520-23440.

The applicant has also stated that identical controversy was decided by the CAT-Ernakulam Bench in OA no.623/2009, S.Santosh Kumar and Anr. vs. The Chief General Manager and Ors. on 3.11.2010 by which the respondents were directed to step up pay of the applicants on par with their juniors who were promoted later than

the applicant. The BSNL preferred Writ Petition against the order dated 3.11.2010 which was also dismissed by the Hon'ble Kerala High Court with same observations. Therefore, aggrieved with the action of the respondents, the applicant has filed this OA praying for the following reliefs:-

(i) It is, therefore, humbly prayed that this Hon'ble Tribunal may kindly be pleased to accept and allow the present original application and respondents may kindly be directed to eradicate the anomaly in the basic pay of the applicant by stepping up his pay at least to the level of pay of his juniors with effect from the date or arising of the anomaly viz. 1/10/2000.

(ii) The respondents may kindly be ordered to pass orders for stepping up of the pay of the applicant with all consequential benefits;

(iii) The respondents may further be directed to pay an interest @ 18 % per annum on the arrears due;

(iv) Any other appropriate order or direction, which this Hon'ble Tribunal deems fit, just and proper may kindly be passed in favour of the applicant.

(v) Cost of the O.A. may kindly be awarded in favour of the applicant.

In other OAs same relief has been claimed by the applicants.

4. By way of reply to OA No.264/2013, the respondents have submitted that the BSNL came into existence w.e.f. 1.10.2000 and the IDA were introduced in replacement of CDA pay scale which were being drawn prior to formation of BSNL. It is further submitted that both the officials were running in different CDA pay scale and as on 1.10.2000, the applicant was drawing the basic pay of Rs. 4000/- in CDA pay scale of Rs. 4000-100-6000 which was replaced in IDA pay scale of Rs. 5700-160-8100 whereas Shri Ram Naresh Yadav was

drawing basic pay of Rs. 3975/- in the CDA pay scale of Rs. 3200-85-4900/- corresponding to IDA pay scale of Rs. 4720-150-6970. The BSNL Headquarter vide its letter dated 7.8.2002, provides that the fixation of pay in IDA scales was to be done at the stage corresponding to the stage, which official has reached under CDA pay scales on 30.9.2000, as such, pay fixation of both the official has been done correctly on the point to point basis as per the above referred order dated 7.8.2002. In view of point to point pay fixation, pay of seniors with respect to the pay of juniors does not come under the purview of pay anomaly as per clarification dated 22.12.2004, which stands valid till date without any challenge.

5. Heard counsel for both the parties. Counsel for the applicants contended that in a similar controversy, the CAT-Ernakulam Bench in OA No.623/2009 along with other similar matters vide judgment dated 3.11.2010 ordered to step up the pay of the seniors equal to pay of the juniors and the same was affirmed by the Hon'ble Kerala High Court vide judgment dated 8th August, 2011 passed in OP (CAT) No.1429 of 2011.

6. Per contra, counsel for the respondents contended that the applicants have filed representations/notice for demand of justice and although the CAT-Ernakulam Bench passed order of stepping up of pay of the senior equal to junior, but stepping up can only be granted as per the statutory provisions, and, the competent authority will

consider representations/demand of justice in the light of the statutory provisions along with the judgment of the Kerala high Court (supra).

7. Having considered the rival contentions of both the parties, we propose to dispose of these OAs with certain directions.

The respondent-department is directed to consider the representations/notice for demand of justice pending before them within 4 months from the date of receipt of this order in the light of the statutory provisions alongwith judgment of the Hon'ble Kerala High Court (supra), as discussed above. In case, representations of some of the applicants are not on record of the respondents, the applicants are directed to file fresh representations raising their grievances. After decision on the representations of the applicants, if any grievance remains to the applicants, they will have a right to approach this Tribunal. Accordingly, all the OAs stand disposed of with no order as to costs.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal जोधपुर न्यायपीठ जोधपुर

COMPARED & CHECKED

[Meenakshi Hooja]
Administrative Member

[K.C. Joshi]
Judicial Member

CERTIFIED TRUE COPY
Date: 28/4/2014
Section Officer (J&R)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
जोधपुर न्यायपीठ, जोधपुर
Jodhpur Bench, Jodhpur