

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 419 of 2011
Original Application No. 1116 of 2011

Tuesday, this the 27th day of March, 2012

CORAM:

Hon'ble Mr. Justice P.R Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

1. **Original Application No. 419 of 2011 -**

1. H. Johnkutty, Telecom Mechanic, Telephone Exchange,
O/o. SDE, (EXTL) Central Thiruvanthapuram,
Residing at J.S. Nivas, Ayanthithottam, Pullentheri,
Karakonam PO, Thiruvanthapuram-695504.

2. V. Nagarajan, Telecom Mechanic, Telephone Exchange,
Kaithamukku, Thiruvanthapuram, Residing at Santha Nivas,
TC 64/1746(I), Nelliyoodu, Thiruvallam PO,
Thiruvanthapuram-27. **Applicants**

(By Advocate – Ms. K.R. Krishnakumari)

V e r s u s

1. Bharat Sanchar Nigam Limited,
Represented by the Chairman-cum-Managing Director,
Corporate Office, Statesman House, Barakhamba Road,
New Delhi-1.

2. The Principal General Manager, Telecom,
BSNL, Thiruvanthapuram.

3. The Accounts Officer (Estt),
O/o. The Principal General Manager, Telecom,
BSNL, Thiruvanthapuram. **Respondents**

(By Advocate – Mr. Pradeep Krishna)

2. **Original Application No. 1116 of 2011 -**

M.M. Rajeevan, Telephone Mechanic,
Office of the Sub Divisional Engineers (Phones),
Bharat Sanchar Nigam Ltd., Velloor,
Kottayam-686 003. **Applicant**

(By Advocate – Mr. P.R. Padmanabhan Nair)

V e r s u s

1. The Chief General Manager Telecom, Bharath Sanchar Nigam Ltd., Thiruvananthapuram, Kerala State-695 001.
2. The Principal General Manager, Telecom, BSNL, Kottayam-686 001.
3. The Chief Accounts Officer, Office of the Principal General Manager, Telecom BSNL, Kottayam-686 001.
4. Shri K.K. Kumaran, Telephone Mechanic (Retired), BSNL, Kottayam – 686 001. Respondents

[By Advocate – Mr. Pradeep Krishna (R1-3)]

These applications having been heard on 27.03.2012, the Tribunal on the same day delivered the following:

O R D E R

By Hon'ble Mr. Justice P.R Raman, Judicial Member -

Both these OAs are similar on facts and relief claimed is also the same namely stepping up of pay on par with juniors. Hence, we dispose of these OAs by this common order.

2. The applicants in OA No. 419 of 2011 were working as Telecom Mechanic (Phone Mechanic) in the IDA Pay scale of Rs. 12520-23440 in Trivandrum Telecom District of BSNL. Applicants 1 & 2 entered service as Line Man in the years 1975 and 1976 respectively and were promoted to the post of Telecom Mechanic prior to 1.10.2000 i.e. the day on which the BSNL came into existence. Thereafter, with effect from 1.10.2000, the CDA scales of pay of the employees of the BSNL were replaced by the IDA scales of pay. Applicants are aggrieved by the illegal action of the respondents in wrong fixation of their pay w.e.f. 1.10.2000 in the IDA

scales of pay by which the juniors to the applicants who were promoted to the post of Telecom Mechanic in the year 2002 i.e. after 1.10.2000 are drawing more pay than the applicants. Placing reliance on the decision of the Hon'ble Supreme Court in Gurcharan Singh's case reported in 2009 (3) SCC 94, it is contended that the present conduct of the respondents is against the spirit of the said judgment. The applicants 1 & 2 are drawing Rs. 18,020/- and 18,490/- respectively from May, 2010 onwards, whereas their juniors are drawing Rs. 18,940/- in the very same scale of pay of Rs. 12,520-23,440/- which constitutes an anomaly within the ambit of Fundamental Rule 22 which is the consequence of the introduction of IDA scales of pay w.e.f. 1.10.2000. Though Annexures A2 and A3 representations were made no orders were passed.

3. In the reply statement it is submitted that there is inordinate delay in moving this Tribunal by the applicants. It is further contended that applicants had been holding the post of Telecom Mechanic prior to 1.10.2000 in the Department of Telecommunications (DOT), Government of India. On 1.10.2000 Bharat Sanchar Nigam Limited was incorporated and the applicants along with others in DOT/DTS/DTO were initially deputed to work in BSNL and thereafter absorbed in BSNL w.e.f. 1.10.2000 based on the option exercised by them. Wage agreement was entered into between the unions and BSNL on 26.4.2002 in respect of IDA pay scale w.e.f. 1.10.2000, replacement of existing CDA pay scales for non-executive staff (Group C and D) absorbed from DOT etc. The said agreement with the union and the subsequent Annexure A1 office order is complete in itself and



capable of redressing all eventualities. The CDA pay scale of Telecom Mechanic in DOT of Rs. 3200-85-4900/- was replaced with IDA pay scale of Rs. 4720-150-6970 w.e.f. 1.10.2000. In the present case some juniors to the applicants became entitled to a higher pay fixation than the applicants, on CDA to IDA conversion from 1.10.2000 by reason of circumstances arising out of peculiar development of their deputation to BSNL and subsequent conversion of their CDA pay scale into IDA pay scale by Annexure A1 office order dated 7.8.2002.

4. In OA No. 1116 of 2011 the applicant and the 4th respondent entered the Department of Telecommunications as Line Man. Both were promoted to the LSG cadre on completion of 16 years of service. The applicant was promoted to the cadre of Telephone Mechanic on 11.1.1997 and 4th respondent on 20.2.2002. The applicant requested the General Manager, Telecom (BSNL), Kottayam for stepping up of his pay on par with that of the 4th respondent who was drawing more pay than the applicant. However, an appeal was also given to the Chief General Manager, Telecom, Thiruvananthapuram requesting to step up his pay as per FR 22(I)a(i). But no relief was granted.

5. Similar contentions are raised by the respondents as in the case of OA No. 419 of 2011.



6. Heard the learned counsel for both the parties.
7. The only reason as advanced by the respondents is that juniors are admittedly getting more pay because of special circumstances that the applicants were absorbed in service on formation of BSNL. Similar matters came before us for consideration and one of such matter is OA No. 608 of 2011, wherein this court followed yet another judgment in Annexure A20 referred to therein and in paragraph 4 it is stated thus:-

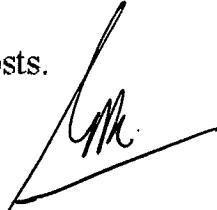
“4. In Annexure A-20 judgment, we have mentioned that the cause of action arose as early as in 2002 but the matter was pending consideration with the anomaly committee until Annexure A10 was issued on 30.8.2010. It was observed that the anomaly in the matter of pay in comparison with that of the juniors is a grievance still pending and therefore, is recurring cause of action for redressal. Therefore, finding that the application is not time barred at the same time since monetary benefits are claimed it has to be limited for a period of three years prior to the filing of the OA. Accordingly, it was held that the applicants pay be fixed with effect from 1.10.2000 at par with juniors in the IDA scale. However, they will be entitled to monetary benefits three years prior to the date of filing the OA i.e. 5.7.2011 and thereafter. In this case the OA is dated 28.6.2011 but filed on 4th July, 2011. Hence, the monetary benefits will be confined to three years prior to the date of filing the OA namely 4th July, 2011.”

8. Accordingly, we dispose of these OAs as under:-

The anomaly in the matter of pay in comparison with that of the juniors shall be rectified by stepping up of pay of the applicants on par with their juniors. Their pay will be fixed with effect from 1.10.2000 at par with juniors in the IDA scale. However, they shall be entitled to monetary benefits three years prior to the date of filing the OA i.e. with effect from 12.4.2011 in OA No. 419 of 2011 and 22.12.2011 in OA



No. 1116 of 2011. These OAs are partly allowed as aforesaid. No order
as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R RAMAN)
JUDICIAL MEMBER

“SA”