

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A. NO.447/2010

Dated this the 17th day of August, 2010

Leela Thomas, W/o P.C.Thomas, Retd.Sr.Sub Divisional
Engineer (VFT), BSNL, R/o Palamparambil House
Lane-2, Janatha Road, Kochi.

(By Advocate Mr P.Ramakrishnan)

Applicant

Vs

- 1 Union of India, represented by its
Secretary, Ministry of Communications & IT,
Department of Telecommunications, New Delhi - 1.
- 2 The Chief General Manager, Bharat Sanchar
Nigam Limited, 513, Sanchar Bhavan, Ashoka Road,
New Delhi - 110 001.
- 3 The General Manager, BSNL, Southern Telecom
Region, Ernakulam.
- 4 The Sr.Accounts Officer (Cash), Office of DOM
Maintenance, STSR, Ernakulam
- 5 The Deputy General Manager, Maintenance
BSNL, Southern Telecom Sub Region, Ernakulam.
- 6 Controller of Communication Accounts, DOT Cell,
Tamil Nadu Circle, 80, Annasalai, Chennai-600002.

...Respondents.

(By Advocate Mr. A.D.Raveendra Prasad for R-1)
(By Advocate Mr. Jhonson Gomez, for R-1 & 5).

The Application having been heard on 8.8.2011 the Tribunal delivered the following:

ORDERHON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant a retired BSNL executive is aggrieved by the action of the Controller of Communication Accounts, Kerala in cancelling the options submitted by her and the consequent re-fixation of pay without notice.

2 The applicant while working in the Department of Telecom was absorbed in the BSNL as Executives w.e.f. 1.10.2000. In the order of absorption, it was made clear in Clause 5 that the employee had an option to retain the CDA Scale till their promotion or retirement whichever is earlier. The applicant opted to continue in the CDA scale till she was promoted on a regular basis and thereafter to come to the IDA scale. The option was accepted by BSNL, pay fixed and Last Pay Certificate issued on 6.6.2007. On superannuation, pension papers were processed by CCA of Deptt of Telecom. However, the Controller of Communication Accounts cancelled the option exercised by the applicant without notice to her, reducing the pay and consequential retirement benefits. The applicant is challenging the action of the CCA as illegal and without competence. They contended that the exercise of option, fixation of pay etc. were perfectly in tune with the existing orders of the Government. The matter was referred to the Department of Telecom for clarification. The department clarified to honour the fixation done by the BSNL. The benefit were granted to those who have retired after October, 2008 but the applicant who retired before October, 2008 was denied the benefit. Relying on the orders of the Tribunal in TA 5/2009 and 115/2008 granting the benefit to similarly situated persons, she filed this O.A for extension of the benefit to her also.

3 The respondents contested the OA and submitted that while fixing the pension, the CCA, Dept.of Telecommunications, Chennai had not considered the option submitted by the officer for drawing pay in CDA scale

74

upto the date of promotion on 1.1.2002, on the ground that the officer had submitted the option after lapse of one month from the date of notification dated 30.6.2004. Therefore, without taking into account the option the CCA, Chennai had fixed the pension taking the basic pension as 13975/- It is also submitted that retiral benefits are calculated and paid by the CCA, Chennai and the BSNL is only forwarding the Service Book of the incumbent.

4 When the application was taken up for consideration, the learned counsel for the applicant drew our attention to the documents produced and argued that the O.A is covered by the orders of the Tribunal in T.A. 115/08, 5/09 and OA 569/10 which were implemented by the respondents.

5 TA Nos. 115/08 and 5/09 were filed by similarly situated persons like the applicant. In one of the TAs in T.A. 5/09 the Tribunal held as follows:

17 In the instant case, the applicants who are retired are made to run from pillar to post for their full pensionary benefits because the 1st respondent adopted a method of pay fixation different from the method adopted by BSNL, according to his own understanding. Before adopting a different method just for a few persons in Kerala Circle he should have got clarification from the DOT. Even after getting a direction vide Annexure A-20 letter dated 24.9.2008 to fix pension provisionally based on existing instructions of BSNL in this regard, the 1st respondent does not appear to have rectified his mistake in reducing the pensionary benefits of the applicants. The intrasigent and callous behaviour on the part of the first respondent is not questioned by the DOT Therefore, in our considered view, in the interest of justice, the applicants should be given the arrears of pensionary benefits with interest.

18 In the result, the OA is allowed. The respondents are directed to refix the pensionary benefits of the applicants in terms of the actual last ten month's average pay drawn by them and to regulate further payment of pensionary benefits accordingly and to make payment of consequential arrears along with interests @ 9% per annum from the dates of retirement of the applicants till the actual date of payment, within a period of three months from the date of receipt of a copy of this order.

14

6 The respondents have no case that the applicant is not similarly situated.

7 In the result we follow the orders of the Tribunal cited above and allow the O.A. directing the 6th respondent to refix the pensionary benefits of the applicant on the last drawn pay of Rs.14875/- and grant arrears thereof with 8% interest and regulate further payment of pensionary benefits accordingly. This shall be done within a period of three months from the date of receipt of a copy of this order.

Dated 17th August, 2011


K.NOORJEHAN
ADMINISTRATIVE MEMBER

kkj