

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 448/2011

Friday, this the 9th day of November, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

1. P.K.Radhakrishnan, S/o Krishnan Nair,
TM, Telephone Exchange, Elanji.P.O., Elanji,
Residing at Puthiyedathu House,
Perumbadavam.P.O.
2. Joy Joseph, S/o P.V.S.Jose, - Applicant
TM, Telephone Exchange, Elanji.P.O., Elanji,
Residing at Venkalathil House, Kizhakombu,
Koothattukulam, Pin: 686 662 (Expired).
3. Raju Varghese, S/o K.G.Varghese,
TM, O/o SDE (Phones), Telephone Exchange,
Thrikkakara, Residing at: Paruthaparambil House,
Thengode.P.O., Kochi-682 021.
4. Sivan.P.N., S/o Narayanan, TM, O/o the SDE South,
Govardhan Building, Ernakulam resdiding at
Puthentharayilveedu, Udayanapuram.P.O.
Vaikom, Kottayam.
5. Sabu Philip, S/o Mathai Philipose, TM,
Telephone Exchange, Koothattukulam, residing at
Ichippillil House, Pambakuda-686 667.
6. George P.S., S/o Skariya Mathai,
TM, Telephone Exchange, Koothattukulam, residing at
Puthenpurayil House, Oliyappuram.P.O., Koothattukulam.
7. Gracy Joy, W/o late Joy Joseph,
Residing at Venkalathil House, Kizhakombu,
Koothattukulam-686662.
8. Neethu Joy, D/o late Joy Joseph,
Residing at Venkalathil House, Kizhakombu,
Koothattukulam-686662.

9. Deepu Joy, S/o late Joy Joseph,
Residing at Venkalathil House, Kizhakombu,
Koothattukulam-686662. - Applicants

(By Advocate Mr M.R.Hariraj)

v.

1. Union of India represented by the Secretary to
Government of India, Department of Communications,
New Delhi.
2. Bharath Sanchar Nigam Ltd. Represented by
its Chairman & Managing Director,
Sanchar Bhavan, New Delhi.
3. Chief General Manager, Telecom, BSNL,
Kerala Circle, Trivandrum.
4. Principal General Manager Telecommunication,
Bharat Sanchar Nigam Ltd,
Ernakulam SSA, Ernakulam. - Respondents

(By Advocate Mr M.K.Aboobacker, ACGSC for R.1)

(By Advocate Mr George Kuruvila for R. 2 to 4)

This application having been finally heard on 09.11.2012, the Tribunal on the same day delivered the following:

ORDER

HONBLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

When this OA came up for hearing, counsel for both the sides submitted that this case is identical to that in OA No. 968 of 2011 in which the Tribunal had on 17th November, 2011 passed the following order:-

"The applicants are Telecom Mechanics. They commenced their services in the Telecom Department as Linemen subsequent between 1993 and 1997. They were promoted as Telecom Mechanics on various dates in the scale of ` 3200-

4900 subsequently replaced as 4000-6000 with effect from 01.10.2000 when BSNL came into existence. The applicants who were employees in the Telecom Department stood absorbed in the services of BSNL with effect from 01.10.2000. Subsequently the applicants were granted the pay in the IDA pay scale of 5700-8100 with effect from 01.10.2000. According to the applicants their juniors were promoted as Telecom Mechanics after 01.10.2000 and they are getting higher pay than the applicants. It is contended that in similar matters this Tribunal had already found that this is an anomalous situation liable to be rectified by stepping up the pay of senior applicants. A copy of the order in OA 558/10 and connected cases delivered on 01.03.2011 is placed on record for reference. There is no dispute that the applicants are similarly situated with that of the applicants in OA 558/10 and connected cases. However, the learned counsel for respondents brings to our notice that there is considerable delay in moving this Tribunal for relief. Now the applicants are claiming relief which they are entitled to seek as early as in 2000 and there is no explanation as to why they should be granted such benefits merely because in other cases order was rendered in favour of similarly situated applicants.

2. We have heard the counsel on both sides. It is true that the cause of action for filing the OA arose as early as on 07.08.2002 when Annexure A-1 was issued in favour of juniors of the applicants. But according to the applicants the matter was pending consideration before the Anomaly Committee until Annexure A-10 was issued on 30.08.2010. Be that as it may, we are satisfied that anomaly in the matter of pay in comparison with that of the juniors is a grievance still pending and therefore there is recurring cause of action for redressal. Therefore, we find that the application is not time barred. At the same time when the applicants are claiming some monetary benefits it is settled principle that the ordinary law of limitation will apply in respect of arrears payable which is confined to three years of filing of the OA. In the factual situation the applicants pay be fixed with effect from 01.10.2000 on par with their juniors in the IDA scale. However, they are entitled for consequential benefits and the monetary benefits will be confined to three years prior to the date of filing the OA, i.e 05.07.2011 and thereafter.

3. OA is thus **allowed** to the above extent."

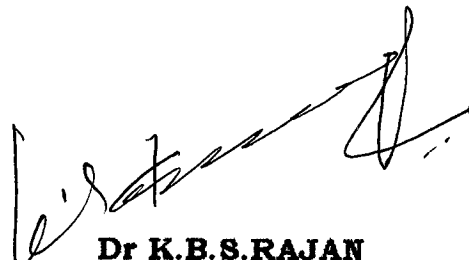
2. Counsel also submitted a like order could well be passed, restricting the arrears to three years date of filing of the OA i.e. 18th May, 2011.

3. Counsel for the applicant further submitted that in respect of applicant No. 2, as he had expired, respondents may be directed that the monetary benefits in respect of the said applicant No. 2, shall percolate upon his legal heirs, as allowed vide order dated 26-09-2012 in M.A. 958 of 2012.

4. Accordingly, on the same lines as in order dated 17-11-2011, this **OA is disposed of** with a direction to the respondents to fix the pay of the applicants from 01-10-2000 at par with their juniors in the IDA scale and that the consequential benefits and the monetary benefits will be confined to three years prior to the date of filing the O.A. i.e. 18-05-2011.

5. No costs.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr K.B.S.RAJAN
JUDICIAL MEMBER

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