

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO.558 OF 2010, O.A. NO.588 OF 2010
 O.A. NO.743 OF 2010, O.A. NO.1023 OF 2010
 O.A. NO.1025 OF 2010, O.A. NO.1110 OF 2010
 O.A. NO.1118 OF 2010, O.A. NO.1119 OF 2010
 O.A. NO.1120 OF 2010 & O.A. NO.172 OF 2011

Tuesday, this the 1st day of March, 2011

CORAM:

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
 HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. O.A. No. 558 / 2010

1. K.Ratheesan
Telecom Mechanic, BSNL
Thuvakunnu Telephone Exchange
 2. Ramesan C.M.
Telecom Mechanic, BSNL
Pazhassi Telephone Exchange
 3. Vinodan T.P.
Telecom Mechanic, BSNL
Mambaram Telephone Exchange
- ... Applicants

(By Advocate Mr.P.K.Madhusoodhanan)

versus

1. The General Manager (Telecom)
Office of the General Manager (Telecom District)
Bharat Sanchar Nigam Limited
(A Government of India Enterprises), Kannur
 2. The Chief General Manager (Telecom)
Bharat Sanchar Nigam Limited
(A Government of India Enterprises), Trivandrum
 3. Bharat Sanchar Nigam Limited
(A Government of India Enterprises)
New Delhi, represented by its Secretary
 4. Union of India represented by its Secretary
Ministry of Telecommunications
New Delhi
- ... Respondents

(By Advocate Mr.Pradeep Krishna (R1-3))

2. O.A. No. 588 / 2010 :

1. T.K.Unnikrishnan
Telecom Mechanic
Telephone Exchange, Cherupa
Ammu Nivas PO, Cherukulathur
Kozhikode District, Pin – 673 008
2. M.P.Kunhinoideen
Telecom Mechanic
Telephone Exchange, Chelannur
Residing at Shafeena Manzil
P.O Kannankara
Kozhikode District, Pin – 673 616
3. A.K.Raghavan
Telecom Mechanic
Telephone Exchange, Atholi
Residing at Andiyan Kandi House
PO Atholi, Kozhikode District, Pin – 673 315
4. N.Rajan
Telecom Mechanic
Telephone Exchange, Badagara
Residing at Nadappa House, PO Cherodu
Kozhikode District
5. V.Sadanandan Nair
Telecom Mechanic
Telephone Exchange, Thamarassery
Residing at Dhanya Nivas P.O Thalayad
Kozhikode District, Pin – 673 574
6. R.Unni
Telecom Mechanic
Telephone Exchange, Mananthavadi
Residing at Rayaroth House, PO Koothali
Kozhikode District, Pin – 673 532

... Applicants

(By Advocate Mrs.K.R.Krishna Kumari)

versus

1. Bharat Sanchar Ngam Limited, represented by
The Chairman-cum-Managing Director
Corporate Office, Statesman House,
Barakhamba Road, New Delhi – 1
2. The Principal general Manager
Telecom, BSNL, Kozhikode – 673 001

3. The Deputy General Manager (Admn)
O/o the Principal General Manager,
Telecommunication,
BSNL, Kozhikode – 673 001
4. The Accounts Officer (Estt)
O/o the Principal General Manager,
Telecommunication, BSNL,
Kozhikode – 673 001

... Respondents

(By Advocate Mr.Pradeep Krishna)

3. O.A. No. 743 / 2010:

1. M.Devadasan
Telecom Mechanic
Telephone Exchange, Nanmanda
Residing at Ezhukalathil House
PO PO Paybra, Kunnamangalam
Kozhikode District
2. K.Moideen
Telecom Mechanic
Telephone Exchange, Pallikkunnu
Residing at Kolongottil House
GNP School Road, PO Kambalakkad
Wayanad
3. T.A.Josekutty
Telecom Mechanic
Telephone Exchange, Pulloorampara
Residing at Thadathil House
PO Mykavu, Kozhikode District
4. P.Manidasan
Telecom Mechanic
Telephone Exchange, Thiruvambadi
Residing at Puthalath House
PO Koduvally, Kozhikode District
5. V.R.Prakash
Telecom Mechanic
Telephone Exchange, Varadoor
Residing at Krishnalayam House
PO Varadoor, Kozhikode District
6. K.K.Padmanabhan
Telecom Mechanic
Telephone Exchange, Elathur
Residing at Ariyattuthazha House
PO Kongannoor, Kozhikode District

7. P.Madhavan
Telecom Mechanic
Telephone Exchange, Koduvally
Residing at Thattarukandiyil House
PO Pavandoor, Kozhikode District

... Applicants

(By Advocate Mrs.Krishna Kumari)

Versus

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, Kozhikode – 673 001
3. The Senior Accountant Officer (Estt)
O/o the Principal General Manager,
Telecom, BSNL, Kozhikode – 673 001
4. The Accounts Officer (Estt)
O/o the Principal General Manager,
Telecom, BSNL, Kozhikode – 673 001

... Respondents

(By Advocate Mr.Pradeep Krishna)

4. O.A. No. 1023 / 2010:

1. C.R.Ponnappan
Telecom Mechanic
Office of SDE External(West)
BSNL, Kottayam
Residing at Sasthamparambil
Mariyathuruthu P.O, Kottayam District
2. C.P.Reghunathan Nair
Telecom Mechanic
Office of SDE (External)
BSNL, Ettumanoor
Residing at Chengerathuparambil
Kumaranalloor P.O
Kottayam District , Pin 686 016
3. C.T.Thomas
Telecom Mechanic
Telephone Exchange, Ettumanoor
Residing at Mariya Bhavan
Kanakary PO, Kottayam District

4. K.K.Raju
Telecom Mechanic
Office of SDE,BSNL, Aymanam
Residing at Kdaikkal House
Olassa PO, Kottayam District
 5. P.S.Haridas
Kanjikuzhy
Residing at Souparnika
Kudamaloor PO, Kottayam District
 6. K.M.Mathew
Telecom Mechanic
Office of SDE,
Telephone Exchange, Chingavanam
Residing at Sherin Villa, Kavunkamoolayil
Pakkil PO, Kottayam District
 7. S.B.Ravikumar
Telecom Mechanic
Office of SDE Internal
BSNL, Vakathanam
Residing at BSNL Staff Quarters
Njaliakuzhy, Vakathanam
Kottayam District
 8. P.M.Gopalakrishnan Nair
Telecom Mechanic
Office of SDE, BSNL, Aymanam
Residing at Sun Rise, Olasee PO
Kottayam District
 9. V.K.Pankajakshan Nair
Telecom Mechanic
O.C.B., M.D.F., Kottayam
Residing at Venkidathumaliyil House
Parampuzha P.O, Kottayam District
 10. K.M.Mohanan Nair
Telecom Mechanic
Office of SDE External (West) Kottayam
Residing at Krattayil House
SHM PO, Kottayam District
 11. Vijayan K.M.
Telecom Mechanic
Office of SDE External (West) Kottayam
Residing at Kooroppadamaliyil House
Chengalam South PO, Kottayam District
- ... Applicants

(By Advocate Mrs.Krishna Kumari)

Versus

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, Kottayam
- 3.. The Accounts Officer (Estt)
O/o the Principal General Manager, Telecom
BSNL, Kottayam

... Respondents

(By Advocate Mr.N.Nagaresh)

5. O.A. No. 1025/2010:

1. Karunanidhi M.
Telecom Mechanic, O/o SDE, AC & Power,
Telephone Exchange, Ernakulam – 682 011
Residing at 19/57, Ankaliayyan House
Chayapparambu, SVD Street, Palluruthy
Kochi – 682 006
2. Venugopalan B
Telecom Mechanic, Muvattupuzha,
Internal Sub Division
Residing at Chelackal House
Elangavam, Varappettil PO
3. Rajendran C.I
Telecom Mechanic,
Telephone Exchange, Ayavana PO
Residing at Chandrathil House
Elangavam, Varappetti PO
4. Bhuvanachandran Nair G
Telecom Mechanic, O/o DE External. Palarivattom
Residing at Bhanumandir. PJ Anthony Road
Palarivattom, Kochi – 682 028
5. Vasudevan M.N
Telecom Mechanic,
O/o SDE External, South Palarivattom
Residing at Manyath Mana, VSRAC-I,
Kalapaka Lane, Vennala, Kochi – 682 028

6. Anil Kumar T.S.
Telecom Mechanic,
O/o SDE External South Palarivattom
Residing at Thottumpurth House
Chiranchira Parambu, Vennala PO,
Kochi 682 028
7. Sadasivan Nair P.P.
Telecom Mechanic,, O/o SDE Installation CDOT,
Ayyappankavu, Ernakulam
Residing at Padickal Puthenveedu,
Mudakuzha PO : 683546
8. K.D.Jestin
Telecom Mechanic, O/o SDE, Eloor
Residing at Kulathara House,
Vaduthala, Kochi - 682 023
9. Padmakumar G
Telecom Mechanic, O/o SDE External South, Palarivattom
Residing at Padmavilas, Kachapilly Road
Vytila, Kochi - 682 019
10. Renjith P.P
Telecom Mechanic, O/o SDE OFS Installation, Palarivattom
Residing at BG 5 P&T Staff Quarters,
Thevara, Kochi - 682 013
11. Shaji. P.A
Telecom Mechanic, O/o SDE WLL, Installation, Palarivattom
Residing at Padathara House, Thykoodam
Udaya Road, Vytila, Kochi - 682 019
12. Thomas. P.G
Telecom Mechanic, O/o SDE Phones,
Telephone, Exchange, Ayyappankavu
Residing at Pallipparambil House
Kaniyamparambu, Cheranellore PO
13. Muralidharan. S
Telecom Mechanic, O/o SDE External, Ayyappankavu Exchange
Residing at B-54, Telecom Quarters
Panampilly Nagar, PO Kochi
14. Ajayaghosh V.D
Telecom Mechanic, O/o SDE OFS, Installation, Palarivattom
Residing at Vettickal House, Maradu PO
Kochi
15. Pareed. K.K
Telecom Mechanic, Telephone Exchange, Aluva
Residing at Kottialkera House
Edathala PO Pin - 683 564

16. Ibrahimkutty. P.K
Telecom Mechanic, O/o SDE,
External Telephone Exchange, Aluva
Residing at Pathanayath House,
Edathala North PO, Aluva – 683 564
17. P.Ramankutty.
Telecom Mechanic, O/o SDE Internal,
BNSNL Bhavan, Aluva
Residing at Perumpilly House, Amballoor North
Alakappa Nagar, Thrissur
18. N.C.Robert.
Telecom Mechanic, O/o SDE RMC,
BSNL Bhavan, Ernakulam
Residing at Nedumparambil House,
Elamakkara PO, Kochi – 682 026
19. C.N.Raveendran. II
Telecom Mechanic, O/o SDE Phones,
Telephone Exchange, Thrikkakara
Residing at Chinnanvelil House, Thengode PO
20. Suresh Babu T.K
Telecom Mechanic,
O/o SDE External South, Kalamassery
Residing at Pulickamadath Parambu,
34/2014 A, BTSMamangalam Cross Road,
Easwara Lane, Edappaly PO
21. M.S.Udayakumar.
Telecom Mechanic,
O/o SDE External South, Kalamassery
Residing at Malayakkal House,
Elamakkara PO, Kochi - 26
22. K.G.Chandran.
Telecom Mechanic,
O/o SDE Phones, Nedunkandam
Residing at Karinilath House,
Thottungathar Road, Kadavanthra, Kochi – 682 020
23. P.Sasi.
Telecom Mechanic, WLL Installation,
Palarivattom, Kochi- 25
Residing at Puthanivarathil House
Pattanakkad, Cherthala – 688 531
24. S.Surendran Nair.
Telecom Mechanic,
Telepone Exchange, Perumkidavila ,
O/o SDE Neyyatinkara
Residing at Divya Bhavan, Ooruttukala,
Neyyatinkara PO

25. K.B. Sudhan.
Telecom Mechanic, Telephone Exchange Vyttila
Residing at Konattu House, Pattanakkadu – 688 531
26. I.R. Soman.
Telecom Mechanic, O/o SDE AC & Power,
Telephone Exchange
Ernakulam
Residing at Quarter No.B 55 BSNL Staff Quarters
Panampilly Nagar, Ernakulam
27. N.S. Anilkumar.
Telecom Mechanic,
O/o SDE (P), Thrikkakara
Residing at Nalodini Kathil House
Pachalam, Kochi – 682 012
28. Shanmugham K.K.
Telecom Mechanic,
O/o SDE Phones Thrikkakara
Residing at Aaikery House, Azad Road
Kaloor, Kochi - 17
29. K.K. Soman.
Telecom Mechanic,
O/o SDE External Mattanchery, Kochi- 2
Residing at Kalathilparambuil House
Ochanthuruth, Kochi – 682 508
30. T.K.Sunil Raj.
Telecom Mechanic, O/o SDE, Kumbalangi
Residing at Thandassery House,
Jawahar Road, Kumbalangi PO
31. Udayakumari. N.R
Telecom Mechanic, O/o SDE TD & MDF, TE,
Ernakulam, Kochi - 11
Residing at B-24, BSNL Staff Quarters,
Panampilly Nagar, Kochi – 36
32. M.G.Peter Emilson.
Telecom Mechanic, O/o SDE (P),
External North, Kochi - 18
Residing at Mulakayath House,
Mulavukadu PO, Kochi – 682 504
33. S. Salim.
Telecom Mechanic, O/o SDE OFS Installation,
Ayyapankavu, Ernakulam,
Residing at 11/786-A, Pattalam Road,
Bishop Garden, Fort Kochi, Kochi – 1

34. K. Raveendran.
Telecom Mechanic, O/o SDE,
Sb Regional Repair Centre,
Gandhi Nagar, Ernakulam - 20
Residing at 15/401, Thiruvonam,
Maradu PO, Ernakulam
35. Leopold George T.X
Telecom Mechanic, O/o SDE,
CSR Exchange, Ernakulam.
Residing at Thyppadathu House
Mulavukadu PO, Kochi - 682 504
36. T.P.Johnny.
Telecom Mechanic, O/o SDET,
BSNL Telephone Exchange,
Kizhakkambalam
Residing at Thekkadath House
Edathala PO - 683 561
37. M.Baburaj.
Telecom Mechanic,
O/o SDE Phones (West) External
Vytila, Erankulam,
Residing at 10/983, South Amaravathy
Kochi - 1
38. K.N.Sambasivan.
Telecom Mechanic,
O/o JTO Telephone Exchange, Mulavukadu
Residing at Kodarnikathil House
Ponjikara, Mulavukadu PO
39. M.M.Venu.
Telecom Mechanic, O/o SDEP Nadukandam, Kallar
Residing at Maranchottil House
Manathuparambu, Nayarambalam - 682 509
40. T.R Subramanian.
Telecom Mechanic, O/o SDEP,
Telephone Exchange, Cherai
Residing at Thykootathil House
Palliport PO - 683 515
41. P.R.Gopalan Nair.
Telecom Mechanic, O/o SDE (External),
South, Govardhan Building,
Chittor Road, Cochin - 11
Residing at Pattathil House
Maniayampilly Lane, Udayamperoor - 682 307
42. K.G.Krishnankutty.
Telecom Mechanic, O/o SDE, Nedumkandom PO
Residing at Myalpurayidathil, Kakkanad West PO

43. P.N. Anil Kumar
Telecom Mechanic, O/o SDE (Extl-I),
BSNL, Trippunithura
Residing at Plliyodaparambu,
Ner Kalloormana Temple
Eroor West
44. C.J.Francis.
Telecom Mechanic,
O/o SDE (Phones) Thrikkakara
Residing at Chakkalakkal, Maniamala Road
Kureekad PO Pin – 682 305
45. T. Aravindakshan.
Telecom Mechanic, O/o SDE (Phones), Thrikakkara
Residing at AD-7 P&T Quarters, Thevara, Cochin – 13
46. P.D.Sajan.
Telecom Mechanic, O/o SDE,
Telephone Exchange, Edappally
Residing at Pullethundiyl House
Pachalam, Cochin – 682 012
47. K.B.Shibu.
Telecom Mechanic, O/o SDE Telephone Exchange,
Edappally
Residing at Konjattu House,
Paadivattom, Edappally PO
48. Basheer. K.H
Telecom Mechanic, Telephone Exchange,
Kodikulam
Residing at Kuppassril House, Kodikulam
49. V.M. Muhammed.
Telecom Mechanic, Telephone Exchange,
Elamdesam, Thodupuzha
Residing at Vadakkepullolil House
Perumpillichira PO, Thodupuzha
50. K.R. Sankarankutty Nair
Telecom Mechanic, Telephone Exchange,
Arikuzha, Muvattupuzha
Residing at Kunnackamdathil House,
Kanjiramattom By-pass, Thodupuzha PO
51. V.M. Hassan.
Telecom Mechanic, Telephone Exchange, Parapuzha
Residing at Vellooparambil House
Thodupuzha East
52. K.U. Balakrishnan.
Telecom Mechanic, Telephone Exchange, Chengamanad
Residing at Kalathipura House
Ezhikkara PO, North Parur

53. Vijayakumaran Nair. P.P
Telecom Mechanic, Telephone Exchange,
Vadattupara
Residing at Plakkottu House
Kakkattoor, Enamalloor PO
54. Achudanandan .A
Telecom Mechanic, Telephone Exchange,
Moothakunnu PO
Residing at Athiyarathuparambil,
Konattukunnu PO, Thrissur – 680 123
55. T.R.Sajeevan.
Telecom Mechanic, O/o SDE, C.DOT, Installation,
Ayyappankavu, Ernakulam.
Residing at Tharayil House
Ochanthuruth, Cochin – 682 508
56. B.J.Paul.
Telecom Mechanic, O/o SDE, RMC,
BSNL Bhavan, Ernakulam
Residing at Bavakkat House
N.Kumbalanghi, Kochi – 7
57. M.P.George -II
Telecom Mechanic, O/o SDE,
AC and Power, Palarivattom
Residing at Manpurakkal House,
Pathappally Lane, Vennala PO, Kochi – 28
58. T.S. Ragesh.
Telecom Mechanic, O/o SDE Groups Kumbalanghi,
Kochi.
Residing at Thundiparambil House, Palluruthy
Konam, Kochi – 6
59. C.P.Pradeep.
Telecom Mechanic, O/o SDE Phones,
Pranavam Hall Building,
1st Floor, Vennal PO,
Residing at Chemmathil Parambil House
Azad Road, Kaloore, Kochi - 17
60. P.T. Shain.
Telecom Mechanic, O/o SDE (External) Phones,
Panampally Nagar, Kochi.
Residing at Poruvelil House,
Ponneth parambu, Chalikkavattom,
Santhi Nagar Road ,
Vennala P.O, Kochi - 28
61. C.K.Raju.
Telecom Mechanic, Telephone Exchange, Kalamassery
Residing at Changadapokkunikkathil House,
Elamakkara PO, Cochin – 26

62. V.K. Ramji.
Telecom Mechanic, O/o SDE Phones
Pranavam Hall Building,
Alinchuvadu, Vennala PO
Residing at Kniyamkunnathu, Vennala PO
63. P.C. Jose
Telecom Mechanic, O/o SDE Phones, Muttom
Residing at Puramadathil House,
Vazhithala PO, Pin – 685 583
64. C.S. Sipson.
Telecom Mechanic, O/o SDE Groups, Thiruvankulam
Residing at Chemmathil House,
Maradu PO, Pin – 682 304
65. T.A. John Joseph
Telecom Mechanic, O/o DE, CM SO A/T Offices,
K.C. Avenue Building, Ayyappankavu, Kochi – 18
Residing at Thirunilath House, S.A.Road, Vyttila
66. N.K. Sajeev
Telecom Mechanic, O/o SDE, Nedumkandam
Residing at Neithusalayil House,
Poothotyta PO, Pin – 682 307
67. K.G. John
Telecom Mechanic, O/o SDE Extl., BSNL,
Mattancherry, Cochin- 2
Residing at Kalathiparambil House,
Elamakkara PO, Kochi - 26
68. K.S.Udayan
Telecom Mechanic, O/o SDE, Kizhakkambalam
Residing at Edakkattusserry House
Oorakadu Kara, Asanpady,
Pookkattupady, Cochin – 683 561
69. Indira. K.N
Telecom Mechanic, O/o SDE Telephone Exchange,
Kizhakkambalam.
Residing at Vellangattuparambil House
Thekkumbhagam, Thripunithura
70. C.A. Bharathan
Telecom Mechanic, O/o SDE, Phones, Vyttila
Residing at Chettiparambil House
Thykkoodam Church Road,
Vyttila, Kochi – 682 019
71. C.S. Siddique
Telecom Mechanic, O/o SDE Extl,W/ Island, Cochin.
Residing at House No.2/158,
Lane No.10, Calvathy, Cochin – 1

72. P. David
Telecom Mechanic, O/o SDE Internal, BSNL,
Telephone Exchange, Narakkal
Residing at Elanjuikkal House
Thulaparambil House, Narakkal PO,
Pin - 682 505
73. Abbas. C.E
Telecom Mechanic, O/o SDE Extl-I, BSNL, Thripunithura
Residing at Cherukattuvayalil House,
Netoor PO, Pin - 682 304
74. C.V. Joshi
Telecom Mechanic, O/o SDE External Tripunithura
Residing at Chaladath House, Nettur ... Applicants.

(By Advocate Mr.M.R.Hariraj)

versus

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

(By Advocate Mr.George Joseph, ACGSC (R-1)
Advocate Mr.George Kuruvilla (R2-4)

6. O.A. No. 1110 / 2010

1. K.K. Sasi,
S/o. Late K.M. Kumaran,
Telecom Mechanic, Telephone Exchange,
Upputhara, Peerumedu,
Residing at Kulathungal House,
Upputhara P.O., Idukki.

2. P.R. Muraleedharan,
S/o. Late P.K. Raman,
Telecom Mechanic, O/o Sub Divisional Engineer,
BSNL, Piravom : 686 664,
Residing at Plakkeel House,
Mulakkulam North P.O., Piravom.
3. N.G. Narayanan Nair,
S/o. Late P. Govindan Nair,
Telecom Mechanic,
O/o Sub Divisional Engineer (External) East,
BSNL, Aluva : 683 101,
Residing at Nellampurath House,
Mudakkuzha P.O., Vengoor (Via) : 683 546.
4. N.U. Joy,
S/o. Ulahannan,
Telecom Mechanic,
Telephone Exchange, Piravom,
Residing at Nediyanikuzhiyil,
Oonakkoor P.O. : 686 667.
5. O.V. Mani,
S/o. Late C.P. Velayudhan Nair,
Telephone Mechanic, Telephone Exchange,
Cheruvattoor, Kothamangalam,
Residing at Ottappala House,
Cheruvattoor P.O.,
Kothamangalam : 686 691.
6. K.N. Revi,
S/o. Late Ithai Narayanan,
Telecom Mechanic,
Telephone Exchange, Ramamangalam,
Residing at Kizhekkedath House,
Anchalpetty P.O., Onakkur.
7. P. Jayan,
S/o. Late P. Padmanabhan Nair,
Telecom Mechanic,
O/o Sub Divisional Engineer (External),
BSNL, Perumbavoor,
Residing at Plavada House,
Marampilly P.O., Aluva : 683 107
8. C.C. Scaria,
S/o. Pathrose,
Telecom Mechanic, Telephone Exchange,
Pandapilly, Ernakulam District,
Pulinchuvattil House, Elanchi P.O.,
Ernakulam District : 686 665

9. M.S. Mary,
W/o. Late M.A. Pappachan,
Telecom Mechanic,
O/o Sub Divisional Engineer (Intermal),
BSNL, Angamaly,
Residing at Manackalan House,
Karukutty P.O. : 683 576
10. E.N. Asokan,
S/o. Late K. Narayanan,
Telecom Mechanic, Telephone Exchange,
Pattimattom, Kizhakkambalam,
Residing at Ellathukudiyil, Valamboor,
Chengara, Pattimattom P.O. : 683 562
11. R.K. Babu,
S/o. Late A.K. Kumaran,
Telecom Mechanic,
O/o Sub Divisional Engineer (External),
BSNL, Panampilli Nagar, Kochi,
Arayanthara House, Edakochi,
Kochi : 682 006
12. V.R. Mahesan,
S/o. Late V.T. Rajappan,
Telecom Mechanic, Telephone Exchange,
Palluruthy P.O., Cochin,
Residing at Valiyathura House,
Edakochi : 682 006
13. K.C. Ayyappan,
S/o. Late K.T. Chothy,
Telecom Mechanic,
Telephone Exchange, Chottanikkara,
Residing at Koonappillil House,
Paingarappilly P.O., Thuruthikkara : 682 314
14. V.D. Manoj,
S/o. K.M. Damodarapanicker,
Telecom Mechanic,
Telephone Exchange, Chottanikkara,
Residing at Vadakkethil House,
Udayamperoor, Kochi - 682 307
15. C.N. Flash,
S/o. C.K. Narayanan,
Telecom Mechanic,
O/o Sub Divisional Engineer (Groups),
CUSAT, Ernakulam,
Residing at Chudukkattil House,
Nadama, Thripunithura P.O.

16. E.A. Joseph,
S/o. Abraham,
Telecom Mechanic,
O/o Sub Divisional Engineer Phones,
Telephone Exchange, Kumily,
Residing at Elavunkal House,
Amaravathy P.O., Kumily : 685 509
 17. T.S. Radhakrishnan Nair,
S/o. K.N. Sreedharan Nair,
Telecom Mechanic,
O/o Sub Divisional Engineer Phones,
Telephone Exchange, Mulanthuruthy,
Residing at Harithabhavanam,
Maravanthuruthu P.O., Vaikom : 686 608
 18. M.R. Ajith Kumar,
S/o. Ramakrishnan,
Telecom Mechanic,
O/o. Sub Divisional Engineer,
A/C & Power, Boat Jetty, Ernakulam,
Residing at Madathyanathundi,
Kozhivettumveli, Eroor (N) : 682 306
 19. T.S. Vijayakumar,
S/o. Sankaran Nair,
O/o. Sub Divisional Engineer Phones
(External), Thripunithura,
Residing at Mathrusmrithi,
Thudinal, Vadayampadi P.O.,
Puthencuz (Via), Pin : 682 308
 20. Joy Joseph,
S/o. Joseph,
Telecom Mechanic,
Telephone Exchange, Ezhukumvayal,
O/o Sub Divisional Engineer (Groups),
Nedumkandam,
Residing at Valliyil House, Anchumukku,
Valiyathovala P.O., Idukki.
 21. G. Radhakrishnan Nair,
S/o. Gopalan Nair,
Telecom Mechanic,
O/o Sub Divisional Engineer,
Murikkasseri Working Unit, Parathode,
Residing at Arattukulangara House,
Vaikom P.O.
- Applicants.

(By Advocate Mr. R. Sreeraj)

v e r s u s

1. Bharat Sanchar Nigam Limited,
Represented by the Chairman and
Managing Director, Corporate Office,
Statesman House, Barakhamba Road,
New Delhi - 1.
2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Kerala Circle, Trivandrum
3. The Principal General Manager,
Bharat Sanchar Nigam Limited,
Ernakulam Telecom District.

... Respondents.

(By Advocate Mr. George Kuruvilla)

7. O.A. No. 1118 of 2010

1. K.P. Vijayan II,
S/o. K. Pappu,
Telecom Mechanic,
O/o. Sub Divisional Engineer (Extl),
BSNL, Angamaly : 683 572
Residing at Kuzhupillymalil House,
Piraroor P.O., Via. Kalady : 683 574
2. A.A. Noushad,
S/o. Late A.A. Aboo,
Telecom Mechanic,
O/o. Sub Divisional Engineer (Trans),
BSNL, Angamaly,
Residing at IX/213(1), Arakkal House,
Edavanakkadu P.O. : 682 502
3. K.P. Babu II,
S/o. Late P.K. Purushothaman,
Telecom Mechanic, Telecom Exchange,
Ezhikkara, North Paravoor : 683 513
4. M.J. Anthrayose,
S/o. Joseph Joseph,
Telecom Mechanic, Telecom Exchange,
Residing at Kochera, Nettithozhu P.O.,
Idukki : 685 551

5. K.S. Gopalakrishnan I,
S/o. Late K.K. Sadanandan,
Telecom Mechanic,
O/o Sub Divisional Engineer (Intl),
BSNL, North Paravoor – 683 513,
Residing at Kalthiparambil House,
Nanthiattukunnam, North Paravoor : 683 513
6. A.C. Joshy,
S/o. Late A.C. Chathan,
Telecom Mechanic,
Telephone Exchange, Cherai,
Residing at Arathara House, Pooyappilly,
Vadakkera P.O., North Paravoor : 683 222
7. P.K. Mohanan,
S/o. Late K.R. Kuttappan Nair,
Telecom Mechanic,
Telephone Exchange,
Kanjikuzhi, Idukki, Painav Sub Division,
Residing at Puthiyedathu House,
Thrikkalathoor, Muvattupuzha : 683 557
8. E.J. Babu,
S/o. Joseph,
Telephone Mechanic,
O/o. Sub Divisional Engineer (Groups),
Kaloor, Thodupuzha,
Residing at Enthunkal House,
Edavetty P.O.,
Thodupuzha : 686 688
9. U.G. Narayanan,
S/o. Gopalan,
Telecom Mechanic,
O/o. Sub Divisional Engineer
Telephones (Groups),
Adimaly, Telephone Exchange,
Kathipara,
Residing at Umminikuzhiyil House,
Parathodu, Idukki P.O. : 685 571
Kambilikandom.
10. P.S. Baburaj,
S/o. P.K. Soolapani,
Telecom Mechanic,
O/o Sub Divisional Engineer,
Telecom, Nedumkandom,
Residing at Palakkal House,
Near St. Antony's Church,
Thrikkakara P.O. : 682 021

11. K.M. Poullose, S/o. K.K. Mathai,
Telecom Mechanic,
O/o. Sub Divisional Engineer,
Telephone Exchange, Adimaly,
Residing at Kizhakkekara House,
Thokkupara P.O., Chithirapuram (Via),
Idukki.

.... Applicants.

(By Advocate Mr. R. Sreeraj)

v e r s u s

1. Bharat Sanchar Nigam Limited,
Represented by the Chairman and
Managing Director, Corporate Office,
Statesman House, Barakhamba Road,
New Delhi - 1.
2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Kerala Circle, Trivandrum
3. The Principal General Manager,
Bharat Sanchar Nigam Limited,
Ernakulam Telecom District.

... Respondents.

(By Advocate Mr. George Kuruvilla)

8. O.A. No. 1119 / 2010

1. E.V. Radhakrishnan Nair,
S/o. Late Velayudhan Nair,
Telecom Mechanic,
Telephone Exchange, Keezhillam,
Residing at Vaishnavam House,
Keezhillam P.O.: 683 541
2. T.K. Raju,
S/o. Late T.K. Krishnan,
Telecom Mechanic, Telephone Exchange,
Kolancherry,
Residing at Thachukuzhiyil House,
Ooramana P.O. : 686 730
3. C.K. Mohanan,
S/o. Late Krishnan,
Telecom Mechanic, Telephone Exchange,
Keezhillam,
Residing at Chalil House,
Thrikkalathoor P.O. : 683 557

4. K.R. Ramakrishnan,
S/o. Late P.K. Ramankutty,
Telecom Mechanic, Telephone Exchange,
Keezhillam,
Residing at Kanikudy Puthenpura,
Eramalloor P.O., Kothamangalam.
5. K.D. Balakrishnan,
S/o. K.K. Damodaran,
Telecom Mechanic, Telephone Exchange,
Varapuzha,
Residing at Kurunthara House,
Valluvally, koonammavu P.O. : 683 518
6. A.V. Antony,
S/o. A.M. Varkey,
Telecom Mechanic, O/o SDE Phones,
Telephone Exchangem Choondy, Aluva,
Residing at Anjilikkal House,
East Kadungalloor, U.C. College P.O.,
Aluva : 683 102
7. N.S. Muniswamy,
S/o. Subhayya,
Telecom Mechanic,
O/o Sub Divisional Engineer Phones,
Telephone Exchange, Kumily,
Residing at Nellikka Estate,
Vandiperiyar : 685 533

.... Applicants.

(By Advocate Mr. R. Sreeraj)

v e r s u s

1. Bharat Sanchar Nigam Limited,
Represented by the Chairman and
Managing Director, Corporate Office,
Statesman House, Barakhamba Road,
New Delhi - 1.
2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Kerala Circle, Trivandrum
3. The Principal General Manager,
Bharat Sanchar Nigam Limited,
Ernakulam Telecom District.

... Respondents.

(By Advocate Mr. George Kuruvilla)

9. O.A. No. 1120 of 2010

1. L. Suresh,
S/o. Late C.V. Leeladharan,
Telecom Mechanic,
O/o. Sub Divisional Engineer (P) (Extnl.), Kochi,
Residing at BSNL Quarters, B-2, Kochi – 682 002
2. M.N. Sankaramany,
S/o. Late K.N. Narayanan Nair,
Telecom Mechanic, Telephone Exchange,
Nedumbassery, Ernakulam,
Residing at Meppilly House,
Nayathode P.O., Angamaly : 683 572
3. M.A. Unnikrishnan Nair,
S/o. Late M.G. Ayyappan Pillai,
Telecom Mechanic,
O/o. Sub Divisional Engineer (Extnl.),
BSNL, Angamaly,
Residing at Mangalappilly Veedu,
Puliyannam P.O. : 683 572
4. P.V. Kuriakose,
S/o. Late P.K. Ulahannan,
Telecom Mechanic, Telephone Exchange,
Kolanchery,
Residing at Panakkattil House,
Rackad, Mekkadammbu P.O.
5. K.K. Raveendran,
S/o. Late K.A. Kunjan,
Telecom Mechanic, Telephone Exchange,
Edappilli, Thodupuzha,
Residing at Karippakudiyil House,
Pallarimangalam P.O. : 686 671
6. K. Venu,
S/o. Late K. Narayanan,
Telecom Mechanic,
O/o Sub Divisional Engineer (Extnl.),
BSNL, North Paravur,
Residing at Kokkampadath House,
Near Government LPS,
Chendamangalam P.O. : 683 512
7. K.V. Sasi,
S/o. Late Chathan Vaironi,
Telecom Mechanic, Telephone Exchange,
Valayanchirangara,
Residing at Koorukuzhiyil House,
Nellad P.O. : 686 721

8. V. Venugopal,
S/o. Late T.G. Velayudhan Nair,
Telecom Mechanic, Telephone Exchange,
Valayanchirangara,
Residing at Thodathil House,
Valayanchirangara. : 683 556
9. M. Palraj,
S/o. Manivel,
Telecom Mechanic,
Telephone Exchange, Cheruvallikulam,
Residing at Anu Bhavan, Jayam Building,
LPS Road, Vandiperiyar : 685 533
10. P.V. Varghese,
S/o. Late P.J. Varghese,
Telecom Mechanic, Telephone Exchange,
Peerumedu,
Residing at Poovathungal House,
Peerumedu : 685 531.
11. C.A. Johnson,
S/o. Late C.J. Antony,
Telecom Mechanic, Telephone Exchange,
Peerumedu,
Residing at CheriyaKattayath,
Pambaran P.O., Peerumedu : 683 537
12. K.K. Radhakrishnan Nair,
S/o. Late Krishnan Nair,
Telecom mechanic, Telephone Exchange,
Choondakkuzhi,
Residing at Kanjirakkudy House,
Ponjassery P.O. : 683 547
13. K.V. Thomas,
S/o. Late Varkey,
Telecom Mechanic,
O/o Sub Divisional Engineer
Telecom, Idukki,
Residing at Kumbilimootil House,
Thadiyampadu P.O., Vazhathopu : 685 602
14. K.B. Mohan,
S/o. Late K.K. Bhaskaran Nair,
Telecom Mechanic, Telephone Exchange,
Swaraj, Kattappana Sub Division,
Residing at Kokappallil House,
Kanchiyar P.O., Pallikkavala : 685 511

15. K.T. Joseph, S/o. K.C. Thomas,
Telecom Mechanic, Telephone Exchange,
Kattappana,
Residing at Kanjirakkatt House,
Vazhavara P.O., Kattappana : 685 515
16. P.A. Thressia, S/o. C.X. Chacho,
Telecom Mechanic, Telephone Exchange,
Mulanthuruthy,
Residing at Chemmamadiyil House,
Kumbalam P.O. : 682 506
17. P.V. Antappan, S/o. Late Varghese,
Telecom Mechanic, Telephone Exchange,
Perumbavoor,
Residing at Padamattummel,
Kanjirakkadu, Rayonpuram P.O. : 683 543
18. K.K. Viswanathan,
S/o. Late P.N. Kochunni Nair,
Telecom Mechanic, Telephone Exchange,
Odakkaly, Ernakulam,
Residing at Kuppasseril House, Methala P.O.,
Kuruppumpady Via : 683 545
19. E.P. Chandrababu,
S/o. Padmanabhan Nair,
Telecom Mechanic, Telephone Exchange,
Odakkaly, Ernakulam,
Residing at Edathottil House,
Asamanoor P.O. : 683 549
20. K.P. Prasanthan, S/o. Late Prabhakaran,
Telecom Mechanic, Telephone Exchange,
Cherai,
Residing at Kozhikkaparambil,
Karuthala, Cherai P.O.
21. P.C. Sasidharan,
S/o. Late P.K. Chellappan,
Telecom Mechanic,
Telephone Exchange, Thevara,
Residing at Punnakapally House,
Kumbalangy South, Kochi : 682 007
22. T.C. Suresh,
S/o. Late T.K. Choathy,
Telecom Mechanic,
O/o Sub Divisional Engineer (Intl),
Kalamassery,
Residing at Theraparambil, Peeliyad,
Ponekkara P.O., Kochi - 682 041.

23. K.H. Ashraf,
S/o. Late K.I. Hydrose,
Telecom Mechanic,
O/o. Sub Divisional Engineer (Trans),
BSNL, Paravur,
Residing at Kurudamparambil House,
Edavanakkad P.O. : 682 502
24. C.K. Appu,
S/o. Kurumban,
Telecom Mechanic,
O/o Sub Divisional Engineer (P),
Telephone Exchange, Choondy,
Aluva,
Residing at Chennattu House,
Muthirakkattumugai, Edathala P.O.
Pin : 683 561
25. P.K. Uthaman,
S/o. Kochukuttan,
Telecom Mechanic,
O/o. Sub Divisional Engineer,
Telephone Exchange,
Parur (Puthenvelikkara),
Residing at Peringedath House,
Puthenvelikkara P.O. : 683 594
26. T.K. Mony,
S/o. Kurumban,
Telecom mechanic,
O/o. Sub Divisional Engineer,
Telephone Exchange, Kizhakkambalam,
Residing at Theyampurathukudi,
Edathala North P.O., Aluva.
27. P.K. Sivaraman,
S/o. P.K. Kumaran,
Telecom Mechanic,
O/o. Sub Divisional Engineer (P),
Telephone Exchange, South Chittoor,
Residing at Panachikkal House,
Thuruthy Temple, Valloor Road,
Maradu P.O.
28. K.G. Jayakumar,
S/o. K.P. Gopalan Nair,
Telecom Mechanic, Telephone Exchange,
Alangad.
Residing at Koothatt House,
West Veliyathunad P.O.

29. C.R. Kumaran,
S/o. Raghavan,
Telecom Mechanic,
O/o. Sub Divisional Engineer (T),
Nedumkandom,
Residing at Chennamala House,
Pathady P.O., Nedumkandom : 685 553 ... Applicants.

(By Advocate Mr. R. Sreeraj)

v e r s u s

1. Bharat Sanchar Nigam Limited,
Represented by the Chairman and
Managing Director, Corporate Office,
Statesman House, Barakhamba Road,
New Delhi – 1.
2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Kerala Circle, Trivandrum
3. The Principal General Manager,
Bharat Sanchar Nigam Limited,
Ernakulam Telecom District. ... Respondents.

(By Advocate Mr. George Kuruvilla)

10. O.A. No. 172 of 2011

1. T.K. Mohanan,
Telecom Mechanic,
Telephone Exchange,
East Gandhinagar,
Residing at Thelukarayil,
Ayanoorkara P.O.,
Kottayam District : 686 008
2. P.C. Prasad,
Telecom Mechanic,
Telephone Exchange,
East Gandhinagar,
Residing at Polachira,
Karapuzha P.O.,
Kottayam District : 686 003 ... Applicants

(By Advocate Ms. Krishna Kumari)

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, Kottayam – 4
3. The Accounts Officer (Estt),
O/o. The Principal General Manager,
Telecom, BSNL, Kottayam – 4 ... Respondents.

(By Advocae Mr. N. Nagaresh)

These applications having been heard on 01.03.2011, this Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

As the same question of law is involved in all these O.As, they are clubbed together and are disposed of by this common order.

2. The applicants are aggrieved by the refusal of the respondents to step up their pay to that of their juniors. They are also aggrieved by the action of the respondents in withdrawing the stepping up once granted and consequential recoveries. They are further aggrieved by the refusal of the respondents to extend the benefit of stepping up as granted to other similarly placed employees who were given the same based on the directions of Hon'ble High Court of Kerala.

3. The brief background of the case is that the applicants were promoted to the post of Telecom Mechanic prior to 01.10.2000 on which date the Telecommunications Department was corporatised and converted



into Bharat Sanchar Nigam Limited (BSNL). All the Group 'C' and Group 'D' employees of the Telecom Department were absorbed as regular employees of BSNL on the same date. Consequently, the Central Dearness Allowance (CDA) pattern scale of pay of Telecom Mechanic was replaced by the Industrial Dearness Allowance (IDA) pattern scale of pay with effect from 01.10.2000. But such fixation was at the minimum of replacement IDA scale of pay. The juniors of the applicants were getting higher scale of pay on account of point to point fixation of pay. When the juniors were promoted as Telecom Mechanic after 01.10.2000, they all started getting more increments than the applicants. This anomaly was finally settled by stepping up of their pay on par with their juniors. Later, the respondents sought to withdraw the stepping up already granted and proposed to grant personal pay to the applicants to be absorbed in future increments. The applicants contended that even if the personal pay is granted, the inequity will continue and it will multiply in future promotion as well as on pension. With the implementation of Annexures A/10 and A/11 judgements in WP(C) No. 30582 of 2005 and Writ Appeal No. 1028 of 2009, the pay of the employees in whose favour the judgements were given, have been stepped up. But the same benefit is not extended to the applicants who are similarly placed. Hence the O.A.

4. The applicants No. 19, 48 to 74 in O.A. No.1025/2010 were given stepping up, but no arrears were paid. The entire alleged overpayment was recovered from them. In the case of other applicants in O.A. No. 1025/10, stepping up was given vide Annexures A-4 and A-5 orders, arrears were paid with effect from 12.10.2001 and partial recovery was made from



September, 2005. But the further recovery was stopped pursuant to interim order in W.P.(C) No. 30582 of 2005 by Hon'ble High Court of Kerala. In O.A. Nos. 558/10, 588/10, 743/10, 1119/10, 1120/10, 1023/10 and 172/2011, the applicants seek stepping up of pay on par with their juniors. Since no stepping up was given, the question of recovery from them does not arise. The applicants in O.A. Nos. 1110/2010 and 1118/2010 were earlier granted the benefit of stepping up of their pay. But the respondents started recovering the alleged overpayment by withdrawing their stepping up. Their prayer is to refund the amount already recovered and also for a declaration to restore the stepping up of their pay.

5. We have heard respective counsel appearing for both the sides and carefully perused the records.

6. The above O.As are fully covered by the orders of this Tribunal in O.A. No. 623/2009 and other connected cases. The relevant part of the said order is reproduced as follows:

"9. The crux of these O.As is the fixation of the pay of the applicants. Fixation of their pay in the IDA pay scale with effect from 01.10.2000 on the formation of BSNL in one way and fixation of pay of their juniors who were promoted after 01.10.2000 in another way resulted in the anomaly of the applicants who are seniors getting less pay than their juniors in the cadre of Telecom Mechanic. This anomaly got aggravated when the respondents refixed the pay of the applicants on their promotion as Telephone Mechanics on realising years later that the earlier fixation was erroneous and started recovering alleged overpayments without focusing on being just and fair to the applicants and with little regard for settled law and the principles of natural justice.

10. The Writ Petition (C) No. 30582 of 2005 is identical to the cases on hand, the subject matter being stepping up of pay of senior Telecom Mechanics on par with their juniors who were promoted after the formation of the BSNL in the scale of pay of Rs. 4720-6970 and recovery of overpayment on reduction of their pay upon respondents' realization that the applicants are not entitled to stepping up of their



pay to a stage equivalent to that which their juniors were drawing. In the above writ petition, it was contended by the respondents that the provisions of the Fundamental Rules do not govern the fixation of pay on promotion and, therefore, clarification was issued to the effect that seniors getting lesser pay than their juniors is not an anomalous situation. It was also contended by the applicants therein that in the light of the agreement dated 26.04.2002, the pay of the seniors was stepped up and equated with the pay of their juniors who were later promoted as Telecom Mechanic. The above contentions are not taken up in the instant O.As, otherwise, the facts and issues in the above Writ Petition and the present O.As are quite identical. The Writ Petition was allowed by the Hon'ble High Court of Kerala vide its judgement dated 24.07.2008, as under :

"6. In my considered opinion, in the light of Ext.P1, the stand taken by the respondents cannot be countenanced. I therefore declare that the petitioners are entitled to have their pay stepped up and equated with the pay of their juniors, who were promoted as Telecom Mechanic after 01.10.2000 in the manner done in Exts.P2 and P3. The arrears of emoluments payable to the petitioner from January, 2005 onwards shall be paid on the basis of fixation in Exts.P2 and P3. They would also be entitled to periodical increments with effect from the date on which increments were granted to their juniors in service. The amount recovered shall also be reimbursed to them. I make it clear that this judgement will not stand in the way of the Anomaly Committee from considering the matter or the respondents from entering into another settlement with the employees' unions.

The Writ Petition is allowed as above. No costs."

11. As per the decision of the Apex Court in **Gurcharan Singh Grewal and Another vs. Punjab State Electricity Board**, (2009) 1 SCC (L&S) 578, the settled principle of law is that a senior cannot be paid a lesser salary than his junior. In **Union of India and Others vs. P. Jagdish and Others**, AIR 1997 SC 1783 also, the Apex Court upheld the principle of stepping up of pay to remove the anomaly of juniors getting higher pay than their seniors. Thus, the settled law is quite clear; the seniors are entitled to benefit of stepping up of pay to the level of the pay of their juniors. In the instant cases, the fact that the applicants are seniors to the juniors who were promoted as Telecom Mechanic after 01.10.2000, is not disputed. The fact that the applicants are getting less pay than their juniors, is also not disputed. Therefore, the applicants are entitled to the benefit of stepping up of their pay on par with the pay of their juniors.

12. If the respondents have erroneously fixed the pay of the applicants then the applicants cannot be held responsible as they had absolutely no role in the matter.

13. The Apex Court in the following cases relating to recovery, held as under :



(a) *Sahib Ram v. State of Haryana, 1995 Supp (1) SCC 18:*

"....it is not on account of any misrepresentation made by the appellant that the benefit of the higher pay scale was given to him but by wrong construction made by the Principal for which the appellant cannot be held to be at fault. Under the circumstances the amount paid till date may not be recovered from the appellant."

(b) *Bihar SEB v. Bijay Bhadur, (2000) 10 SCC 99 :*

" We do record our concurrence with the observations of this Court in *Sahib Ram case* and come to a conclusion that since payments have been made without any representation or a misrepresentation, the appellant Board could not possibly be granted any liberty to deduct or recover the excess amount paid by way of increments at an earlier point of time."

(c) *Purshottam Lal Das v. State of Bihar, (2006) 11 SCC 492 :*

" We do record our concurrence with the observations of this Court in *Sahib Ram case* and come to a conclusion that since payments have been made without any representation or a misrepresentation, the appellant Board could not possibly be granted any liberty to deduct or recover the excess amount paid by way of increments at an earlier point of time. The act or acts on the part of the appellant Board cannot under any circumstances be said to be in consonance with equity, good conscience and justice."

In view of the above judgements of the Apex Court, the respondents should have desisted from recovery, the so called overpayment on account of erroneous fixation of their pay.

14. When the BSNL was formed, the IDA pattern of pay scale was introduced vide office order No. BSNL/26/SR/2002 dated 07.08.2002. Para 2.1(v) of the said order, which is relevant to the cases on hand, is reproduced hereunder:

"2.1. The pay of the optees will be fixed in the respective replacement/corresponding IDA pay scales in the following manner :

(v) The employees who have been promoted to the higher posts after 01.10.2010 will be fixed in the corresponding IDA pay scale from the date of promotion under the normal rules relating to

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the fixation of pay on promotion with reference to their pay in the IDA pay scale of pre-promoted post. However, those who are promoted to the higher post on 01.10.2000 will first be fixed in the IDA pay scale corresponding to the CDA pay scale of pre-promoted post as per formula at (a) above and then will be fixed in the IDA pay scale of the promoted post corresponding to the CDA pay scale of promoted post, under normal pay fixation rules on promotion under FR."

15. The juniors of the applicants were given IDA pay scale and then promoted whereas the pay of the applicants were fixed in the replacement IDA pay scale which was after their promotion at the minimum of the replacement IDA scale of pay. This resulted in the anomaly of seniors drawing less pay than the juniors. The respondents had resorted to stepping to remove the anomaly although the applicants were not provided with formal orders to that effect. But the rectification of erroneous fixation of pay now without following the principles of natural justice unsettled the position which was settled for a long time. This was done while the representations of the applicants which were furnished to the committee constituted for taking decision for settlement of anomalies arising out of implementation of IDA scales with effect from 01.10.2000 were pending. Even after 10 years since the introduction of IDA pay scales, anomalies arising out of the implementation of IDA scales are pending. The applicants were promoted as regular Mazdoors well before 01.10.2000. Instead of addressing the issue of non parity of pay with their juniors the respondents put the legitimate grievance of the applicants in the limbo by referring it to the Anomaly Committee. The consideration of that Committee appears to be endless. Instead of expediting it, the respondents with utter insensitivity and scant regard for fairness and justice illegally effected recovery hurting the applicants further. The impugned orders of recovery are illegal as they violate the principles of natural justice. The submission of the respondents that they are ready to issue notice to the officials regarding proposed recovery of overpayment and hear them in the matter amounts an admission that the reduction in pay and consequent orders for recovery of overpayment were made without following the principles of natural justice.

16. The non joining of the juniors as pointed out by the respondents, in our view, is not fatal to these O.As as the juniors are not all affected in any way by these O.As.

17. In view of the settled law, principles of natural justice and equity as discussed above, the impugned orders cannot be sustained. The applicants, being seniors and paid less, are justified in seeking parity in pay with their juniors. Therefore, these O.As deserve to be allowed.



18. The impugned orders in these O.As to the extent they relate to the applicants are quashed and set aside. The respondents are directed to step up the pay of the applicants on par with their juniors who were promoted as Telecom Mechanics later than the applicants with effect from 01.10.2000 with all consequential benefits and to reimburse the amounts already recovered from them within a period of 60 days from the date of receipt of a copy of this order. It is made clear that this order will not stand in the way of the Anomaly Committee deciding the representations of the applicants referred to it.

19. No costs."

7. In O.A. No. 846/2010, which was filed for stepping up of pay of Senior Telephone Mechanics as in the instant O.A., the respondents had referred to the orders issued on 30.08.2010 at Annexure R2(m) therein.

Para 2 of the aforesaid orders is reproduced as under :

"2. It has now been decided with the approval of the competent authority to grant "Personal Allowances" to address the following pay aberration:

(a) Where the senior Official in lineman cadre who was drawing higher pay than his/her junior in Group D/RM cadres in the same SSA as on 30.09.2000 and his pay become less than such junior after point to point pay fixation in IDA as on 1.10.2000; or

(b) Senior official in Telecom Mechanic cadre who was drawing higher pay than his/her junior in Gr. D/RM cadres in the same SSA as on 30.09.2000 and his pay become less than such junior after point to point pay fixation in IDA as on 1.10.2000.

subject to the conditions mentioned below and in the following manner:-

(i) The senior official may choose any junior official from his/her own SSA with reference to whom he desires to match his pay. "Personal Allowance" is to be granted as per the prescribed proforma given in Annexure-1 (enclosed). However, once he chooses a junior, it cannot be changed later under any circumstances.

(ii) The senior should be drawing higher pay in CDA than the junior as on 30.09.2000. Further, junior official should be from the feeder cadre of senior official.

(iii) "Personal Allowance" to the senior official will cease to exist from the date of promotion / pay revision including time-bound promotions of senior occurring to him after 1.10.2000.



(iv) The "Personal Allowance" will be equal to the difference of IDA pay of the senior with reference to the chosen junior as on 01.10.2000. Grant of "Personal Allowance" will be a one-time measure and will not be quoted as a precedent.

(v) The "Personal Allowance" will be given the same treatment as personal pay with its attendant conditions and will not count for any other purpose like pension, DA, etc.

(vi) The "Personal Allowance" will be paid as a reducing amount till it becomes 'Nil' and will be absorbed against future increments or till next promotion of the senior or till next pay revision, whichever is earlier, it will never increase under any circumstances.

(vii) The above exercise may be completed within a period of three months from the date of issue of this order and no case received thereafter may be considered.

(viii) In order to claim "Personal Allowance", the relevant column of the prescribed proforma in the Annexure must be filled up and submitted by the concerned senior official, seeking redressal of pay aberrations to the HR/Admn Branch of the SSA where AGM (Staff/HR/Estt/SDE/Staff/HR/Estt) will verify it based on the service book / records available."

This Tribunal, vide its order dated 14.01.2011, then held in O.A. No.

846/2010 as under :

"7. Interestingly, the respondents do not claim that by issuing the letter dated 30.08.2010, the problem of senior drawing less pay than his junior is solved. The fact is that it does not redress the grievance of the applicant. The personal allowance that was granted vide Annexure-R2(m) would not count for any other purpose like pension, D.A. etc. Not counting the personal allowance for the purpose of pay including the pension and D.A will result in the anomaly of senior drawing less emoluments or pension, as the case may be, than his junior. Annexure R2(m) dated 30.08.2010 does not meet out full justice to the applicant. Therefore, in our considered view, in the facts and circumstances of the case, as per the settled law that the applicant is entitled to have his pay stepped up on par with his juniors who were promoted as Telecom mechanics and granted the benefit of fixation of pay under FR 22 (I)(a)(i) with effect from 01.10.2000 or thereafter with all consequential benefits of arrears of pay and allowances arising therefrom. Accordingly, we order as under.

8. The respondents are directed to step up the pay of the applicant as above and to grant him all consequential benefits of arrears of pay and allowances arising therefrom within a period of two months from the date of receipt of a copy of this order.

9. The O.A is allowed as above with no order as to costs."

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8. The attempt on the part of the respondents to set right the anomaly of senior employees drawing less pay than the juniors as per Annexure A-14 in O.A. No. 1025/2010 does not address the issue fully. Grant of personal pay to be absorbed in future increments is a temporary and short sighted solution to the problem of anomaly. After an increment or two, a junior will continue to be in higher pay since their personal pay is to be absorbed. The affect of anomaly will be multiplied by future promotion. As his personal pay is not counted for pension or for any other purpose, the anomaly will be reflected in the pensionary benefits also. Therefore, in our considered opinion, all the applicants will have to be granted the benefit of stepping up on par with their juniors who got promotion after 01.10.2000. Accordingly, we allow these O.As as under.

9. The impugned orders in these O.As to the extent they relate to denial of stepping up of pay to the applicants drawing lesser pay than juniors who got promotion after 01.10.2000, withdrawal of stepping up and consequential recoveries are quashed and set aside. We declare that the applicants are entitled to get stepping up of pay to that of their juniors who started drawing higher pay by virtue of their promotion and pay fixation under F.R.22(I)(a)(1) after the introduction of IDA pay scale and all consequential benefits arising therefrom, including arrears, if any. We further direct the respondents that the amount recovered from the applicants should be refunded. The above directions should be complied with, within a period of three months from the date of receipt of a copy of this order. In the facts and circumstances of these O.As, we do not



consider it justified to grant interest on the arrears/refunds to be made to the applicants.

10. No order as to costs.

(Dated, the 01st March 2011)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

CVR.