

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO.569/2010

Dated this the 20th day of October, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER
HON'BLE DR. K.B.SURESH, JUDICIAL MEMBER

- 1 T.K. Kuriakose,
Divisional Engineer, Phones (Retired)
Kothamangalam - 686 691,
Residing at Thombrayil House,
Near PHED Pump House,
Kothamangalam - 686 691.
- 2 K.J. Johny,
Sub-Divisional Engineer Transmission (Retired),
Muvattupuzha, PGMT, Ernakulam.
Residing at Kannangayathu, Veliyanad (P.O.),
Via Arakkunnam, Ernakulam - 682 319.
- 3 K.D. Joseph,
Divisional Engineer Transmission (Rural) (Retired),
Trichur - 680 001. Residing at Karokarin House,
Christopher Nagar, Ollur,
Trichur - 680 306.
- 4 N.K. Pushpangadan,
Divisional Engineer Phones -1 (Retired),
O/o PGMT, Trissur - 1,
Residing at Gokulam,
P.O. Nadathara, Trichur - 680 751.
- 5 V.U. Girijavallabhan,
Sub-Divisional Engineer (Retired),
Cable Planning, O/o. PGMT, Trichur,
Residing at 'Sopanam', Vinayaka Apartments,
Plakkat Lane, Trichur - 680 001.

6 C.V. Xavier,
Sub-Divisional Engineer (Retired),
Cable Planning, O/o. PGMT, Ernakulam,
Residing at Chullikatt House,
Kottuvally, Kaitharam (P.O.),
N. Paravur - 683 519.

7 T.P. Soman Nair,
Sub-Divisional Engineer Phones (Retired),
Choondy, Alwaye, PGMT, Ernakulam,
Residing at Somagiri, Edathala North,
Alwaye - 683 564.

8 V. Vasavan,
Sub-Divisional Engineer (Retired),
O/o. GMT, Kottayam,
Residing at Padathu Parambu,
Ward - 20, Vaikkom - 686 141.

9 K.M. Nabeesa,
Divisional Engineer (Retired),
O/o PGMT, BSNL Bhavan,
Ernakulam - 682 016.
Residing at 44/356, Yaseen,
Sastha Temple Road,
Kaloor, Kochi - 682 017.

10 K.K. Suseelan,
Divisional Engineer (Retired),
O/o DE (Extl) Central,
Keston Road, Kowdiar,
Trivandrum - 695 003,
Residing at 'Thushara', T.C. 7/1387 (3),
VRA- III, Vettamukku, Thirumala (P.O.),
Trivandrum - 695 006.

11 N.V. Ravi Varma,
Sub-Divisional Engineer (Retired),
O/o. PGMT, BSNL Bhavan,
Ernakulam. Residing at
Kizhakke Koyikkal Madam,
Parappuram (P.O.), Kanjoor.

12 V.A. Mathukutty,
Assistant General Manager (Retired),
O/o PGMT, BSNL Bhavan, Ernakulam,
Residing at 30/1163 (1), RSAC Road;
Vyttila, Kochi - 682 019.

13 K. John Thomas,
Sub-Divisional Engineer (Retired),
O/o. GMTD, Kollam.
Residing at Church View, Karuvelil (P.O.),
Ezhukone, Kollam - 691 505.

14 P.G. Ravindran,
Sub-Divisional Engineer (Retired),
O/o. PGMT, Calicut,
Residing at Pottekkat House,
Bund Road (P.O.), Manalur,
Trichur District.

15 O. Ramachandran Nair,
Sub-Divisional Engineer Phones (Retired),
Telephone Exchange, Elathur,
Kozhikode - 673 303.
Residing at EP VI/498
Dew Drop, (P.O.) Puthiyangadi,
Kozhikode - 673 021.

16 Molly Thomas,
Divisional Engineer (Retired),
Kozhencherry.
Residing at Pulienkeezh House,
Mundiappally (P.O.),
Kunnamthanam, Thiruvalla - 689 593.

17 Mariamma Joseph,
Divisional Engineer (Retired),
Telephone Bhavan,
Pathanamthitta - 689 645,
Residing at Vazhaplavil House,
Santhosh Junction,
Pathanamthitta - 689 645.

18 C. Viswanathan,
Sub-Divisional Engineer (OP) (Retired),
O/o. PGMT, BSNL, Balan K. Nair Road,
Calicut. Residing at 'Swathi',
Thenhippalam (P.O.),
Malappuram - 673 636.

19 M.V. Gandadharan,
Divisional Engineer (Retired),
Telephone Bhavan, Kodungallur,
Trichur SSA. Residing at
Mukkulam House, (P.O.) Pulloor,
Irinjalakkuda - 680 683.

Applicants

(By Advocate Shri. Vishnu S. Chempazhanthiyil)

Vs

1 Controller of Communication Accounts,
Department of Telecommunication,
DOT Cell, 5th Floor, Door Sanchar Bhavan,
Kerala Circle, PMG Junction,
Thiruvananthapuram - 33.

2 The Chief General Manager,
Telecommunications,
Bharat Sanchar Nigam Limited,
Thiruvananthapuram - 33.

3 The Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
New Delhi - 1

4 Union of India, represented by its
Secretary, Ministry of Communications & IT,
Department of Telecommunications,
Asoka Road, Sanchar Bhavan,
New Delhi - 1.

(By Advocate Mr. N. Nagaresh for R-2 to 3)

(By Advocate Mr. Sunil Jacob Jose, SCGSC for R-1 & 4).

The Application having been heard on 20.10.2010 the Tribunal on the same day delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants who are retired BSNL executives are aggrieved by the action of the Controller of Communication Accounts, Kerala in cancelling the options submitted by them and the consequent re-fixation of pay without notice.

2 The applicants while working in the Department of Telecom were 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 applicants opted to continue in the CDA scale till they were promoted on a regular basis and thereafter to come to the IDA scale. The options were accepted by BSNL, pay fixed and on superannuation, pension papers were processed on that basis. However, the Controller of Communication Accounts cancelled the options exercised by the applicants without notice to them, reducing the pay and consequential retirement benefits. The applicants are 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 applicants who retired before October, 2008 were denied the benefit.

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Relying on the orders of the Tribunal in TA 5/2009 and 115/2008 granting the benefit to similarly situated persons, they filed this O.A for extension of the benefit to them also.

3 The O.A. was admitted on 2.7.2010 and the respondents were directed to file reply statement within two weeks. However, they have not filed any reply till today.

4 The applicants filed M.A.Nos. 803/2010 and 671/10 seeking permission to produce Annexure A-17 order issued by the 1st respondent implementing the orders of the Tribunal in identical cases in TA Nos. 115/08 and 5/09 in support of their case.

5 Today, when the Application was taken up for consideration, the learned counsel for the applicants 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 and 5/09 which were implemented by the respondents.

6 TA Nos. 115/08 and 5/09 were filed by similarly situated persons like the applicants. In one of the OAs in O.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

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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.

7 The respondents have no case that the applicants are not similarly situated.

8 In the result we follow the orders of the Tribunal cited above and allow the O.A. directing the 1st respondent to refix the pensionary benefits of the applicants from the date of retirement and grant arrears thereof with 9% 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 20th October, 2010


DR. K.B. SURESH
JUDICIAL MEMBER


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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