CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 623 of 2009
Original Application No. 868 of 2009
Original Application No. 893 of 2009
Original Application No. 902 of 2009
Original Application No. 12 of 2010
Original Application No. 33 of 2010
Original Application No. 741 of 2010

Wednesday, this the 03rd day of November, 2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

1. Original Application No. 623 of 2009 -

1. S. Santhosh Kumar, aged 46 years, S/o. Sadhasivan,
Telecom Mechanic, Mannancherry Telephone Exchange (BSNL),
Residing at : Shanthi Bhavan, Mannancherry P.O.,
Alappuzha Dt., Pin-688 538.

2. P.V. Vijayan, aged 49 years, S/o. Velayudhan, Telecom Mechanic,
Mannancherry Telephone Exchange (BSNL), Alappuzha, Residing
at : Vipanya Bhavan, Mannancherry P.O.,
Alappuzha. ..... **Applicants**

(By Advocate – Mr. T.C. Govindaswamy)

Versus

1. The Chief General Manager, (Telecom), Bharat Sanchar Nigam
Ltd., Kerala Circle, Trivandrum.

2. The General Manager, (Telecom), Bharat Sanchar Nigam Ltd.,
Telecom District, Alappuzha – 688 011.

3. The Accounts Officer (Est), Office of the General Manager,
Telecom District, Alappuzha-688 011. ..... **Respondents**

(By Advocate – Mr. N. Nagaresh)

2. Original Application No. 868 of 2009 -

1. P.T. Mathew, aged 47 years, S/o. P.K. Thomas, Telecom Mechanic, Chennithala Telephone Exchange (BSNL), Residing at : Patteri Madathil, Kuttemperoor P.O., Chengannur Tk., Alappuzha Dt. Pin-688 538.

2. T.S. Pushpangathan, aged 49 years, S/o. Sankunny, Telecom Mechanic, Mannar Telephone Exchange (BSNL), Alappuzha Dt., Residing at : Akhil Bhavan, Peringilapuram P.O., Alappuzha Dt. ..... **Applicants**

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. The Chief General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.

2. The General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Telecom District, Alappuzha – 688 011.

3. The Accounts Officer (Est), Office of the General Manager, Telecom District, Alappuzha-688 011. ..... **Respondents**

(By Advocate – Mr. George Kuruvilla)

3. Original Application No. 893 of 2009 -

1. B. Mahesan, aged 47 years, S/o. Bhaskaran, Telecom Mechanic, Aroor Telephone Exchange, Bharat Sanchar Nigam Limited, Alleppey District, Residing at : Thekke Veettil, CMC-18, Cherthala P.O., Pin-688524.

2. C.R. Soman, aged 47 years, S/o. C.K. Raghavan, Telecom Mechanic, Alleppey Marketing Section, Bharat Sanchar Nigam Limited, Residing at : Choolackal House, Valamangalam North, Thuravoor P.O., Cherthala-688 532.

3. T.V. Chellappan, aged 52 years, S/o. Velutha, Telecom Mechanic, Panavally Telephone Exchange, Bharat Sanchar Nigam Limited, Residing at : Vattachira, Naduvathu Nagar P.O., Cherthala Taluk. ..... **Applicants**

(By Advocate – T.C. Govindaswamy)

Versus

1. The Chief General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.

2. The General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Telecom District, Alappuzha – 688 011.

3. The Accounts Officer (Est), Office of the General Manager, Telecom District, Alappuzha-688 011. ..... **Respondents**

(By Advocate – Mr. T.C. Krishna)

4. <u>Original Application No. 902 of 2009</u> -

1. M.V. Satheesan, aged 51 years, S/o. P.K. Vasudevan, Telecom Mechanic, Office of the Sub-Divisional Engineer, South, BSNL, Alappuzha, Residing at : P&T Quarters No. B3, BSNL side, Vellakkinar, Alappuzha, Pin-688001.

2. E.S. Chandran, aged 50 years, S/o. Sreedharan, Telecom Mechanic, Office of the Sub-Divisional Engineer (BSNL), Pathirappalli, Alappuzha, residing at : Edamuriyil, Kalavoor P.O., Kattor, Alappuzha – 688 522.

3. V.K. Thankakuttan Nair, Aged 45 years, S/o. Karunakaran Nair, Telecom Mechanic, BSNL, Pathirappalli, Residing at: Aswathy, North Aryad Post, Alleppey 688 542.

4. Muraleedharan Nair G, Aged 50 years, S/o. Gopala Pillai, Telecom Mechanic, SDE (South), Alappuzha, Residing at : Anugraha, Parvoor P.O., Punnapra (N), Alappuzha 688 014.

5. R. Balachandran Nair, Aged 50 years, S/o. Ramakrishna Pillai, Telecom Mechanic, Office of SDE (RLU Exchange), Alappuzha, Residing at : Kandathil Veedu, Karalakam, Avalakkunnu P.O., Alappuzha 688 014.

6. K.K. Sachindran, aged 50 years, S/o. Kamalasanan, Telecom Mechanic, Office of the SDE (Phones) (South), Alappuzha, Residing at : Sangarasseri Veliyil, Sanathanapuram P.O., Alappuzha 688 003.

7. S. Daniel, aged 50 years, S/o. K.V. Samuel, Telecom Mechanic, Office of the SDE (RLU), BSNL, Alappuzha, Residing at : Kattunkal, Sherin Villa, Thumboli P.O., Alappuzhan 688 008.

8. C.K. Raghavapanicker, aged 50 years, S/o. Krishna Menon, Telecom Mechanic, SDE (South), BSNL, Alappuzha, Residing at: Cehnnanattu House, Prumthuruthy P.O., Mannancherry, Ponnad P.O., Alappuzha.

9. Jose John, Aged 50 years, S/o. John, Telecom Mechanic, SDE (South), BSNL, Alappuzha, Residing at: Aree Thara House, Kanjiram Chira PO., Alappuzha 688 004.

10. C.R. Sasidharan Nair, aged 47 years, S/o. Raman Pillai, Telecom Mechanic, Office of the SDE (P), BSNL, Edathua, Alappuzha, Residing at : Saradalayam, Thakazhi P.O., Ambalapuzha (via), Alappuzha 688 562.

11. V. Purushan, aged 49 years, S/o. A. Vasu Kutty, Telecom Mechanic, Office of the SDE, Nedumudi, Residing at: P&T Quarters No. A2, BSNL side, Parvoor P.O., Punnapra (N), Alappuzha 688 014.

12. T.K. Salimon, aged 47 years, S/o. Karunakaran, Telecom Mechanic, Office of the SDE (P), BSNL, Pulicunnu, Alappuzha 688 504, (Residing at Thuruthel House, Pulincunnu, Alappuzha Pin 688 504).

13. Michael Ouseph, aged 48 years, S/o. V. Ouseph, Telecom Mechanic, Office of the SDE (South), BSNL, Alapuzha 688 008, (Residing at Carmel Villa, Thumpoly P.O., Alappuzha, Pin 688 008). ..... **Applicants**

(By Advocate – T.C. Govindaswamy)

Versus

1. The Chief General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.

2. The General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Telecom District, Alappuzha – 688 011.

3. The Accounts Officer (Est), Office of the General Manager, Telecom District, Alappuzha-688 011. ..... **Respondents**

(By Advocate – Mr. T.C. Krishna)

5. **Original Application No. 12 of 2010** -

1. D. Chandra Das, aged 50 years, S/o. K.G. Damodharan, Telecom Mechanic, Arthungal Telephone Exchange (BSNL), Alappuzha Dt., Residing at : Munivellyil, Cheruvaranam, Varanam P.O., Cherthala, Alappuzha Dt., Pin 688 538.

2. D. Satheesh Kumar, aged 49 years, S/o. P.V. Divakara Panicker, Telecom Mechanic, Kattanam Telephone Exchange (BSNL), Alappuzha Dt., Residing at : Pichinattu House, Kariyila Kulangara PO, Alappuzha Dt.

3. K. Vijayan-I, aged 53 years, S/o. Karunakaran, Telecom Mechanic, Thaneermukkom Telephone Exchange (BSNL), Alappuzha Dt., Residing at : Kandathil Parambu, CMC-27, Cherthala, Alappuzha Dt.

4. K. Pusushothaman, aged 54 years, S/o. Krishnan, Telecom Mechanic, Kothiathodu Telephone Exchange (BSNL), Alappuzha Dt., Residing at : Krishna Kriba, Pattanakad P.O., Cherthala, Alappuzha Dt.

5. H. Habeeb, aged 48 years, S/o. Khadarkunju Rawther, Telecom Mechanic, Nooranad Telephone Exchange (BSNL), Alappuzha Dt., Residing at : Shahna Manzil, Chunakkara P.O., Alappuzha Dt. ..... **Applicants**

(By Advocate – T.C. Govindaswamy)

Versus

1. The Chief General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.

2. The General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Telecom District, Alappuzha – 688 011.

3. The Accounts Officer (Est), Office of the General Manager, Telecom District, Alappuzha-688 011. ..... **Respondents**

(By Advocate – Mr. George Kuruvilla)

6. <u>Original Application No. 33 of 2010</u> -

1. V. Dinesan, aged 49 years, S/o. Vava, Telecom Mechanic, Pallippuram Telephone Exchange (BSNL), Alleppy District, Residing at : Vishnu Nivas, Kuruppankulangara P.O., Cherthala, Alleppy District.

2. K. Sahadevan, aged 49 years, S/o. Kesavan, Telecom Mechanic, Pallippuram Telephone Exchange (BSNL), Alappuzha District, Residing at : Thekkekunnu, Kadakkarappalli P.O., Cherthala, Alleppy District.

3. K.K. Prabhu, aged 50 years, S/o. Kuttappan, Telephone Mechanic, Cherthala Telephone Exchange (BSNL), Alappuzha District, Residing at : Pokkalichira Nigarthu, Pattanakkad P.O., Cherthala, Alleppy District.

4. P. Sureshkumar, aged 49 years, S/o. Padmanabhan, Telecom Mechanic, SRRC, RLV Exchange Building, Alleppy District, Residing at : Patteri Parambil, Vellakkinjar Ward, Alleppy District. ..... **Applicants**

(By Advocate – T.C. Govindaswamy)

Versus

1. The Chief General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.

2. The General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Telecom District, Alappuzha – 688 011.

3. The Accounts Officer (Est), Office of the General Manager, Telecom District, Alappuzha-688 011. ..... **Respondents**

(By Advocate – Mr. N. Nagaresh)

7. <u>Original Application No. 741 of 2010</u> -

1. Bhuvanandran T.C., aged 50 years, S/o. Chellappan, Telecom Mechanic, Bharat Sanchar Nigam Limited, Office of the Sub Divisional Engineer Phones, Kumbanadu, Pathanamthitta Dist, Residing at : Thonduparambil, West Othera P.O., Pin ; 689 551, Thiruvalla, Pathanamthitta District.

2. V.T. Babu, aged 49 years, S/o. Thomas Samuel, Telecom Mechanic, Bharat Sanchar Nigam Limited, Office of the Divisional Engineer (Internal), Telephone Bhavan, Pathanamthitta, Residing at : Vadakkeparampil Melmuriyil, Malapra Town P.O., Pin-689 678, Pathanamthitta District.

3. George Mathew P, aged 47 years, S/o. Yohannan George, Telephone Mechanic, Bharat Sanchar Nigam Limited, Office of the Sub Divisional Engineer Phones (Outdoor), Pathanamthitta, Residing at : Puthuvelil Melmuriyil, Mylapra Town P.O., Pin : 689 678, Pathanamthitta District.

4. P.K. Babu, aged 47 years, S/o. S. Kesavan, Telecom Mechanic, Bharat Sanchar Nigam Limited, Office of the General Manager Telecommunications, Establishment, Thiruvalla, Residing at : Panackal House, Kavumbhagom P.O., Thiruvalla, Pathanamthitta Dist. ..... **Applicants**

(By Advocate – T.C. Govindaswamy)

Versus

1. The Chief General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.

2. The General Manager, (Telecom), Bharat Sanchar Nigam Ltd., Telecom District, Pathanamthitta Secondary Switching Area, Thiruvalla.

3. The Accounts Officer (Est), Bharat Sanchar Nigam Ltd., Office of the General Manager, Telecom District, Pathanamthitta Secondary Switching Area, Thiruvalla. ..... **Respondents**

(By Advocate – Mr. N. Nagaresh)

These applications having been heard on 18.10.2010, the Tribunal on 03-11-10.... delivered the following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member -

The facts and issues being identical, all the above O.As were heard together and are being disposed of by this common order.

2. The applicants in the above O.As who were initially engaged as Casual Labourers in the Telecom Department, were granted temporary status and later regularised as regular Mazdoors. While working as regular Mazdoors, they completed the Telecom Mechanic training and were initially granted the scale of pay of Lineman and later regularly promoted as Telephone Mechanic in the year 1999. The Telecom Department was corporatised and converted into Bharat Sanchar Nigam Limite (BSNL), a Company fully owned by the Government of India and all the Group 'C' and Group 'D' employees of the Telecom Department were absorbed as regular employees of the BSNL on 01.10.2000. As a consequence, Central Dearness Allowance (CDA) pattern of scale of pay of Rs. 3200-4900 for Telephone Mechanic was replaced by the IDA scale of pay of Rs. 4720-6970. The pay of all the applicants were fixed with effect from 1.10.2000 in the replacement IDA scale of pay. But such fixation was at the minimum of the replacement IDA scale of pay. This resulted in an anomalous situation whereby the juniors of the applicants or those regular Mazdoors who failed in the first screening test, were getting a higher stage of pay in the replacement IDA scale than the applicants. This anomaly was further compounded when the juniors of the applicants were promoted as Telecom Mechanics on various dates after 01.10.2000, whereby they all started drawing more increments than the applicants. This anomaly was finally settled and the applicants were brought on par with their juniors. However, during the year 2007, the respondent authorities issued memos to the applicants stating that their pay was erroneously fixed with reference to the pay drawn by them in the scale of pay of the Lineman (Rs. 2750-4400) as against the requirement of fixation of their pay with reference to the pay of

regular Mazdoors, resulting in substantial reduction in their pay. The matter was taken up with the BSNL Headquarters at New Delhi, and the orders issued reducing the pay with retrospective effect were not given effect to thereby allowing the applicants to continue to enjoy parity with their juniors. In the year 2009, respondents have issued impugned orders like Annexure A-1 and Annexure A-2 without notice and without giving an opportunity to show cause for recovery of overpayment as per revised pay fixation. The applicants were drawing basic pay of Rs. 6220/- with effect from 1.10.2000. But their pay was reduced to Rs. 6070/-. The representations made by the applicants did not elicit any response. Hence the O.As.

3. The applicants submit that the impugned orders reducing their pay and recovering alleged overpayment are arbitrary, discriminatory and opposed to the principles of natural justice. They were not given an opportunity to show cause before issuing the impugned orders. Therefore, the basic principles of natural justice are violated. The juniors of the applicants promoted after 01.10.2000 are drawing a basic pay of Rs. 6220/- as against the basic pay of Rs. 6070/- fixed in the case of the applicants with effect from 01.08.2008. The applicants are entitled to have their pay stepped up on par with their juniors promoted later than the applicants, with effect from 01.10.2000 with all consequential benefits arising therefrom. Therefore, the applicants pray for quashing the impugned orders and for a direction to the respondents to step up the pay of the applicants on par with their juniors who were promoted as Telephone Mechanics later than the applicants.

4. The respondents opposed the O.As. It was submitted on their behalf

that the applicants were temporarily placed in the Lineman scale of CDA as an interim measure upon their becoming qualified to be promoted in the cadre of Telephone mechanic. This was done as the vacant posts of Phone Mechanic were not available for appointing them as Phone Mechanics. On their regular appointment as Phone Mechanics, their pay was erroneously fixed with reference to the placement scale of Lineman (Rs.2750-4400) instead of the substantive pay scale of regular Mazdoor (Rs.2550-3200).Such cases were reviewed and the mode of fixation was corrected and action was taken for recovering the overpayment. In view of the protest from the staff Union, the revision of pay was kept in abeyance and a clarification was sought from the Corporate Office. The Corporate office clarified vide their letter No. 212-2/2002-PRS-3(Pt.II) dated 05.02.2009 that the pay of the officials shall be fixed under FR 22(1)(a(1) with reference to the substantive pay of the regular Mazdoor cadre. The reduction of pay and recovery of overpayment are in order. The representations made by the applicants in regard to the anomaly of juniors drawing higher pay than seniors were sent to Circle Office for consideration and taking a decision by the Committee constituted by Management of Corporate Office. The cases referred to the Committee are still under consideration. Notice regarding reduction of pay was timely given to the applicants in writing. The representations of the applicants do not mention the names of juniors drawing higher pay than themselves. There is no similarity between the applicants in Writ Petition (C) No. 30582 of 2005 and the applicants in the present O.As. The BSNL is ready to issue notice regarding the proposed recovery of the overpayment and hear the applicants in the matter. The O.As having no merit are liable to be dismissed.

5. In the rejoinder, the applicants submit that they had absolutely no role in the irregular fixation and that they cannot be penalised for the fault, if any, of the respondents. No recovery can be made against such mistake .In fact, the pay fixation anomaly was resolved by fixing the pay of the applicants on par with their juniors. Reopening of the issue at this distance of time leads to unsettling of settled matters, which should not be permitted.

6. In the additional reply statement, the respondents submit that though the applicants have no role for the irregular fixation, as held by Hon'ble Supreme Court and High Court of Kerala in several cases, the overpayment made to officials erroneously can be recovered.

7. Arguments were heard and documents perused.

8. On admitting these O.As, interim stay on recovery was granted in all the O.As except O.A. No. 741/2010. In this O.A., no prayer for stay was made.

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 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.

(Dated, 03rd November, 2010)

(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

cvr.