

**Central Administrative Tribunal
Ernakulam Bench**

OA No.136/2013

Thursday, this the *13th* day of August, 2015

CORAM

HON'BLE MR.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs. P.GOPINATH, ADMINISTRATIVE MEMBER

V.Satheesh Babu
Executive Engineer (Retd)
B.S.N.L., Office of the Chief Engineer
Kerala Civil Zone, Thiruvananthapuram.
Residing at T.C.43/359 SGRA 49
Kamaleswaram, Manacaud P.O.
Thiruvananthapuram-695 009.

Applicant

(By Advocate: Mr. Vishnu S.Chempazhanthiyil)

Versus

1. The Chief General Manager
Telecom Kerala Circle,
Thiruvananthapuram-695 033.
2. The Chairman and Managing Director
Bharat Sanchar Nigam Limited
New Delhi-110 001.

Respondents

(By Advocate: Mr.P.M.M.Najeeb Khan)

The Original Application having been finally heard on 27th July, 2015, this Tribunal delivered the following order on *13th* August, 2015:

ORDER

By Mrs.P. Gopinath, Administrative Member

This Original Application is directed against the rejection of the applicant's representation by CMD (BSNL) by Annexure A8 order dated 3.1.2013 which was passed in compliance of the directions rendered by this Tribunal in OA No.120/2012. The facts can be summarized as under:-



2. The applicant retired as Executive Engineer from BSNL on 30.4.2010 after rendering 35 years of service. He was granted the upgradation from E4 to E5 on 25.2.2008. For getting upgradation to E5-E6, it was mandatory that the incumbent should attend the upgradation course on E4 to E5 of two weeks. The upgradation course was scheduled to begin on 20.7.2009. By that time, the applicant had crossed 59 years of age. He could not attend the upgradation course owing to illness. He was not considered for the 2nd upgradation (E5-E6) due on 1.10.2009 on the ground that he had not undergone the mandatory training for upgradation from E4 to E5. He sought exemption on the plea that the training is not mandatory for those who crossed 58 years of age. The CGMT declined to intervene in the matter as he had no power for relaxation. The representation submitted by the applicant for exemption did not elicit any response. This led to the filing of OA No.120/2012 which was disposed of by order dated 12th October, 2012 directing the respondents to consider and pass a speaking order on his representation. Thus Annexure A8 order came to be passed by the respondents.

3. The contention of the respondents is that the stipulated period for completing the mandatory training was two years from the date of up-gradation (in this case 25.2.2008) and the said period ended on 24.2.2010. In the intervening period, it was incumbent upon the executive himself to ensure that the training is completed. The question of exempting those above 58 years did not arise in the case of the applicant as there was no provision for such exemption. The training in question was scheduled for two spells i.e., from 20.7.2009 to 1.8.2009 (First Batch) and from 19.10.2009 to 31.10.2009 (Second Batch). The applicant was aware of the mandatory training but he had preferred to remain on earned leave from 28.7.2009 to 1.8.2009 with medical certificate. Again the applicant availed of earned leave from 19.10.2009 to 24.10.2009, both period falling within the training schedule, which was a calculated attempt on the part of the applicant to skip the training. The excuses relied upon by the applicant by way of various representations were not real but invented ones as an afterthought. The respondents have further contended



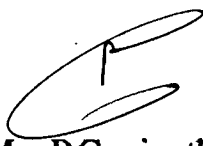
that the applicant's juniors Sri B.A.Madhavan and Sri K.V.Jose had completed their mandatory training on the verge of their retirement. Sri Madhavan had cleared the training when he was having six months left to retire and Sri K.V.Jose did so when he was above 58 years. Our attention has been drawn to Clause 1.1 (f) of Annexure A1 Promotion Policy which reads as under:-

"Training: Every Executive whose pay is upgraded to next higher IDA pay scale will have to compulsorily undergo TWO weeks of training (one week in Administration/Management/Customer Care and one week in latest developments in Core Competence Area) for being eligible for drawal of second increment in the upgraded IDA scale i.e., the training is to be completed within a period of two years from the date of the upgradation to the higher scale. The Executive who fails to successfully undergo the prescribed two weeks training will not be eligible for consideration of next IDA scale upgradation even if/she is due for upgradation otherwise..."

4. Heard the learned counsel for the applicant and the respondents. The applicant was posted as Executive Engineer (Hqs) and was responsible for nominating officers and staff of Civil Wing for training and relieving them in time in order to attend the training. Holding such a position, he was aware of the mandatory nature of training for up-gradation on E4-E5 which was scheduled in two spells in July-Aug 2009 and October 2009. Other officers similarly placed on the verge of retirement or having six months' left to retire underwent the training. The DoPT O.M., which gives exemption to persons above 58 years to undergo training is not applicable in the case and does not confer any right as the applicant is an employee of BSNL which is a PSU and follows the IDA pay scale and has its own terms and conditions including training prior to upgradation to a higher pay scale. It was improper on the part of the applicant who was responsible for nominating officers and staff of Civil Wing for training, to appeal for being excused from the mandatory training. The respondents have averred that the applicant had availed of leave on the two occasions when the training was scheduled. This shows deliberate and willful disobedience of the applicant who was an officer responsible for nominating officers and staff for training and he should have set a personal example to other employees by presenting himself for the mandatory training, the respondents contend. In view of what is stated above, the relief sought for



by him is not legally sustainable. The applicant has failed to comply with the mandatory condition of undergoing the training, which he was well aware of as laid down for up-gradation from E5 to E6 and hence is not entitled to the relief sought in the OA. There is no violation of Rule 14 as similarly placed persons underwent the mandatory training. Finding no merit in the OA, the same is liable to be dismissed. We do so. No order as to costs.



(Mrs.P.Gopinath)
Administrative Member



(N.K.Balakrishnan)
Judicial Member

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