

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.21/2012

Tuesday , this the 05th day of November, 2013

C O R A M :

**HON'BLE MR.JUSTICE A.K BASHEER, JUDICIAL MEMBER
HON'BLE MR.RUDHRA GANGADHARAN, ADMINISTRATIVE MEMBER**

Subramanian V
S/o.Late Unneeri Nair
Sub Divisional Engineer (Cable Planning)
Telephone Bhavan, Palayam
Calicut – 673 602
Residing at Vellarkkat House
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- Applicant

(By Advocate Mr.G.D Panicker)

Versus

1. The Chief General Managing
Telecom, BSNL
Thiruvananthapuram,
Pin – 695 001
2. Principal General Manager
Telecom, BSNL, Calicut
Pin – 673 602

- Respondents

(By Advocate Mr.Johnson Gomez)

This application having been heard on 05th November, 2013 this
Tribunal on the same day delivered the following :-

ORDER

BY HON'BLE MR.JUSTICE A.K BASHEER, JUDICIAL MEMBER

The short question that arises for consideration in this Original Application pertains to the grant of second Time Bound Promotion to the applicant under the Time Bound IDA Scale Upgradation Policy (for short 'the Policy') formulated by Bharat Sanchar Nigam Limited (BSNL for short).

2. The applicant is presently working as Sub Divisional Engineer (Cable Planning) in BSNL at Calicut. It is not in dispute that he was promoted to Telegraph Engineering Service (TES for short) Group B while he was working as JTO and posted as Sub Divisional Engineer at Calicut in December 2001. It is also beyond controversy that he was granted first financial upgradation under Annexure A-1 Policy on December 31, 2007.

3. The contention of the applicant is that he ought to have been granted second financial upgradation in 2011. However, by Annexure A-7 communication dated Jan 15, 2011, the applicant was informed that his second upgradation will fall due only on December 31, 2012, when he completes 5 years of service in the current IDA pay scale, subject to fulfillment of conditions stipulated in the Policy. It is in the above circumstances that the applicant has filed this Original Application seeking the following reliefs:-

"1. Set aside Annexure A-7 to the extent it directs that the second upgradation is due only on 31.12.2012.

2. Direct the respondents to place the case of the applicant also before the Screening Committee for recommendation or otherwise to grant second time bound promotion to the applicant.

3. Declare that the applicant is due for the 2nd time bound promotion on completion of the prescribed number of years in Annexure A1.

4. Declare that the adverse entry made in the ACR of the applicant for the year 2002-2003 will not have a bearing for grant of the 2nd time bound promotion to the applicant."

4. The respondents have stoutly justified the stand taken by them and contended that the decision taken in Annexure A-7 is strictly in accordance with the Policy enunciated under Annexure A-1.

5. It may at once be noticed that Annexure A-1 Policy was published on

January 18, 2007 pursuant to absorption of Group B officers of various services/cadres into BSNL. A high level committee was constituted by the BSNL management to sort out the outstanding issues on account of absorption and to recommend a Time Bound/Post Based Executive Promotional Policy for Group B level officers. Accordingly, Annexure A-1 Time Bound IDA Upgradation Policy was brought into force. Some of the clauses of the above Policy which are relevant for our purpose are extracted hereunder:-

I Time Bound IDA Scale Up-gradation Policy

a. Scope:

Time Bound IDA scale up-gradations shall be provided to the Executives from Pay-scale of Rs.9850-250-14600 (IDA) up to IDA pay scale of JAG Selection Grade. (Rs.17,500-400-22300).

b. Eligibility:

1. Due Date: The date on which the Executive fulfills the qualifying service conditions for upgradation to next higher IDA pay scale as defined in sub Para 3 below.

2. Review Date: As on October 1st of each year with the first review under the policy with reference to October 1st, 2004.

3. Qualifying Service Conditions:

3.1 FIRST Upgradation: The FIRST UPGRADATION of IDA Scale of individual Executive will be due for consideration on completion of 4 (Four) years of Service in the current IDA scale subject to the condition that the Executive's basic pay in the current IDA scale has crossed/touched the lowest of the higher IDA scale for which his/her upgradation is to be considered OR he/she has completed 6 (Six) years of service in the current IDA scale, whichever is earlier.

3.2 SUBSEQUENT Upgradation: The subsequent upgradation of IDA scale to the next higher IDA scale will be due on completion of 5 (Five) years of service in the current IDA scale.

4. The qualifying service conditions indicated in sub Para 3 above will only enable the Executive for "consideration" for upgradation to next higher IDA scale. Completion of such period alone shall not entitle any Executive for automatic upgradation to the next higher IDA scale.



5. The service rendered by any Executive in existing IDA pay scale in BSNL will only be counted for upgradation to next higher IDA scale.

c.

Upgradation criteria:

1. Review: The review for all Executives meeting the qualifying service conditions of sub Para b-3 above will be done every year with reference to Review date i.e. On 1st October. On being found fit, the IDA scale upgradation will be effective from the due date.

2. The fitness for IDA pay scale upgradation to the next higher IDA scale of the eligible executives will be judged by prescribed Screening Committee on the basis of performance rating of ACRs, as per details given in sub Para 3 below, subject to necessary disciplinary/vigilance clearance and no punishment is current. XXXXXXXXXXXXXXXXXXXXXXXXX

3. Performance Ratings in ACRs: The ACRs of the previous 5 (five) years shall be taken in to consideration, for assessing fitness of eligible Executives of various grades.

4. XXXXXXXXXXXXXXX

d.

General Principles:

1. XXXXXXXXXXXXXXX

2. XXXXXXXXXXXXXXX

3. For the purpose of counting the service in current IDA payscale for any Time Bound upgradation, technical break periods in the Adhoc arrangements ordered by DoT/DTS/DTO/BSNL Corporate Office will be treated as continuous for the limited purpose of counting of current IDA scale service period only without any other benefit, monetary or otherwise. Further, IDA scale granted to any Executive by virtue of any local officiating arrangement will not count for the purpose of IDA payscale upgradation.

4. Review to be done at Circle Level for all disciplines on a time bound basis & on being found fit as per concerned regulatory conditions, the IDA scale of the Executive will be upgraded to the concerned IDA scale from due date. On being found unfit, the next review will be due on next review date and the "Screening Committee while judging the fitness of the executive, will also decide

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about the date of effect of upgradation of payscale.

5. consequent to upgradation of IDA payscale, there will be NO CHANGE IN SUBSTANTIVE STATUS, designation and duties & responsibilities of the Executive, unless any change is ordered in any specific context. "

6. Clause 3.1 of the Policy stipulates that the first upgradation of IDA scale of the individual Executive will be due for consideration on completion of 4 years' service in the current IDA scale. It is fairly conceded by the applicant that he was granted first upgradation only with effect from December 31, 2007, because of certain adverse entries in his Annual Confidential Report (ACR for short) for the year 2002-2003. But according to him, the second upgradation ought to have been given to him in 2011 and not with effect from December 31, 2012 as contended by the respondents in Annexure A-7 communication. The contention of the applicant is that he ought to have been granted the first financial upgradation in 2004 itself and not in December 2007. But as rightly pointed out by the respondents, applicant had continued in the CDA pay scale of Rs.6500-200-10500 as opted by him, till December 30, 2001. Thereafter he was put in the IDA pay scale of Rs.11,875-300-17275 with effect from December 31, 2001 on his promotion as Sub Divisional Engineer. Though the applicant had completed four years on December 31, 2005, his case for upgradation was considered only in the Review held on October 1, 2008 because of the adverse entries in his ACR for the year 2002-03. In the said Review, his Confidential Reports for the consecutive 5 years starting from 2003-04 till 2007-08 were considered as provided in Clause 1 (c)(3) of the Policy and he was granted upgradation with effect from December 31, 2007 as indicated in Annexure A-4 order.

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7. However, the contention of the applicant is that his first upgradation could not have been delayed or put off till 2007 because of the adverse entry in his ACR for the year 2002-03. But this contention is wholly untenable in view of the provisions contained in Clause 1(c)(3) and Clause 1(d)(4) of Annexure A-1 Policy. It may also be noticed that the applicant had never challenged the above action of the respondents when Annexure A-4 order was issued in 2009. His belated representation filed in October 2010 was rejected under Annexure A-1 order in January 2011. This Original Application was filed only in January 2012. It is pointed out by the learned counsel for the respondents that going by the provisions contained in Clause 3.2, the second upgradation in the case of the applicant will be due only on completion of 5 years of service with effect from the date of grant of first upgradation to him. They further contend that the IDA scale of the applicant as on December 31, 2007 is Rs.24900- 50500. Necessarily the applicant has to wait for 5 years for the next Time Bound upgradation to E-4 pay scale.

8. In this context the respondents have also pointed out that the first upgradation was granted to the applicant with effect from December 31, 2007 strictly in tune with the norms prescribed in Annexure A-1 policy. Since the first upgradation in his case became effective from December 31, 2007, he will get the second upgradation only on completion of 5 years' service in the current IDA scale with effect from that date. There is considerable force in the above contention raised by the respondents. A perusal of the various clauses of Annexure A-1 policy extracted above will, in our view, substantiate the above contentions raised by the respondents. In that view of the matter, we do not find any irregularity or illegality in the



stand taken by the respondents.

9. In this context it may also be noticed that in Annexure A-6 representation, the applicant had no case that he was entitled to get second financial upgradation from 2011 itself. What he had stated in Annexure A-6 was only that he was not given the first time bound promotion "in due time", and his request in Annexure A-6 was only to give him the second financial upgradation "in due time". The pleadings in O.A are also totally silent or vague on this aspect.

10. Having regard to the entire facts and circumstances, we do not find any merit in any of the contentions raised by the applicant. The Original Application fails and it is accordingly dismissed.

regards

RUDHRA GANGADHARAN
ADMINISTRATIVE MEMBER

Am M&B
JUSTICE A.K.BASHEER
JUDICIAL MEMBER

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