

Central Administrative Tribunal, Lucknow Bench,

Lucknow

Original Application No. 527/2005

This the 30th day of November, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Hon'ble Dr. A.K. Mishra, Member (A)

Bipin Behari Lal, Staff no. 0572 General Manager (O), Bharat
Sanchar Nigam Limited, U.P. (East) Circle, Lucknow

...Applicant

By Advocate: Sri P.K. Srivastava.

Versus

1. Union of India through the Secretary, Department of Telecommunication, Government of India, Sanchar Bhawan, 20 Ashoka Road, New Delhi.
2. Bharat Sanchar Nigam Limited through its Chairman-cum-M.D. Statesman House, B-148, Barklamba Road, New Delhi.

.....Respondents

By Advocate: Sri G.S. Sikarwar

ORDER

By Dr. A.K. Mishra, Member(A)

This application has been directed against the order of respondent no.1 dated 2.3.2005 (Annexure-1) by which the benefit of stepping up of pay of the applicant to that of his junior was not allowed.

2. The applicant was an officer of Indian Telecom Service. While working in Junior Administrative Grade he was sent on deputation to TCIL on 23.5.1996. His junior Sri Gurdeep Singh was granted Senior Administrative Grade scale on 4.4.1997. On his representation, the applicant was also granted the same scale on 29.4.1997 in TCIL. At the time of repatriation to his parent cadre from TCIL, his pay was fixed at Rs. 20400/- w.e.f. 1.4.2001. Thereafter, he was deputed to Bharat



Sanchar Nigam Limited (BSNL) and his basic pay was shown as Rs. 20400/- w.e.f. 1.4.2001. His junior Sri Gurdeep Singh got the regular promotion on 24.4.2001 to the Senior Administrative Grade of Indian Telecom Service and the applicant was given proforma promotion on next below rule from that date. However, his pay was wrongly fixed at the initial stage of Senior Administrative Trade scale namely Rs. 18400/- putting the applicant to recurring loss of Rs. 2000/- in the basic pay plus other resultant allowances.

3. He made a representation to the Chief General Manager, North East-II, Telecom Circle, Dimapur requesting either to grant him proforma promotion w.e.f. 29.4.1997 or raise his basic pay as on 24.4.2001 to the level his junior Sri Gurdeep Singh was drawing.

4. His case was strongly recommended by the Senior Accounts Officer and the Deputy General Manager (F)/IFA in the office of the Chief General Manager, N.E., who observed that the applicant deserved to be granted proforma promotion under the next below rule as envisaged in Government of India orders no. 34 and 35 under fundamental rule 22 of Financial Hand Book. The General Manager also agreed with them and ordered that the applicant's pay should be fixed at Rs. 20400/- w.e.f. the date his junior was drawing that scale. However, Chief Accounts Officer in the office of Chief General Manager, U.P. Circle, took a different view and referred the matter to the Government of India to decide whether Chief General Manager, North East-II Telecom Circle, Dimapur was competent to sanction stepping up of pay. The Government of India, however, decided in the impugned order that the next below rule was not applicable where juniors have got financial benefits due to adhoc officiating promotion. The next below rule was to be confined only to the case of regular promotion.

5. The sole point for our consideration whether the respondent no.1 was justified in denying the stepping up of pay to the applicant which resulted in financial loss to him. It is admitted that the applicant was drawing his salary in the higher scale even when he was in deputation in TCIL and his last pay at the time of his repatriation from TCIL was Rs. 20400/-. It is also admitted that his junior Sri Gurdeep Singh's pay was fixed at Rs. 20400/- w.e.f. 24.4.2001 as a consequence of his regular promotion, but the applicant has been denied the benefit of such pay fixation only on the ground that stepping up of pay is not allowed if the


juniors happen to be drawing higher salary on account of adhoc promotion.


6. The learned counsel for the applicant cited the judgment of this Tribunal in O.A. no.750 of 1993 in which under the similar circumstances, the prayer of a senior employee for stepping up of pay to that of his junior was allowed. This Bench also considered the similar matter in O.A. no. 443 of 2004, which was decided recently on 12.11.2009 and allowed the prayer of the applicant for stepping up of pay to that of his junior.

7. It is not the case of the respondents that the applicant was offered adhoc promotion in the department during 1997 and he refused it; therefore, this is not a case of the applicant forgoing his claim to adhoc promotion. On the other hand, admittedly, the applicant was granted higher scale applicable to Senior Administrative Grade while he was in deputation. In other words, both the applicant and his junior were at par in the matter of pay and allowances and at the time of his repatriation to the department from deputation, his pay was at the level of Rs. 20400/-. There is no logic to reduce it to the lowest level of Rs. 18,400/- while granting him regular promotion.

8. We find that the view taken by the respondent no.1 in the matter of stepping up of pay of the applicant is misconceived and the decision taken by the Chief General Manager, North East Circle, Dimapur was just and proper. In the circumstances, the impugned order dated 2.3.2005 of respondent no.1 is set-aside and the decision of Chief General Manager, North East Circle, Dimapur granting stepping up of pay to the applicant to the level of pay of Gurdeep Singh when he was regularly promoted is confirmed.

9. In the result, the application is allowed and the respondents are directed to grant all consequential benefits to the applicant on the basis of the aforesaid observations. No costs.


(Dr. A.K. Mishra)
Member-A


(Ms. Sadhna Sriyastava)
Member-J