

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 594/2005

This the 08th day of February, 2010

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Dr. A.K. Mishra, Member (A)

Satya Prakash, Aged about 62 years, S/o late Brij Mohan Lal Srivastava, R/o C-12/2 Kailash Puri, Alambagh, Lucknow

.....Applicant.

By Advocate: Sri Omkar Singh for Sri OPM Tripathi.

Versus

1. Union of India through Secretary, Ministry of Telecommunication, Doorshanchyar Bhawan, New Delhi.
2. Chief G.M., Telecommunication Circle, Lucknow.
3. Principal General Manager, Telecommunication, Gandhi Bhawan, Lucknow.
4. Chief Superintendent, Central Telegraph Office, Lucknow.
5. Deputy General manager ® in the Office of Chief General Manager, U.P. East Telecom Circle, Lucknow.

.....Respondents

By Advocate: Sri G.S. Sikarwar

Alongwith

Original Application No. 622 of 2005

Triloki Nath, Aged about 64 years, S/o late Lakshmi Prasad, R/o 40/4, Old Labour Colony, Aishbagh, Lucknow.

.....Applicant.

By Advocate: Sri Omkar Singh for Sri OPM Tripathi.

Versus

1. Union of India through Secretary, Ministry of Telecommunication, Doorshanchyar Bhawan, New Delhi.
2. Chief G.M., Telecommunication Circle, Lucknow.
3. Principal General Manager, Telecommunication, Gandhi Bhawan, Lucknow.
4. Chief Superintendent, Central Telegraph Office, Lucknow.

5. Deputy General manager ® in the Office of Chief General Manager, U.P. East Telecom Circle, Lucknow.

.....Respondents

By Advocate: Sri G.S. Sikarwar

Alongwith

Original Application No. 631 of 2005

C.L. Tiwari, Aged about 62 years, S/o late Ram Narain Tiwari, R/o 268/275-Ka-1, Ram nagar, Aishbagh, Lucknow.

.....Applicant.

By Advocate: Sri Omkar Singh for Sri OPM Tripathi.

Versus

1. Union of India through Secretary, Ministry of Telecommunication, Doorshanchyar Bhawan, New Delhi.
2. Chief G.M., Telecommunication Circle, Lucknow.
3. Principal General Manager, Telecommunication, Gandhi Bhawan, Lucknow.
4. Chief Superintendent, Central Telegraph Office, Lucknow.
5. Deputy General manager ® in the Office of Chief General Manager, U.P. East Telecom Circle, Lucknow.

.....Respondents

By Advocate: Sri G.S. Sikarwar

ORDER (oral)

By Ms. Sadhna Srivastava, Member-J

The above three O.As involve the same facts and question to be adjudicated is also same. Therefore, we propose to decide all three O.As by a common judgment.

2. The facts are that the above three applicants after their retirement have been made to face the recovery from DCRG of the amount received by them towards salary and allowances on the post of Chief Telegraph Master on account of an order dated 5/16.9.2002 (in O.A. no. 594/05 and 631/05) and 22.11.2002 in O.A. no. 622 of 2005. The said orders dated 5/16.9.2002 and 22.11.2002 have already been set-aside at the instance of similarly situated employees by High Court, Allahabad in Civil Writ petition bearing no. 48717 of 2002 in re. Magghu Prasad & Others Vs. Union of India & Others.

[Signature]

Therefore, the prayer is that the amount of Rs. 49631, 39614 and 49582/- recovered from DCRG payable to Satya Prakash, Triloki Nath and C.L. Tiwari (applicants of the above O.As) respectively, be directed to be refunded.

3. Heard the learned counsel for the parties and perused the pleadings on record.

4. There is no dispute that the applicants were given adhoc promotion retrospectively as Chief Telegraph Master in the pay scale of Rs. 6500-10500/-in pursuance of the order dated 23.11.1998 issued by the Deputy General Manager (O) (Annexure-3); the said promotion order was cancelled vide orders dated 5/16.9.2002 and 22.11.2002; that the applicants were, however, allowed to work on the post of Chief Telegraph Master Gr.IV till their retirement; that the orders dated 5/16.9.2002 and 22.11.2002 were challenged by the similarly placed employees by means of Writ Petition no. 48717 of 2002; that the High Court at Allahabad by judgment and order dated 22.8.2005 has quashed the orders dated 5/16.9.2002 and 22.11.2002; that the High Court has held that it would be unjust and inequitable to withdraw the benefits drawn by the petitioners (before the High Court) before their retirement; that, therefore, the High Court has restrained the respondents from recovering the benefits already drawn by the petitioners (those who were before the High Court).

5. On the basis of the aforesaid judgment, the applicants, before us, seek direction from this Tribunal to the respondents to refund the amount already recovered/withheld from their DCRG with interest.

6. The respondents have raised preliminary objection about jurisdiction of this Tribunal in the Counter Affidavit, which was filed in the year 2006. However, the respondents' counsel concedes that as on date this Tribunal has jurisdiction over BSNL. The respondents have also pleaded in their Counter Affidavit that the Special appeal has also been filed against the order of Learned Single Judge of High Court, which was dismissed. The learned counsel for the respondents submits that aggrieved by the order passed in Special Appeal, the department has filed SLP before the Supreme Court, which is still pending. The respondents do not dispute that the applicants in the



instant case are squarely covered by the aforesaid judgment of High Court.

7. Resultantly, all the three O.As succeed and are allowed. The impugned orders dated 5/16.9.2002 and 22.11.2002 are set-aside. The respondents are directed to release the aforementioned amount recovered from the DCRG alongwith interest @ 6% per annum from the date of filing of O.A, ~~still~~ the date of ~~its~~ actual payment. However, this decision shall be subject to final outcome of SLP, if any, pending before the Supreme Court. No costs.

8. A copy of this order be placed in all the connected O.As.


(Dr. A.K. Mishra)

Member-A


(Ms. Sadhna Srivastava)

Member-J

Girish/-