

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH  
LUCKNOW**

**Original Application No 393 of 2010**

**Order Reserved on 25.2.2014**

**Order Pronounced on 28-02-2014**

**HON'BLE MR. NAVNEET KUMAR MEMBER (J)**

Kanhaiya Lal Srivastava aged about 61 years S/o Sri Babu Lal Srivastava Retired senior Divisional Engineer R/o 551 GHA/533 Nand Nagar Nat Khera Alambagh Lucknow.

**Applicant**

**By Advocate Sri R.S. Gupta.**

**Versus**

1. Union of India Ministry of Communicatin and I.T. through the Secretary, Telecom, Sanchar Bhawan, 20 Ashka Raod, New Delhi.
2. The Chief Managing Director, BSNL Corporate Office, New Delhi-110001.
3. The CCA UP (East) Circle, Gomti Nagar Exchange Building, Vikas Khand-I, Gomti Nagar Lucknow.
4. The Chief General Manager Telecom U.P. (East) Circle, Lucknow.
5. the Principal General Manager Telecom District, Lucknow.
6. The General Manager Telecom District, Mall Road, Kanpur.

**Respondents**

**By Advocate Sri G. S. Sikarwar for Res. No. 2,4,5 and 6  
Sri P.K. Awasthi holding brief for Sri R. Mishra for  
Respondent No. 1 and 2.**

**ORDER**

**By Hon'ble Mr. Navneet Kumar, Member (J)**

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- (a) *That this Hon'ble Tribunal may kindly be pleased to quash the order dated 20.7.2010 as contained in Annexure No. A-5 and direct opposite parties to issue PPI and pay all post retirement dues n the basis of pay Rs. 9500/-fixed on 1.1.1999 and subsequently increased along with interest @ 24 % on all post retirement dues including DCRG, Commuted value, leave encashment etc.*
- (b) *Pay Rs. 7500/-GPF money not credited to GPF account No. 18883 along with interest @ 24% from 1.9.2009 till date of payment.*
- (c) *Pay interest @ 24% on delayed payment of GPF Rs. 1000144/- and DCRG amounting to Rs. 562797/- made on 10.3.2010 after a delay of about 7 months.*
- (d) *Any other relief deemed just and proper in the circumstances of the case with cost of O.A. in favour of the applicant."*



2. The brief facts of the case are that the applicant joined the department of Telecom/BSNL as Lower Division Clerk on 20.12.1971 and thereafter, he was promoted as Junior Engineer in 1981 and subsequently, he was again promoted as Sub Divisional Engineer in 1994. After being promoted as Sub Divisional Engineer, the applicant was further given promotion in the year 2004 as Senior Sub Divisional Engineer and from where he retired after attaining the age of superannuated on 31.8.2009. The learned counsel for the applicant has pointed out that the pension case of the applicant was required to be forwarded by PGMT Lucknow Telecom, but the same was not forwarded. It is also pointed out by the learned counsel for the applicant that the stepping up of pay is required to be done when there is an anomaly which arises as a result of granting the lateral scale to the juniors before granting vertical promotion to the TES Group B and not due to any other reasons. It is also indicated by the applicant that after lot of correspondences, the same was not done as such, he has preferred the present O.A.

3. The learned counsel for the respondents filed their reply and through reply, it was indicated, by the BSNL authorities that stepping up of pay is issued under FR 27 and fundamental Rule 27.

4. Apart from this, it is also pointed out by the respondents that the applicant has been paid missing credit of GPF along with arrear interest to the tune of Rs. 12886/- and also DCRG after withholding disputed amount.

5. The learned counsel appearing on behalf of the respondent No. 1 and 3 has also pointed out that the pension case of Shri Vijai Bahadur SDE was decided without granting benefit of stepping up of pay from 1.1.1999 with his junior Shri A. B. Jauhari because stepping up of pay of Shri Vijay Bahadur with Shri A. B. Jauhari was cancelled by GMTD Kanpur vide letter dated 8.3.2007 as per instructions contained in DOT letter dated 2.9.1994. Hence the contention of the applicant are also denied by the respondents. It is also indicated by the Respondent No. 1

and 3 that as per instructions which contained in Pension Rules 1959, the applicant should have submitted his pension papers to the Head of Office not later than 8 months prior to his date of retirement. But he has submitted his pension papers in July 2009 whereas the applicant retired in August 2009 and as per Pension Rule 61(4), pension papers were to be forwarded to the office of answering respondent N. 3 not later than 6 months of retirement, but the same was submitted only after retirement of the applicant, hence no interest on delayed payment of DCRG is payable to the applicant. It is also submitted by the respondents that an amount of Rs. 10,00,144/- has already been paid to the applicant towards GPF with interest up to February 2010. As such, the claim of the applicant cannot be accepted and the same is liable to be rejected.

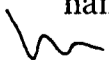
6. The learned counsel for the applicant has filed rejoinder to both the replies and reiterated the averments made in the O.A. through rejoinder, it is once again pointed out by the learned counsel for the applicant that stepping up of pay of applicant was allowed by the GMTD Kanpur along with Shri A. B. Jauhari w.e.f. 1.1.1999 to the stage of Rs. 9500/- and the case was forwarded for covering approval of CGMT UP Circle, Lucknow, but no action was taken by the respondents till date. Apart from this, it is also indicated by the applicant that the pay of the applicant was correctly fixed after stepping up and equalizing the same with his junior Shri A. B. Jauhari. The learned counsel for the applicant has also filed a supplementary rejoinder affidavit and through supplementary rejoinder affidavit also the contents of the earlier rejoinder are reiterated and the contents of the supplementary counter reply are denied.

7. Heard the learned counsel for the parties and perused the record.

8. Admittedly, the applicant joined the respondents organization in 1971 and was subsequently promoted as Junior Engineer in 1981 and thereafter, as Sub Divisional Engineer in 1994 and thereafter as Senior Sub Divisional Engineer in 2004. The applicant also superannuated on 31.8.2009. The applicant has preferred the O.A. for quashing of the order dated 20<sup>th</sup> July 2010 wherein, the respondents decided the

representation of the applicant dated 28.6.2010 in which it is pointed out that the stepping up of pay has been granted w.e.f. 1.1.1999 at par with Shri A. B. Jauhari. The bare perusal of the relevant rules, as well as the contentions of the respondents mentioned in their reply the pension case of the applicant has not been finalized due to stepping up of pay from 1.1.1999 because stepping up of pay was allowed to the applicant with respect to his junior Shri A. B. Jauhari vide GMTD Kanpur without taking approval. The GMTD Kanpur is not competent authority to allow stepping up of pay of Group B officer as per DOT instructions dated 2.9.1994 and FR 27. Hence, PGMTD Lucknow was requested to obtain post factor approval of CGMT UP(E) Circle in the case vide letter dated 12.10.2009. The copy was sent to the applicant and subsequently reminder was also issued to PGMTD Lucknow on 11.3.2010. The applicant also asked information under RTI Act. The reply was given to applicant and further PGMTD Lucknow was asked to provide approval of CGMT UP (E) Circle for stepping of pay of applicant to finalize pension case of the applicant. The copy of the same was sent to the applicant. But no action was been taken by PGMTD Lucknow Telephones and GM (Admin), hence pension case of the applicant is pending for finalization. Under such circumstances, it is clear that the respondent authorities to take an action on the letters as mentioned in paragraph 12 of the counter reply filed on behalf of the respondents No. 1 and 3 which are contained in Annexure CR-9, 10 and 11.

9. Where a senior Govt. servant promoted to a higher post but draws less pay in the revised scale than his junior who is promoted to the higher post the pay of the senior Govt. servant should be stepped up to an amount equal to the pay as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior Govt. servant subject to the fulfillment of the following conditions, namely:



- (a) both the junior and senior Govt. servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.
- (b) the pre-revised and revised scales of pay of the lower and higher posts in which they entitled to draw pay should be identical.
- (c) the senior servant Govt. servant at the time of promotion have been drawing equal or more pay than the junior.
- (d) the anomaly should be directly as a result of the application of the provisions of fundamental Rule 22 or any rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provisions of this note need not invoked to step up the pay of the senior officer."

10. Considering the submissions made by the learned counsel for the parties, I deem it appropriate to remand back the matter to the authorities to take a decision forthwith as mentioned in Para 12 of their counter reply and the decision so taken be communicated to the applicant.

11. With the above directions, the O.A. is disposed of. No order as to costs.

*U.R. Grover*  
(Navneet Kumar)  
Member (J)

Vidya