

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 546/2001.
T.A. No.

200

DATE OF DECISION

Panna Lal Yadav.

Petitioner

Mr. C.B. Sharma:

Advocate for the Petitioner(s)

Versus

UOI and 4 others.

Respondent

Mr. Arun Chaturvedi :

Advocate for the Respondents(s)

1 to 3

Mr. P.N. Jatti: Counsel for respondents 4 & 5

CORAM:

The Hon'ble Mr.

Justice G.L.Gupta , Vice Chairman.

The Hon'ble Mr.

A.K. Bhandari, Administrative Member.

(A.K. Bhandari)
Administrative Member.

(G.L.Gupta)
Vice Chairman.

1. Whether Reporters of local papers may be allowed to see the Judgement?

✓ 2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the Judgement?

4. Whether it needs to be circulated to other Benches of the Tribunal ?

CENTRAL ADMINISTRATIVE TRIBUNAL.

JAIPUR BENCH: JAIPUR

O.A. No. 546/2001.

Date of decision. 28.08.03

Panna Lal Yadav, son of Shri Shankar Lal Ji Yadav, aged about 59 years, resident of near Suprin Palace Hotel, Station Road, civil lines, Kota, presently working as Senior T.O.A.(P) Grade III Supervisor, EWSD, Telecommunication, Nayapura, KOTA.

Applicant.

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Telecommunications, Ministry of Communications, Sanchar Bhawan, New Delhi 110 001.
2. Chief General Manager, Telecommunications, Rajasthan Circle, JAIPUR.
3. The General Manager Telecom, E-10 B, Exchange, Road No. 2, Dist. Kota.
4. Shri N.M. Jain, Senior TOA(F) Grade IV, Office of the sub-Divisional Engineer (MDF) E.10 B Exchange, Road No. 2, Kota.
5. Shri P.L. Sharma, Senior TOA (P) Grade IV, Office of the Sub-Divisional Engineer (MDF) EWSD, Nayapura Exchange Kota.

: Respondents.

Mr. C.B. Sharma : Counsel for the applicant.

Mr. Arun Chaturvedi, : Counsel for the respondents 1 to 3.

Shri P.N. Jatti, Counsel for the respondents 4 & 5.

CORAM:

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.K. Bhandari, Administrative Member.

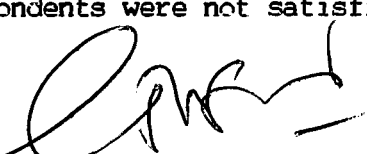


O R D E R

Per Mr. Justice G.L.Gupta:

The order under challenge in the instant O.A. is Annex. A.1 dated 19.07.2001 read with Annex. 2 dated 24.09.2001, issued by the Divisional Engineer in the Office of the General Manager, Telecom. Dist. Kota a unit of the Bharat Sanchar Nigam Limited (BSNL for short). By the impugned order the promotion of the applicant, given vide order dated 06.01.98, has been withdrawn and he has been reverted to his parent cadre without depriving him of any benefit availed.

2. It is averred that the applicant was initially appointed as telephone operator on 17.12.64 and he was allowed higher scale under One Time Bound Scheme on 30.11.83. In the year 1990, the department introduced Biennial Cadre Review Scheme for placement in higher scale. Under the said Scheme the respondents allowed promotion to the applicant in the scale of pay of Rs.1600-2600 with effect from 17.12.90. The Scheme also provided further promotion against 10% posts in the higher scale of Rs.2000-3200. In the seniority list issued by the 3rd respondent on 31.07.92, the applicant was shown junior to one Shri N.M. Jain (respondent No. 4). The applicant represented against the seniority position, whereupon the seniority list was re-cast and he was shown above some person. Because of the change in the seniority position, it is stated, the applicant became entitled for further promotion from Grade III to Grade IV (10% posts). Vide order dated 26.12.97, he was allowed Grade IV promotion, but after sometime, the scale was withdrawn from the applicant. He therefore filed O.A. No. 90/98 for quashment of order dated 26.02.98. The said O.A. was allowed as the promotion had been withdrawn without following the principles of natural justice. The respondents therein were directed to pass appropriate order after affording an opportunity to the applicant to show cause. Thereafter, a show cause notice was issued to the applicant vide Memorandum dated 16.04.2001, stating that he was ineligible for promotion to Grade IV on 06.01.98. The applicant submitted his representation against the show cause notice, but the respondents were not satisfied and the impugned order was passed.



2.1 The say of the applicant is that the official respondents have promoted juniors, like respondents 4 & 5, and have reverted the applicant without any justifiable cause.

3. In the reply various grounds have been taken opposing the application. Inter alia, it has been stated that the applicant is not an employee of the Central Government and he being an employee of the BSNL with effect from 01.10.2000, this Tribunal has no jurisdiction to entertain the matter. It has been further stated that the applicant was not eligible for promotion under the 10% posts in Grade. IV and therefore the impugned order has been rightly issued.

4. Respondents 4 & 5 have also submitted replies opposing the O.A.

5. In the rejoinder, the applicant has stated that even if he has been absorbed in the BSNL this Tribunal has got jurisdiction in the matter.

6. We have heard the learned counsel for the parties and perused the documents placed on record.

7. On the preliminary objection, Mr. Chaturvedi, pointed out that the impugned orders Annex.A.1 and Annex. A.2 have been passed by the BSNL. He further pointed out that on the request of the applicant himself he was absorbed on the basis of his option dated 01.02.2001 for absorption vide order dated 30.01.2002 with effect from 01.10.2000. His contention was that when the applicant is not the employee of the Central Government, the Tribunal does not have the jurisdiction to entertain the matter under Sec. 14 of the Administrative Tribunals, Act, 1985 (herein after referred to the Act).

8. On the other hand Mr. Sharma, learned counsel for the applicant



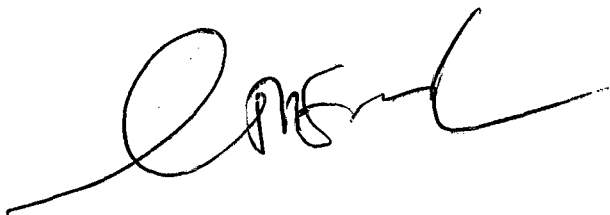
contended that the applicant was appointed to civil post under the Union and his pension is also to be paid by the Union Government and therefore, the Tribunal has got jurisdiction to entertain the matter.

9. We have given the matter our thoughtful consideration. Sec. 14 of the Act, confers jurisdiction of the Tribunal to entertain service matters. Clause (b) of Sub-Section (1) of the Sec. 14 of the Act says that service matters concerning a person appointed to any All India Services of the Union or appointed to any civil service of the Union or any civil post under the Union shall be entertainable by the Tribunal.

9.1 Sub Section (3) of Sec. 14 of the Act says that the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation (or society).

9.2. It is seen that no notification or order has been issued under Sub-sec. (3) of Sec. 14 of the Act, bringing in the BSNL under the jurisdiction of this Tribunal. BSNL is a registered Company. An employee of the BSNL cannot be said to be an employee of the Central Government. It may ^{be} that the applicant was initially appointed by the Central Government, but when he has given his option to be absorbed in BSNL and his option has been accepted, he stands absorbed in the BSNL with effect from 01.10.2000. It cannot be accepted that the applicant continues to be the employee of the Central Government. When no notification has been issued under Sub-Sec.3 of the Sec. 14 of the Act bringing in the BSNL under the jurisdiction of the Tribunal, it has to be held that the matter is not entertainable by this Tribunal.

10. The fact that the liability to pay pension to the applicants is of the Central Government, does not confer jurisdiction on the Tribunal regarding the matter of reversion order issued vide Annex. A.1 and A.2.



If the pension is not paid to a retired employee he may approach the appropriate forum as per rules in force and effect, but on the ground that pension is payable to the applicant by the Central Government, the order passed by the BSNL Annex. A.1 and A.2 cannot be entertained by this Tribunal.

11. During the course of arguments, it was the contention of the applicant that he had earlier approached this Tribunal and pursuant to the direction given in the order Annex. A.13 dated 05.01.2001, a fresh notice was given to the applicant and his representation against the notice has been rejected and therefore the matter should be treated in continuation of the order Annex. A.13. This argument is devoid of merit. At the time, when the order Annex. A.13 was passed the order of absorption of the applicant had not been issued. It is seen that after the Tribunal decided the O.A No.90/98 the applicant's option was accepted and he was absorbed in the BSNL with retrospective effect from 01.10.2000. After the BSNL was established and the applicant became the employee of the BSNL, this Court ceased to have jurisdiction to entertain his service matter. On the ground that the same controversy was involved in the earlier O.A, this Court cannot entertain the matter, when the applicant now is not the employee of the Central Government.

12. Since we have held that the Tribunal does not have jurisdiction to entertain the matter, it is not proper on our part to enter into the merits of the case. The O.A deserves to be returned to the applicant.

13. Consequently, the O.A is directed to be returned to the applicant for presentation to the proper/appropriate forum.

14. No order as to costs.


(A.K. Bhandari)

Administrative Member.


(G.L.Gupta)

Vice Chairman.

jsv.