


13/04/2012  
O.A. 562/2011

Present : Mr. C.B. Sharma counsel for the applicant.  
 None for the respondents.

Reminder  
 not filed  
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This case has been listed before Joint Registrar due to non-availability of Division Bench. Let the matter be listed before the Hon'ble Bench on 20/04/2012.

  
 (Gurmit Singh)  
 Joint Registrar

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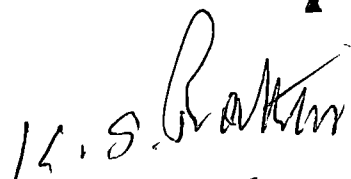
20/4/12  
O.A. No. 562/2011

MR. C.B. Sharma, counsel for applicant.  
 MR. Neeraj Batra, counsel for respondents.

Heard.

O.A. is disposed of by a separate order on the separate-sheets for the reasons recorded therein.

Anil Kumar  
 [Anil Kumar]  
 Member (A)

  
 [Justice K.S. Rathore]  
 Member (J)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 20<sup>th</sup> day of April, 2012

ORIGINAL APPLICATION No. 562/2011

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)  
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

K.L.Prajapat  
s/o Shri Nand Ram Prajapat,  
r/o 39, Cosmo Colony,  
Vaishali Nagar, Jaipur and  
presently working as Chief Accounts Officer,  
Office of General Manager (Mobile),  
Circle CMTS, Jaipur under  
Chief General Manager,  
Rajasthan Telecom Circle,  
Jaipur

... Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Bharat Sanchar Nigam Limited  
Through its Chairman and Managing Director,  
Corporate Office, BSNL,  
Harish Chandra Mathur Lane,  
Jan Path, New Delhi.
2. Chief General Manager,  
Rajasthan Telecom Circle,  
Sardar Patel Marg,  
C-Scheme, Jaipur
3. Chief General Manager,  
IT Project Circle, RTTC Building,  
Plot No.G-121 & 122,  
MIDC Chinchwad,  
Pune.

... Respondents

(By Advocate : Shri Neeraj Batra )

ORDER (ORAL)

Brief facts of the case are that in view of the policy framed by the Bharat Sanchar Nigam Limited (BSNL) vide memo dated 18.1.2007, the applicant became entitled for first financial upgradation w.e.f. 1.10.2004 and thereafter for second financial upgradation w.e.f. 1.10.2009. The applicant was allowed first financial upgradation w.e.f. 1.10.2004 (Ann.A/10) and after completion of five years' service, as per policy, further allowed second upgradation w.e.f. 1.10.2009 vide memo dated 3.11.2009 (Ann.A/12).

2. In view of the clarification received from BSNL, Corporate Office, New Delhi vide order dated 4.9.2009, the date of effect of first upgradation of the applicant was changed from 1.10.2004 to 31.7.2007 and second IDA scale upgradation under Time Bound Executive promotional policy in respect of the applicant was cancelled.

3. Aggrieved and dissatisfied with the order impugned dated 12.10.2011 (Ann.A/1) the applicant preferred this OA on the ground that action of the respondents modifying the date as 31.5.2007



instead of 1.10.2004 and cancellation of second upgradation is not at all justified as per facts and circumstances and the same is arbitrary, illegal and unjustified. Since the applicant has completed four years' service in IDA scale on 1.10.2004 and further five years service on 1.10.2009 and became entitle for both the upgradation and thus the respondents had rightly allowed the same vide Ann.A/10 and A/12.

4. It is also submitted that charge memo was served on the applicant on 26.2.2007 and after considering reply, a punishment of 'Censure' was imposed on the applicant and as per policy, punishment of 'Censure' no where come in the way of allowing benefits of upgradation.

5. Per contra, the learned counsel appearing for the respondents has strongly controverted the submissions made on behalf of the applicant and submitted that the date of first upgradation was changed vide order dated 12.10.2011 in accordance with the guidelines issued vide letter dated 4.9.2009 by the Asstt. G.M. (Pers.II), BSNL, Corporate Office, New Delhi. The second upgradation stands cancelled as the eligibility condition of second upgradation is 5 years from the date of first upgradation. Under Rules 11 of CCS (CCA) Rules, 1965, Penalties, Government of India decision (1) Distinction between Censure and Warning- an order of 'Censure' is a formal and public act intended to convey that the person concerned has been guilty of some blameworthy act or



omission for which it has been found necessary to award him a formal punishment, and nothing can amount to a 'Censure' unless it is intended to be such a formal punishment and imposed for good and sufficient reason after following the prescribed procedure. A record of the punishment so imposed is kept on the officers confidential rolls and the fact that he has been censured will have its bearing on the assessment of the merit or suitability for promotion to higher posts.

6. We have heard the rival submissions of the respective parties and carefully perused the material available on record. We have carefully scanned the impugned order dated 12.10.2011 by which the date of first upgradation has been changed from 1.10.2004 to 31.5.2007 and second IDA scale upgradation under Time Bound Executive promotional policy has been cancelled. We have also carefully perused the order passed by the Disciplinary Authority dated 30.5.2007. It is evident that prior to 30.5.2007 there was nothing adverse against the applicant. Thus, granting first upgradation to the applicant w.e.f. 1.10.2004 cannot be changed to the next date of punishment awarded i.e. 31.5.2007, as the punishment of 'Censure' has been awarded vide order dated 30.5.2007.

7. As per settled proposition of law, the action of the respondents appears to be arbitrary and without any basis as prior to 30.5.2007



when the case of the applicant was considered for first upgradation, nothing adverse was found and the same is not disputed. Thus, the change of date from 1.10.2004 to 31.5.2007 is against the policy and the rules.

8. Having considered the date of first upgradation i.e. 1.10.2004, after five years, the applicant is also entitled for the second upgradation, which has been rightly granted by the respondents but subsequently withdrawn vide impugned order dated 12.01.2011 (Ann.A/1). Therefore, we deem it proper to quash and set-aside the impugned order dated 12.10.2011 and hold that the applicant is entitled to have the benefit of first upgradation w.e.f. 1.10.2004 and of second upgradation w.e.f. 1.10.2009.

9. With these observations, the OA stands disposed of with no order as to costs.

*Anil Kumar*

(ANIL KUMAR)  
Admv. Member

R/

*K. S. Rathore*

(JUSTICE K.S.RATHORE)  
Judl. Member