

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

32

(ORDER RESERVED ON 13.10.2016)

O.A No. 060/00840/2014

Date of filing: 19.09.2014
Date of decision: 19.10.2016

CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. Raghbir Singh son of Jiwana Mal aged 63 years, Retired TTA(STS), O/o SDE, Bharat Sanchar Nigam Ltd./ OCB-283, Albert Road Amritsar presently resident of P-12, Near New Grain Market, Gurdev Nagar, Jallandhar City.
2. P. P. Singh son of Gurbachan Singh, TTA(STS), O/o SDE, Bharat Sanchar Nigam Ltd. C. DOT, Faridkot.
3. Bachan Singh S/o Mukhtiar Singh, retd. TTA on 31.12.2013, from SSA, Ferozpur.
4. Dev Raj son of Relu Ram, TTA, O/o SDE I/D, Bharat Sanchar Nigam Ltd. Kotpura, Firozepur.
5. Sawarn Singh son of Jagir Singh, TTA(STS) O/o SDE (G), Bharat Sanchar Nigam Ltd. Moga, Punjab.
6. Chaman Lal son of Kapur Chand, TTA(STS) O/o SDE (INT), Bharat Sanchar Nigam Ltd. Moga, Firozpur.
7. Amarjit Singh son of Zora Singh, TTA(STS), O/o SDE INT, Bharat Sanchar Nigam Ltd. Moga, Firozepur.
8. Amarjit Kalia son of Som Dutt, TTA(STS), O/o SDE, Bharat Sanchar Nigam Ltd., OFC, P Albert Road, Amritsar.
9. Satish Kumar son of Manohar Lal, TTA(TS), O/o Bharat Sanchar Nigam Ltd. Amritsar SSA.
10. Jatinder Singh son of S. Darshan Singh, TTA, O/o A/T, office T&D Circle, Bharat Sanchar Nigam Ltd., Amritsar.
11. Shashi Pal son of Charan Dass, TTA O/o SDE, Bharat Sanchar Nigam Ltd., Traffic P, Albert Road, Amritsar.
12. Ashok Kumar son of Bakhshi Ram, TTA(TS), O/o Bharat Sanchar Nigam Ltd. Amritsar SSA.

18

33

13. Kartar Chand son of Rulia Ram, TTA, O/o SDE Comp, Bharat Sanchar Nigam Ltd. Albert Road Amritsar.
14. Hari Chand son of Deep Chand, TTA(TS), O/o Bharat Sanchar Nigam Ltd. Amritsar SSA.
15. Gurnam Singh son of Chanan Singh, TTA (CTS), O/o SDO (T) Bharat Sanchar Nigam Ltd. Raya, Amritsar.
16. Gurdev Singh son of Ram Chander, TTA, O/o SDE, PP, Bharat Sanchar Nigam Ltd. Amritsar.
17. Kamal Saroop Sharma son of Desraj, TTA (STS) O/o CPL Carrier, Bharat Sanchar Nigam Ltd., Amritsar.
18. Gian Chand son of Parma Nand, TTA (STS), O/o SDE CPU Carrier, Bharat Sanchar Nigam Ltd. Amritsar.
19. Tejwant Singh son of Bhagwan Singh, TTA(STS), O/o SDE, Bharat Sanchar Nigam Ltd. RLU, Majarth Road, Amritsar.
20. Kavita W/o and legal heir of S.K. Sharma (s/o Mulkh Raj expired as TTA on 28.12.2012) from SSA Amritsar.
21. Narinder Paul Singh S/o Sh. Surinder Singh presently working as TTA Sangrur.
22. Ved Parkash son of Chaman Lal, Retired TTA, O/o SDE, Bharat Sanchar Nigam Ltd., PP, KSS, Amritsar.
23. S.S. Khanna son of Ram Lal Kanna, Retired TTA, O/o SDE, Bharat Sanchar Nigam Ltd., TEC, KSS, Amritsar.
24. Yashpal Singh son of Amar Singh, TTA, O/o SDE, Bharat Sanchar Nigam Ltd., KSS, Amritsar.
25. Smt. Darshan Kaur Bajwa d/o Gurnam Singh, Retired TTA(STS), O/o SDE, Bharat Sanchar Nigam Ltd., 10-B, Albert Road, Amritsar.
26. Sarbjit Singh son of Gurdial Singh, TTA, O/o SDE (EWSD), Bharat Sanchar Nigam Ltd., KSS, Amritsar.
27. Gurbinder son of Gurdial Singh, TTA O/o SDE P/P, Bharat Sanchar Nigam Ltd., Albert Road Amritsar.
28. Jarnail Singh son of Gurbax Singh, Retd. TTA, O/o SDE, Bharat Sanchar Nigam Ltd., (EWSD) KSS, Amritsar.
29. Sukhwinder son of Harbans Singh, Retd. TTA, O/o SDE Bharat Sanchar Nigam Ltd. TRK, Albert Road, Amritsar.

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30. Chander Mohan son of Ram Saran Dass, Retd. TTA (31.8.2014), O/o SDE, Bharat Sanchar Nigam Ltd. RLU, KSS, Amritsar.
31. Jagir Singh son of Bachhan Singh, Retd. TTA(STS) on 31.3.2014, O/o SDE, Bharat Sanchar Nigam Ltd. MJA, Amritsar.
32. Hardev Singh son of Tara Singh, Retd. TTA on 31.5.2013, O/o SDO, Bharat Sanchar Nigam Ltd. Beas, District Amritsar.
33. Raj Sharma w/o and legal heir of Late Sh. Raman Kumar son of Nanak Chand, TTA(CTS), O/o SDE, Bharat Sanchar Nigam Ltd. Verka, Amritsar.
34. Mehanga Ram son of Sardari Lal, Retd. TTA(STS) on 30.11.2008, O/o SDE, Bharat Sanchar Nigam Ltd., RLU, Majartha Road, Amritsar.
35. Subhash Chander son of B.C. Lakhman Pal, Retd. TTA(STS) on 30.4.2012, O/o SDE, Bharat Sanchar Nigam Ltd., TRK, Amritsar.
36. Amarjit Singh son of Gurdial Singh, Retd. TTA(STS) on 31.10.2008, O/o SDE, Bharat Sanchar Nigam Ltd., (WII), Amritsar.
37. Puran Chand son of Kartar Chand, Retd. TTA(CTS) on 30.6.2008, O/o SDE/Elect/ CTO, Bharat Sanchar Nigam Ltd. Amritsar.
38. Surinder Kumar son of Karam Chand, Retd. TTA on 30.4.2006, Amritsar.
39. Inder Money W/o and legal heir of Amolak Ram Saini son of Uttan Chand, Ex-TTA(STS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Hoshiarpur.
40. Darshan Singh son of Kartar Singh, TTA, O/o SDE (G), Bharat Sanchar Nigam Ltd. Mansa, Bathinda.
41. Surinder Pal Singh son of Sewa Singh SSA, Bathinda.
42. Parshotam Dass son of Lilu Ram, TTA(STS), O/o SDE (P) Bharat Sanchar Nigam Ltd. Budhlada, Bathinda.
43. Ajit Singh son of Mukand Singh, TTA(STS), O/o (G) Bharat Sanchar Nigam Ltd. Mansa.
44. Beant Singh son of Kartar Singh, TTA(STS), O/o SDE (USD), Bharat Sanchar Nigam Ltd. Mansa.
45. Pash Singh son of Ajmer Singh, TTA(STS), O/o SDE (G) Bharat Sanchar Nigam Ltd. Mansa.
46. Jaswant Singh son of B. Singh, TTA(STS), O/o SDE (P), Bharat Sanchar Nigam Ltd. Budhlada, Bathinda. 16

47. P. P. Singh son of Muktian Singh, TTA(STS), O/o SDE(F) Bharat Sanchar Nigam Ltd. Budhlada, Bathinda.

48. Bharat Bhushan son of Sohan Lal, working as TTA, O/o SDE (G) Bharat Sanchar Nigam Ltd. Dhuri, Patiala.

49. Surjit Singh son of Kaur Singh, TTA, O/o SDE (G) Bharat Sanchar Nigam Ltd. Sunam, Sangrur.

50. Gurjant Singh son of Mit Singh, TTA, O/o SDE I/D, Bharat Sanchar Nigam Ltd. Sunam, Sangrur.

51. Sukhdev Singh S/o Nazar Singh presently working as TTA, SSA Bathinda.

52. Baldev Singh son of Naranjan Singh, Retd. 30.4.2008 TTA, O/o SDE (G) Bharat Sanchar Nigam Ltd., Barnala.

53. Charan Singh son of Mukhtian Singh, TTA, O/o SDE, I/D Bharat Sanchar Nigam Ltd. Branch, Barnala.

54. Ashok Kumar son of Ved Parkash, TTA, O/o (G), Bharat Sanchar Nigam Ltd. Barnala.

55. Raghbir Parkash S/o Kewal Krishan, presently working as TTA, BSNL, SSA Sangrur.

56. Anita Rani W/o Late Sh. Jagdish Chander, Ex TTA, SSA Sangrur.

57. Satish Kumar Garg S/o Madan Lal presently working as TTA SSA, Bathinda.

58. Gurcharan Singh S/o Balkar Singh presently working as TTA SSA Sangrur.

59. S.N. Sharma son of Rayi Dutt, TTA (TS), O/o SDE, FRS, Bharat Sanchar Nigam Ltd. Rohtak.

60. Amrik Singh son of Joginder Singh, TTA(STS), O/o Bharat Sanchar Nigam Ltd. Transport Nagar, Ludhiana.

61. Mahesh Chander son of Sohan Lal, TTA, O/o Tel-Exch, Bharat Sanchar Nigam Ltd, Ludhiana.

62. Kamal Kumar son of Harshan Lal Kapoor, TTA(STS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Ludhiana.

63. Nirmal Singh son of Joginder Singh, TTA(STS), O/o FET-Exchange, Bharat Sanchar Nigam Ltd. Khanna Ludhiana.

64. N. D. Sharma son of K. D. Sharma, TTA(STS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Ludhiana.

65. Harpal Singh son of Kartar Singh, TTA(STS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Sahnewal, Ludhiana.

66. Bikram son of Darshan Singh, TTA(STS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Moeniwara, Ludhiana.

67. Mohinder Kumar Malhotra son of Om Parkash, TTA, O/o Tel-Exch, Bharat Sanchar Nigam Ltd. BN, Ludhiana.

68. Mohinder Pal son of Nanak Chand, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. RSU, UE, Jalandhar.

69. Balvir Singh son of Sain Dass, TTA, (STS), O/o SDE I/D, Bharat Sanchar Nigam Ltd. Jalandhar.

70. Jeet Singh son of Harman Singh, TTA,(STS), O/o DET (BSSI), Bharat Sanchar Nigam Ltd. MTS Nagar, Jalandhar.

71. Ashwani Kumar son of Sada Nand, TTA (STS), O/o SDO Bharat Sanchar Nigam Ltd. Nakodar (Punjab).

72. Darshana W/o and legal heir of Mohinder Lal son of Boota Ram, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. MDF, Main Hoshiarpur.

73. Satish Kumar son of Salag Ram, TTA(STS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Phagwara.

74. Amarjit Singh son of Hardial Singh, TTA(STS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Phagwara.

75. Ravi Sarup son of Hajura Ram, TTA(STS), Tel-Exch, Bharat Sanchar Nigam Ltd. Garhshankar, (Hoshiarpur).

76. Sohan Lal son of Sain Dass, TTA, (STS), O/o SDE, Bharat Sanchar Nigam Ltd. 10-B, Jalandhar.

77. Narender Singh son of S. Kartar Singh, TTA, O/o SDE, Bharat Sanchar Nigam Ltd. JP Nagar, Jalandhar.

78. Rakesh Kumar son of Dharampal, TTA (TS), O/o SDE (P) RSU, Bharat Sanchar Nigam Ltd. Jalandhar.

79. Gurmeet Lal son of Jawala Ram, TTA (STS), O/o SDO 1/D, Bharat Sanchar Nigam Ltd. Jalandhar.

80. Nirmal Singh son of Ram Singh, TTA, O/o SDE, Bharat Sanchar Nigam Ltd. MTS Nagar, Jalandhar.

18 _____

81. Manjit Kaur wife and legal heir of Gurmit Singh son of Lachhman Singh, TTA (STS), O/o M/T/S/N Bharat Sanchar Nigam Ltd. Jalandhar.

82. Prem Dass son of Arjun Dass, TTA (STS), O/o SDE, OCB Tax, Bharat Sanchar Nigam Ltd. Jalandhar.

83. Gurmit Singh son of Hazara Singh, TTA (STS), O/o SDO (P) IV, Bharat Sanchar Nigam Ltd. Jalandhar.

84. Mela Ram son of Babu Singh, TTA, O/o SDE, MTS Nagar, Jalandhar.

85. Mohinder Singh son of Aniya Ram, TTA (STS), O/o SDE RSU, Bharat Sanchar Nigam Ltd. PH-1, Jalandhar.

86. Dial Singh son of Sarwan Singh, TTA, (TS), O/o DET (BSSI), Bharat Sanchar Nigam Ltd. MTS Nagar Jalandhar.

87. Sita Ram son of Amar Chand, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. C DOT, Jalandhar.

88. Ajaib Singh S/o S. Pritam Singh, presently working as TTA in the O/o DET (Trans) Bharat Sanchar Nigam Ltd. Kapurthala.

89. Prem Lal son of Gurdas, TTA, O/o DET (NSS), Bharat Sanchar Nigam Ltd. MTS, Jalandhar.

90. Satnam Singh son of Kartar Singh, TTA (STS), O/o SDE (G), Bharat Sanchar Nigam Ltd. Jalandhar.

91. Atma Ram son of Ruldu Ram, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. OOB TAX Nangal, Ropar.

92. Veena w/o and legal heir of Vijay Kumar son of Kasturi Lal, TTA(TS), O/o SDO, CB TAX, Bharat Sanchar Nigam Ltd. Jalandhar.

93. Ashok Kumar son of Sahib Dayal, TTA, O/o SDE (Siemens), Bharat Sanchar Nigam Ltd. Kapurthala.

94. Paramjit Singh son of Nand Singh, TTA (STS), O/o DET, RLU, Jalandhar.

95. Balbir Singh son of Lekha Singh, TTA, O/o DET, Bharat Sanchar Nigam Ltd. Krishan Pura, Jalandhar.

96. Gurchen Singh son of son of Late S. Banta Singh, TTA(TS), O/o SDE, Bharat Sanchar Nigam Ltd. RSU-46, Chandigarh r/o 2327, Sector-50C, Tele-hous Society, Chandigarh. 18 —

7/38

97. Sarabjit Singh son of Gurbaksh Singh, TTA (TS), O/o SDE, Bharat Sanchar Nigam Ltd. RSU, Hoshiarpur.
98. Vinod Kumar son of Haridas, TTA (TS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Hoshiarpur.
99. Gurbax Singh son of Inder Ram, TTA (TS), O/o Tel-Exch, Bharat Sanchar Nigam Ltd. Hoshiarpur.
100. Gurcharan Singh son of Balwant Singh, TTA (STS), O/o SDHSD, Bharat Sanchar Nigam Ltd. Hoshiarpur.
101. Gurdev Singh son of Chander Dass, TTA (STS), O/o F/Exch, Bharat Sanchar Nigam Ltd. Hoshirapur.
102. Sarwan Singh son of Pritam Singh, TTA (STS), O/o GIW, Bharat Sanchar Nigam Ltd. Gardiwlala, Hoshiarpur.
103. Sansar Chand son of Jagat Ram, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. RSU, Hoshiarpur.
104. Balbir Singh son of Labh Singh, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. Hoshirapur.
105. Karam Singh son of Malook Singh, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. MIP, Hoshiarpur.
106. Gurdial son of Hazara Ram, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. Kapurthala.
107. Jagjit Singh son of Sadhu Ram, TTA, O/o SDE, Bharat Sanchar Nigam Ltd. Bathinda.
108. Ashok Kumar son of Deve Ghand, TTA (TS), O/o SDE, Bharat Sanchar Nigam Ltd. Hoshiarpur.
109. Bhagirath son of Bhagat Ram, TTA (STS), O/o SDE, Bharat Sanchar Nigam Ltd. Bathinda.

...APPLICANTS

BY ADVOCATE: Sh. Jagdeep Jaswal.

VERSUS

1. Chairman-cum-Managing Director, Bharat Sanchar Nigam Limited, Janpath, New Delhi.
2. Secretary, Department of Telecommunication, 20, Ashoka Road, Sanchar Bhawan, Janpath, New Delhi.

...RESPONDENTS

BY ADVOCATE: Sh. Sanjay Goyal, counsel for respondent no.1.
Sh. Ram Lal Gupta, counsel for respondent no.2.

ORDERHON'BLE MRS. RAJWANT SANDHU, MEMBER (A):-

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8. (i) That impugned order dated 10.07.2014 (A-1), denying the benefit of pay-scale of Rs.7800-11175 w.e.f. 01.10.2000 on completion of total 16 years of service and for grant of pay-scale of Rs.8570-245-12245 on completion of total 26 years of service in terms of policy decision dated 17.12.1983 & 16.10.90 (Annexure A-5), be quashed and set aside being wholly illegal, arbitrary and discriminatory in the eyes of law.

(ii) That respondents be directed to grant One Time Bound Promotion Scale benefit to the applicants in the Cadre of Telecom Technical Assistants in the Industrial Dearness Allowance (IDA) scales and thereby grant further pay-scale of Rs.7800-11175 w.e.f. 01.10.2000 on completion of total 16 years of service and the pay-scale of Rs.8570-245-12245 on completion of a total of 26 years of service in terms of the letters dated 17.12.1983 & 16.10.90 (Annexure P-5) with all consequential benefits from due dates and alongwith interest."

2. It is stated in the OA that all the applicants (except applicants no.20, 23, 56, 72, 81 & 92), were appointed on the post of Technician in the erstwhile Telecom Department of Govt of India on different dates. Husbands of applicants no.20, 23, 56, 72, 81 and 92, also were similarly situated like the other applicants in the present OA. All the applicants are similarly situated and they are filing the instant Original Application jointly as the cause of action in the case of each one is common and similar relief is being prayed for by them against the same respondents. Therefore, to avoid multiplicity of litigation they are filing the instant Original Application jointly.

3. The Telecom Department revised the pay-scale of its employees including that of Technicians w.e.f. 01.01.1986. The incumbents of the posts of Technicians were granted the pay-scale of Rs.975-1660 w.e.f.

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01.01.1986. In 1994, a Scheme was introduced for restructuring various cadres of Telecom Department. The post of Technician was re-designated as Telecom Technical Assistant (TTA) w.e.f. 01.01.1994. Simultaneously the essential qualification for appointment as Telecom Technical Assistant was also stipulated to be Diploma in Engineering or 2 years Certificate of ITI. Since all the incumbents of the post of Technician were not possessing the qualification of Diploma in Engineering or 2 years Certificate of ITI, hence the Competition Test was conducted for the Technicians possessing qualification lower to Diploma in Engineering for entry into cadre of Telecom Technical Assistant, while no such screening test was to be conducted for diploma holders or 2 years ITI certificate of Technicians and they were just allowed "Walk-in" into the Telecom Technical Assistant Cadre. After restructuring of the cadre of Technician into the cadre of Telecom Technical Assistant and increase in essential qualification for appointment/promotion on the post of Telecom Technical Assistant, corresponding higher pay-scale of Rs.1600-2660 was recommended by the 5th Pay Commission w.e.f. 01.01.1996. The Telecom Department Pay Commission again revised the pay-scale of its employees w.e.f. 01.01.1996 under 5th CPC. Incumbents of the post of Telecom Technical Assistant like the applicants were granted the pay-scale of Rs.4500-7000, though as per the recommendations of 5th Pay Commission, they were entitled to the pay-scale of Rs.5000-8000 being the corresponding pay-scale of Rs.1600-2660. A copy of the comparative pay scales introduced under 5th CPC are enclosed (Annexure A-2). Applicants and other similarly situated persons made representations to the higher authorities for removal of this anomaly and for grant of pay-scale of Rs.5000-8000 to the incumbents of the posts of Telecom Technical Assistant w.e.f. 01.01.1996. Finally a decision was taken

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in a meeting held on 16.03.2001 between the Employees Union and the Employer that anomaly in the pay fixation of the post of Telecom Technical Assistant would be removed w.e.f. 01.10.2000 by granting the incumbents of the said post the pay-scale of Rs.5000-8000. A copy of the minutes of the meeting dated 16.03.2001 is attached (Annexure A-3). BSNL was constituted as a Company registered under the Companies Act, 1956 in 2000.

4. After being absorbed in the BSNL, the pay-scale of the employees were revised under the Industrial Dearness Allowance (IDA for short). Earlier the employees of the Telecom Department were being paid their salary under the Central Dearness Allowance (for short CDA). Under the IDA the incumbents of the cadre of Telecom Technical Assistant were granted the entry-grade of Rs.7100-200-10100 corresponding to revised pay scale of Rs.5000-8000. Vide memo dated 30.09.2000 (Annexure A-4), it was clarified that terms and conditions of the employees of Telecom Department which were being transferred/absorbed in the BSNL on permanent basis, would not be changed to their disadvantage. A bare reading of the letter dated 30.09.2000-(A-4), it is absolutely clear that all the existing Time Bound Promotion Schemes including the letters dated 17.12.1983 and 16.10.1990 (Annexure A-5 Colly) would continue to the benefit of the employees like the applicants.

5. It is further stated that BSNL has given entry grade of Rs.7100-200-10100 to the direct recruits, who are inducted as Telecom Technical Assistants including the applicants w.e.f. 01.10.2000 irrespective of their length of service. The grievance of the applicants is that though the incumbents in the cadre of Telecom Technical Assistant have been given

11 —

the entry pay scale of Rs.7100-200-10100 w.e.f. 01.10.2000, but they have not been given the benefit of One Time Bound Promotion/BCR Grade-IV Scheme-Annexure P-5. Surprisingly, the other Group-C cadre employees have been given the benefit of OTBP Scheme by the BSNL, but the Telecom Technical Assistants have been discriminated in this matter without any lawful justification. Under the Time Bound Promotion Scheme all the TTAs are entitled to get the next higher scale of Rs.7800-220-12000 on completion of 16 years of total service. Vide letter dated 20.04.1999 (Annexure A-6), it was clarified that while calculating 16 years of service for the purpose of grant of benefit under OTBP/BCR Schemes total service including that rendered in pre-restructured cadre is to be considered. However, to the knowledge of the applicants, the pay-scale of Rs.7800-220-12000 has been ordered to be granted to all TTAs on completion of 26 years of service instead of 16 years of service, which is wholly arbitrary and in gross violation of the aforesaid Scheme dated 17th December, 1983 and 16.10.90 and also the office memorandum dated 30.09.2000. In fact, all the TTAs are entitled to be given the pay-scale of Rs.9850-250-14600 on completion of 26 years of service in terms of BCR Scheme. Under the aforesaid Time Bound Promotion Scheme all the Telecom Technical Assistant like the applicants are entitled to get next higher scale of Rs.7800-2258-11175 on completion of 16 years of total service. Applicants made numerous representations through their registered trade union for vindication of their aforesaid grievance, but of no avail. One such representation submitted by the applicants through their registered trade union dated 26.08.2004 is attached (Annexure A-7). The applicants approached the Hon'ble High Court by way of CWP No.19099/2004 for vindication of their grievances. The writ petition was disposed of vide

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order dated 09.12.2004 directing the respondents to take a final decision on the justice demand notice filed by the applicants by passing a speaking order (Annexure P-7). However, a wholly non-speaking cryptic and factually incorrect order dated 02.02.2005 (Annexure A-9) was passed. The applicants then filed CWP No.7725/2005 challenging the order dated 02.02.2005. This CWP was transferred to this Tribunal vide order dated 23.09.2013 and numbered as TA No.57/PB/2014. Vide order dated 02.04.2014 (Annexure A-10), the Tribunal directed the respondents to reconsider their stand taken in the written statement filed in the TA in the light of Annexures P-9 and P-10 alongwith the submissions of applicants that benefit of OTBP/BCR Schemes was granted to other similarly placed employees in the cadre of Senior TOA. Although the respondents passed speaking order in the matter, but the claim of the applicants was rejected. Hence this OA.

6. In the grounds for relief it has, interalia, been stated as follows:-

1. Admittedly the pay scale of Rs.7100-10100 is the entry pay scale of the post of Telecom Technical Assistant in the revised pay scales made applicable w.e.f. 01.10.2000 and absolutely no benefit is given to the incumbents of the post of Telecom Technical Assistant i.e. applicants in terms of the OTBP/BCR policy, Annexure A-5 for their past service. As on 01.10.2000, a direct recruit with zero length of service and the applicants, with more than 16/26 years of service stood at same footing in the matter of pay scales as they both were granted the entry pay scale of Rs.7100-10100/- with basic pay of Rs.7100/-.
2. Impugned order dated 10.07.2014, Annexure A-1 is based on factually incorrect assumptions. The claim of the applicants for grant of benefit of OTBP/BCR pay scales has been rejected primarily on the ground that no such pay scales are in force in any of the restructured cadres, which is factually incorrect. It is vehemently stated that the benefit of OTBP/BCR pay scales in terms of the policy, Annexure A-5 is being extended to other Class-III employees of the BSNL and only the Telecom Technical Assistants are being discriminated in this regard. It is most pertinent to mention here that the incumbents of the post of Senior Telecom Office Assistants (for short Sr. TOA)

were drawing their salary in the pay scale of Rs.4000-6000 w.e.f. 01.01.1996. The revised pay scale w.e.f. 01.10.2000 to the incumbents of the post of Sr. TOA were granted the revised pay scale of Rs.5700-160-8100. Now the incumbents of the post of Sr. TOA have been granted the pay scale of Rs.7100-200-10100 giving them the benefit of OTBP Scheme vide letter dated 30.12.2004 (Annexure A-11). Vide yet another letter dated 30.12.2004 (Annexure A-12) the benefit of BCR Scheme has been extended to the incumbents of the post of Sr. TOA granting them the pay scale of Rs.7800-225-11175. A bare perusal of the letters Annexures A-11 and A-12, shows that the respondents are taking a self-contradictory stand. The case of the respondents that OTBP/BCR Scheme are not in force stand totally falsified rendering the impugned order/letter unsustainable in the eyes of law.

3. In the impugned order Annexure A-1, it is stated that with the introduction of NEPP (Non-Execution Promotion Policy in March, 2010), applied since 01.10.2000, NE-12 Pay scales have also come in force and applicants are similarly benefited at par with restructured cadres vis-à-vis Telecom Mechanic and Sr. TOAs and therefore no discrimination has been meted out to the category of ITA to which applicants belong. Such stand/action is totally contradictory inasmuch as applicants have not been benefited in any manner after completion of 16/26 years of service under OTBP/BCR Scheme, inasmuch as on 01.10.2000 they (despite having service of more than 16 years) have been placed at par with a direct recruit as on 01.10.2000 with same pay scale and same basic pay. The long length of service has been ignored by the respondents without any proper rhyme and reason. Furthermore, the existing vested right of applicants under OTBP/BCR which already stands extended to the category of Sr. TOA as was clearly evident from Annexures P-11, P-12, P-13 and P-14 was not extended to them in clear-cut violation of law and also in violation of article 14 & 16 of the Constitution of India."

7. In the written statement filed on behalf of the respondents, the facts of the matter have not been disputed. It has further been stated that the Industrial Dearness Allowance (IDA) pay scales were notified after negotiations as per the agreement arrived at with the BSNL Employees Union by the respondent on 26.04.2002. A copy of the letter dated 07.08.2002 is placed on record (Annexure R-1). As per Clause-V of the notification dated 30.09.2000 (Annexure P-2), all officers and officials were to continue to be subject to all Rules and Regulations as applicable to

Government servants including the CCS (CCA) Rules but this applicability would be available till such time as they were absorbed finally by the Company upon exercise of option. The OTBP Scheme was introduced w.e.f. 17.12.83 and BCR Scheme came into force w.e.f. 16.10.1990. Both the schemes are promotional schemes for pre-structured cadres, which were in existence at that time. TTA cadre came into existence w.e.f. 01.01.1994 in the pre-revised pay scale of Rs.1320-30-1560-EB-40-2040. The first Recruitment Rules of TTA cadre were issued on 31.07.1991 wherein the method of recruitment was 100% by promotion. Further, with the recommendations of the 5th Central Pay Commission, the pay scale of the TTAs was revised from Rs.1320-2040 (pre-revised) to Rs.1400-2300 (pre-revised) corresponding to revised pay scale of Rs.4500-7000 w.e.f. 01.01.1996. As per the agreement between the three Federations and the Chairman-cum-Managing Director, BSNL, it was decided to upgrade the basic pay scale of TTAs from Rs.4500-7000 (CDA) corresponding to IDA pay scale of Rs.6550-185-9325 to Rs.5000-8000 (CDA) corresponding to IDA pay scale of Rs.7100-200-10100 w.e.f. 01.10.2000. A copy of the letter dated 20.09.1999 is placed on record (Annexure R-2). The letter Annexure P-3/A prescribes the IDA pay scale of Rs.7800-225-11175 to TTAs on completion of 26 years of total service including the service rendered in pre-structured cadres and is in no way related to the order dated 17.12.1983 and 16.10.1990. As per the existing provisions laid in the DoT order no.1-38/98-MPP dated 20.04.1999, the IDA pay scale of Rs.7100-10100 is to be given on completion of 16 years of total service. It is also reiterated that all service matters pertaining to non-executives Group C & D employees of the answering-respondent are to be taken up by the representative Union only, which is elected by way of membership verification. Ne

8. In the rejoinder filed on behalf of the applicants, the content of the OA has been reiterated.

9. Affidavit was filed on behalf of the respondents, in view of the interim order of the Tribunal dated 03.09.2015. It has been stated therein that respondents have been directed to file an affidavit clarifying as to whether the promotional scheme of OTBP/BCR was withdrawn/revised at any stage. It be also clarified as to how persons mentioned in Annexures A-11 and A-12 got the benefit of OTBP/BCR in 2004. It has further been directed that dates from which the applicants are getting their salary in the scale may also be indicated. In pursuance of the orders passed by this Tribunal on 03.09.2015, the answering-respondents clarified through affidavit dated 14.10.2015 that promotional schemes of OTBP/BCR have neither been withdrawn nor revised, since their inception in Department of Telecom (hereinafter referred as DoT) till date in BSNL. Both these schemes still hold good even after introduction of NEPP in BSNL as employees were given option to either opt for OTBP/BCR or shift to new promotional scheme i.e. NEPP. It is further stated that OTBP scheme came in vogue in the year 1983 and BCR scheme in the year 1990. These promotions were given on completion of 16/26 years of service respectively in pre-structured cadres. Re-structuring of cadres took place in 1994. With the introduction of RC cadres, the concept of higher pay scale to be given in the RC cadres emerged as per DoT letter dated 20.09.1999 effective from 01.12.1998, which stipulated grants of higher pay scale to be given to the officers of RC cadres on completion of 16/26 years of total service including the service rendered in the pre-structured cadres.

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10. Different orders were issued from time to time since 1994 to facilitate the streamlining of the re-structuring process. Since the grant of higher pay scale and OTBP/BCR are instantly given on completion of same period i.e. 16/26 years, yet higher pay scales are only granted to the officials of RC cadres and not to officials belonging to PRC cadres. These higher pay scales were misconstrued as OTBP/BCR pay scales of re-structures cadres, whereas, the fact is otherwise and there is no similarity between the two concepts. There is also an element of reservation for OTBP/BCR promotion, whereas there is no reservation in the higher pay scales. Further, OTBP/BCR promotion are given under FR 22(i)(a)(1) whereas higher pay scales are mere placement in the higher pay scale and are given under FR 22(1)(a)(2). The pay scale prescribed in higher pay scale on completion of 16/26 years of service is higher than those granted under OTBP/BCR scheme. Thus, no comparison can be drawn between OTBP/BCR schemes with the grant of higher pay scale of the RC cadre except that both are given on completion of 16/26 years. Insofar as grant of benefit under OTBP/BCR scheme as per Annexures A-11 and A-12 are concerned, it is stated herein that without prejudice to the merits of the orders under reference, it is affirmed that in any event, the pay scales, highest of which that can be granted to the Sr. TOAs/TTAs pay scale of basic grade since revised to Rs.5000/-8000/- in CDA terms w.e.f. 01.10.2000 on completion of 16/26 years of service cannot be more than the scales prescribed vide DoT order dated 20.04.1999 (Annexure R-1).

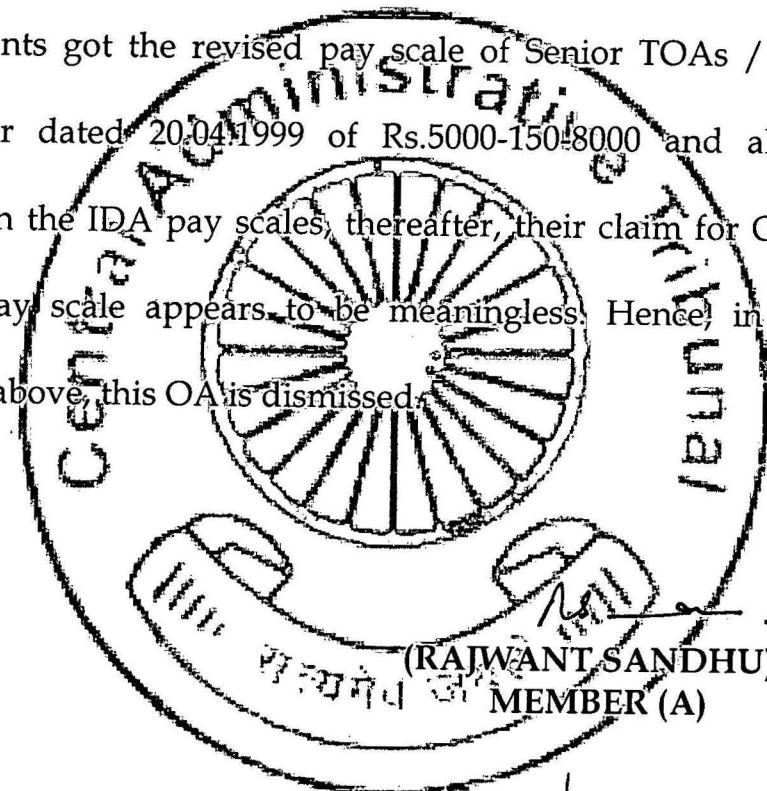
11. Arguments advanced by learned counsel for the parties were heard, when counsel reiterated the content of the OA, rejoinder, written statement and affidavit dated 14.10.2015. Ms _____

12. We have given our careful consideration to the matter. The claim of the applicants shows that they lack clarity regarding the position of the Pre Restructuring Cadre (PRC) and the Re-structured Cadre (RC). While OTBP/BCR Schemes were never withdrawn by DoPT which had notified them and continued to operate in BSNL in respect of staff who opted to continue with the same, for the restructured cadres, it is a circular dated 20.04.1999 (Annexure A-6) that has to be taken into account. Para 2 (i) & (ii) read as follows:-

Hence, the Senior TOAs and TTAs were correctly placed in the scale of Rs.5000-150-8000. Later, applicants shifted to the IDA Schemes and after introduction of IDA pattern in BSNL w.e.f. 01.10.2000, the corresponding pay scale of TTAs in the scale of Rs.5000-8000 was changed to pay scale of Rs.7100-200-10100 in IDA pattern. Induction to the restructured cadre started around 1994 and prescribing any OTBP/BCR scale of restructured cadre was not relevant as none of the persons in the restructured cadre

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would have completed 16/26 years after 1994. This position has been ~~adequately~~ explained in letter No.211-9/2005-Pers-III dated 02.02.2005 (Annexure A-9) through which speaking order was issued by BSNL in compliance with judgment dated 09.12.2004 of the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No.19099/2004. The applicants in the OA had referred to this being a cryptic order while this is not the case as the position has been clarified adequately in this order of 02.02.2005. The affidavit filed on behalf of the respondents also makes clear the distinction between OTBP/BCR promotion and 'Restructuring'. Since the applicants got the revised pay scale of Senior TOAs / TTAs as per DoTs order dated 20.04.1999 of Rs.5000-150-8000 and also got their refixation in the IDA pay scales, thereafter, their claim for OTBP/BCR in the IDA pay scale appears to be meaningless. Hence, in view of the discussion above, this OA is dismissed.



(JUSTICE L.N. MITTAL)
MEMBER (J)

Place: Chandigarh.
Dated: 19.10.2016.

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