

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Dated : This the **26th** day of **July** 2018

Original Application No. 330/00469 of 2011

Hon'ble Mr. Gokul Chandra Pati, Member (A)

Hon'ble Mr. Rakesh Sagar Jain, Member (J)

Majib-Ur-Rehman, S/o Late Abdul Aziz, R/o House No. 48-49 K, Mangla Vihar Ist Deheli Sajampur, District Kanpur Nagar.

. . .Applicant

By Adv : Shri H.S.N. Tripathi and Shri P. Tripathi

V E R S U S

1. Union of India through Secretary, Bharat Sanchar Nigam Limited, New Delhi.
2. The Chief General Manager, Telecom Uttar Pradesh (East), Circle Hazaratganj, Lucknow U.P.
3. Assistant General Manager (Administration) B.S.N.L. Uttar Pradesh, East Circle, Hazaratganj, Lucknow.
4. Telecom District Manager, Jaunpur, U.P.

. . .Respondents

By Adv: Shri Anil Kumar

O R D E R

By Hon'ble Mr. Gokul Chandra Pati, Member – A

None for the applicant. Shri Anil Kumar, learned counsel for the respondents is present. We proceeded to consider this OA under Rule 15 of CAT (Procedure) Rule, 1987 for disposal since the OA is old and no one is appearing on behalf of the applicant since last several dates.

2. By way of this OA, the applicant seeks to quash the order dated 31.1.2011 (Annexure no. 1 to the Compilation no I of the OA) by which the first time bound financial upgradation (in short TBFU) of the applicant's pay scale was granted w.e.f. 8.12.2009 as against the claim of the applicant for sanction w.e.f. 1.10.2004. The respondents had earlier sanctioned the said upgradation w.e.f. 1.10.2004 vide the order dated 28.4.2010 (Annexure no. 1 to the Compilation no. II of the OA). This order dated 28.4.2010 in respect of the applicant was reviewed by the respondents to shift the date of granting from 1.10.2004 to 8.12.2009 on the ground that there was disciplinary proceeding initiated against the

applicant vide the chargesheet dated 3.3.2005 by which the punishment of reduction of pay by one stage for one year on 8.12.2008. The punishment period was over on 7.12.2009.

2. The applicant had earlier filed the OA No.1661/2010 which was disposed of at the admission stage with a direction to the respondents to decide the pending representation of the applicant. Accordingly, the respondent no. 3 passed the impugned order dated 31.1.2011 rejecting the representation of the applicant to allow the TBFU w.e.f. 1.10.2004.

3. We heard the learned counsel for the respondents and considered the pleadings of the parties on record. The disputed relates to the date of sanction of the first time bound financial upgradation benefit to the applicant.

4. As per the impugned order and the plea taken in the Counter Reply, the case of the respondents is that the date for first TBFU for the applicant was shifted from 1.10.2004 to 8.12.2009 since before 8.12.2009, the applicant was under the punishment and the benefit of TBFU was allowed immediately after the said punishment period on 7.12.2009. The case of the applicant is that as on 1.10.2004, there was no chargesheet or proceeding on the applicant and he was also not under any punishment, hence, he is entitled for first TBFU w.e.f. 1.10.2004 as sanctioned by the respondents vide order dated 28.4.2010.

5. We have perused the pleadings of the respondents as well as the impugned order dated 31.1.2011. The reasons for not allowing the benefit of first TBFU to the applicant w.e.f. 1.10.2004 when the chargesheet dated 3.3.2005 was not issued or pending against the applicant, have not been explained either in the impugned order dated 31.1.2011 or in the Counter Reply. Based on the pleadings of the respondents, the applicant could not have been allowed the benefit of TBFU during the period 3.3.2005 to 7.12.2009 when the applicant was facing the chargesheet or the punishment imposed on him in a disciplinary proceeding. But this reason does not explain why the applicant could not be allowed the benefit of TBFU w.e.f. 1.10.2004 when he was not facing any disciplinary proceeding and he was not undergone any punishment period.

6. In view of above and considering the fact that the applicant did not file any appeal against the impugned order dated 31.1.2011 and the applicant has retired from service on 31.12.2009, we dispose of the OA with a direction to the respondent no. 2 to re-consider the case of the applicant and take a decision regarding eligibility of the applicant for allowing the benefit of first TBFU w.e.f. 1.10.2004 on notional basis with consequential benefits on his retiral dues as per the rules and pass a speaking order reviewing the impugned order dated 31.1.2011 passed by the respondent no. 2 and communicate his order to the applicant within three months from the date of receipt of a certified copy of this order.

7. The OA is disposed of as above. No costs.

(Rakesh Sagar Jain)
Member (J)

(Gokul Chandra Pati)
Member (A)

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