

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 772/2013

M.A. No. 595/2013

M.A. No. 596/2013

New Delhi, this the 8th day of November, 2016.

HON'BLE MR. P.K. BASU, MEMBER (A)

1. Bharatiya Telecom. Employees Union (BSNL),
Through its General Secretary,
SVS Subrahmanyam,
D-14, Doctor Lane,
Gol Market, New Delhi-110001.

2. Satpal Singh Kashyap,
S/o Shri Kbool Singh,
R/o Village Suthiana,
Greater Noida.

.. Applicants

(By Advocate : None)

Versus

1. Union of India
Department of Telecommunications
Through its Secretary
Ministry of Communications and I.T.,
Govt. of India,
20, Ashoka Road,
New Delhi-110001.

2. The Chairman cum Managing Director,
BSNL, Bharat Sanchar Bhavan,
Janpath,
New Delhi-110001.

.. Respondents

(By Advocate : Shri Subhash Gosai for R-1)

ORDER (ORAL)

None has appeared for the applicant.

2. Learned counsel for the applicant, Ms. Pratibha Sinha, has not appeared on previous several dates and is also not present today. Therefore, Shri Subhash Gosain, learned counsel for respondent No.1 was heard and, being an old matter, the order is being passed.

3. The applicant No.1 is a Trade Union of BSNL Employees representing the Group 'D' casual workers. Applicant No.2 is a casual worker himself. They are seeking a direction to the respondents to grant all retirement benefits and pension to the applicants. They rely on the judgment of the Hon'ble Supreme Court in **Bhartiya Dak Tar Mazdoor Manch vs. Union of India & others** order dated 27.10.1987 directing payment of wages to the workmen, who were employed as casual labourers in the P&T Department at the rates equivalent to minimum pay in the pay scale of regularly employed workers along with allowances, such as, Dearness Allowance, Additional Dearness Allowance etc. The other ground is that the scheme formulated by the Department incorporated counting of 50% of service rendered as temporary status would be counted for retrial benefits.

4. Respondent No.2 (BSNL) in their reply have stated that after the judgment of the Hon'ble Supreme Court cited above,

Constitution Bench of the Hon'ble Apex Court in the matter of **Secretary, State of Karnataka vs. Umadevi & others**, (2006) 4 SCC 1, have considered this matter afresh, wherein the Hon'ble Supreme Court has held that those casual labourers, who have been appointed *de hors* the provisions of the recruitment rules, have no right for regularisation.

5. Thereafter, based on the judgment of the Hon'ble Supreme Court in WPC No.373/1986, the Department formulated a Scheme, i.e. Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 and several Mazdoors were regularised. However, after the judgment of the Hon'ble Supreme Court dated 10.04.2006 in **Umadevi** (supra), this matter was further examined and held that casual labourers for whom the 1989 Scheme was not enforced, will not come within the purview in para 53 of the **Umadevi's** judgment. It is his contention that, therefore, the applicants, who are members of the Association, are being paid pension and retirement benefits as per their entitlement under the Rules in force.

6. It is clear from the above that the judgment relied upon by the applicants have subsequently been superseded by the Constitution Bench judgment of the Hon'ble Supreme Court in **Umadevi** (supra)

and the Department has followed the subsequent judgment and, accordingly, allowed pension as per the extant rules.

7. There is thus no merit in the O.A. The O.A. is, therefore, dismissed. No order as to costs.

(P.K. Basu)
Member(A)

/Jyoti/