

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 1872/2013

Order reserved on:17.11.15
Order pronounced on:26.11.15

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)**

Shri Viresh Saxena
S/o Shri Parmanand Saxena
R/o D-119, Sector-20,
Noida – (UP)

Presently posted as SDE (Pers)
MTNL Corporate Office, New Delhi ... Applicant

(Through Shri D.S. Chaudhary, Advocate)

Versus

1. Union of India
Through the Secretary-cum-Chairman
of Telecommunication
Ministry of Communications and IT
Department of Telecommunications
Sanchar Bhawan,
20, Ashoka Road, New Delhi-110001

2. Mahanagar Telephone Nigam Limited
Through Chairman & Managing Director
5th Floor, Doorsanchar Sadan
9, CGO Complex, Lodhi Road,
New Delhi-110003 ... Respondents

(Through Shri Manjeet Singh Reen, Advocate for R-1
Ms. Vandana Bhatia, Advocate for R-2)

ORDER

Mr. P.K. Basu, Member (A)

Vide order dated 28.12.2001, the respondents passed an order imposing penalty on the applicant that "his pay be reduced by two stages in the time scale of pay for a period of two years,

with further direction that the Charged Officer will not earn increment of pay during the period of such reduction and on expiry of such period, the reduction will not have the effect of postponing the future increments of his pay." The applicant thereafter filed a representation dated 12.03.2012 requesting for regularization of his suspension period i.e. the period from 26.09.2001 to 9.03.2004. This representation was disposed of vide order dated 5.11.2012 ordering that the pay and allowances during the suspension period of the applicant from 26.09.2001 to 9.03.2004 shall be restricted to the subsistence allowance already paid and the period of suspension to be counted as duty for all purposes, including pension in terms of the provisions of FR 54 B (5) & (7).

2. It is stated by the learned counsel for the applicant that the order dated 5.11.2012 recites that the period of suspension should be counted as duty for all purposes and, therefore, the applicant should be given full pay and allowances for the period.

3. The applicant is also aggrieved by the order dated 19.03.2013 in which he has been intimated that no increment has been given from 2001-2004 due to direction received from DOT vide letter dated 28.12.2011.

4. The short case of the applicant is that in the order dated 28.12.2011, it had been mentioned that the applicant will not earn increment of pay during the period of such reduction but there was no mention that he will not earn increment of pay during the period of suspension. Therefore, he claims that

during the period of suspension, he should be given increments due to him.

5. Since the respondents have not accepted either of his prayers, this OA has been filed seeking the following reliefs:

“8.1 The impugned orders dated 05.11.2012 (Annexure A/1) be quashed to the extent that the pay and allowance of the applicant has been restricted only to the subsistence allowance paid to him. In the result, the respondents be directed to allow full pay and allowances to the applicant during suspension period.

8.2 The impugned order dated 19.03.2013 (Annexure A/2) be also quashed. In the result, the annual increments during suspension period be also paid to the applicant.

8.3 The respondents be directed to pay interest @ 18% per annum on the delayed payment.

8.4 Cost of the proceedings may be allowed.”

6. The respondents in counter state that there is no irregularity committed by the respondents and the orders have been passed as per rules and procedure.

7. In our considered view, the applicant has completely misinterpreted both the orders dated 5.11.2012 and 19.03.2013. The order dated 5.11.2012 is a speaking order, which has been passed after considering averments of the applicant in his representation dated 12.03.2012 and the respondents have passed a specific order that the pay and allowances during the

suspension period shall be restricted to the subsistence allowance already paid. Therefore, there is no question of payment of full pay and allowances once the authority has applied its mind and passed an order as per provisions of the rules.

8. As regards question of increment, the order dated 19.03.2013 specifically mentions that he will not earn increment of pay during the period of such reduction. If both the orders 5.11.2012 and 19.03.2013 are read together, it is clear that what has been ordered is that the period of suspension will only entitle him for subsistence allowance. There is no mention of earning increment during this period as the applicant was under suspension and was not working.

9. The learned counsel for the applicant could not point out specifically violation of any rule or specific procedure in the action of the respondents. Therefore, we find no merit in this OA and it is thus dismissed. No costs.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/dkm/