

**Central Administrative Tribunal
Principal Bench, New Delhi**

**OA No.3273/2014
MA No.2805/2014**

Order reserved on : 31.01.2018
Order pronounced on : 06.02.2018

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

Shri Ved Ram Singh Chhatri, Aged about 61 years,
NRMS No.200007657,
S/o Shri Tota Ram,
R/o House No.230/7, Ground Floor,
Gali no.3, Railway Colony, Mandawali,
Fazalpur, Delhi-110092.

(By Advocate : Shri T.D. Yadav)

...Applicant

Versus

1. The Chairman and Managing Director,
Bharat Sanchar Nigam Ltd.,
Bharat Sanchar Bhawan, New Delhi.
2. General Manager Telecom,
Distt. BSNL, Muradabad.
3. AGM Telecom,
Distt. BSNL, Muradabad.
4. The Chief General Manager,
UP (West), Telecom Circle, Meerut.
5. Secretary,
Govt. of India,
Department of Telecommunication,
Sanchar Bhawan, STN-II Section,
New Delhi.

...Respondents

(By Advocate : Shri R.V. Sinha with Shri Satyendra Kumar, Shri Amit Sinha and Shri Vaibhav Pratap Singh)

ORDER**Ms. Nita Chowdhury, Member (A) :-**

This OA has been filed by the applicant seeking the following reliefs :-

- “(i) direct the respondents to grant regular pension to the applicant from the date of retirement after counting of entire service of DOT and BSNL.
- (ii) direct the respondent to grant 18% on delay payment of retiral benefits including pension to the applicant.
- (iii) direct the respondent to grant the arrears of pension, after granting the pension from the date of his retirement.
- (iv) pass any other order(s) as may be deemed just fit and proper in the facts and circumstances of the case.
- (v) Award cost.”

2. In brief, the applicant alleges that he is aggrieved by the inaction of the respondents in not granting pension to him even after he completed 10 years of qualifying service. The applicant was initially appointed as Security Guard (as Gunman) on casual and daily basis temporarily w.e.f. 29.06.1994 vide Telecom Divisional Engineer Moradabad, Department of Telecom letter no.TDE/Moradabad/Security/21 dated 30.06.1994. Thereafter, he was regularised w.e.f. 01.10.2000, and he served in BSNL till he superannuated on 31.05.2013 and a request was made by his organisation as under :-

"Sub: Submission of Pension Paper Of Shri Ved Ram Singh CHHATRI.

Sir,

With due regards it is submitted that Shri Ved Ram Singh Chhatri having Epf Account No. UP/BLY/000/0031651/0000069 has retired from our organization on 31/05/2013. His Pension & Final withdrawal papers are hereby send for necessary action at your end. Kindly arrange for release for his pension & EPF Accumulated balance as early as possible.

I will be highly obliged to you.

Accounts Officer (Cash)
O/o G.M.T.D, BSNL, MRD”

3. Despite the above, he has yet to receive any pension. In support of his contentions, the learned counsel for applicant has relied upon the judgment of Hon'ble Apex Court in the matter of

Hari Chand Vs. Bhakra Beas Management Board and Others

CW(P) No.7378/2003 decided on 17.01.2005.

4. The respondents in their reply to the OA confirmed that the applicant was regularised as regular Mazdoor w.e.f. 01.10.2000. They further informed that he had also filed the OA No.795/1999 in the Allahabad Bench of this Tribunal regarding his regularization as TSM or Regular Mazdoor. On 19.09.2001 applicant had given declaration that if he is regularized as RM, he will withdraw the case. After his regularization as RM, he was quite satisfied and requested before the Tribunal to withdraw the OA No.795/1999 and

the same was dismissed as withdrawn on 04.12.2002. The respondents also drew attention of the Tribunal to a copy of the OM dated 20.10.2006, in which the counting of past service of temporary status Mazdoors upon their absorption in BSNL has been dealt with. It was clarified that in respect of those Casual Labourers who were not having TSM status as on 30.09.2000 and who have been regularized in BSNL after 01.10.2000, their status will be of a PSU appointee. Hence, the present applicant does not get the benefit of any service done prior to his appointment in BSNL on 01.10.2000. Similarly, the respondents have shown that there are specific provisions with regard to the payment of pension and gratuity in BSNL and they have devised their own pension schemes for disbursing benefits to directly recruited employees. However, learned counsel for respondents was unable to inform as to what are the specific rules with regard to minimum number of years of qualifying service to be considered for pension.

5. We have heard the learned counsels for the parties and perused the pleadings available on record.

6. The issue remaining to be settled is as to whether the applicant is entitled for pension at all. It is the contention of the applicant and accepted by BSNL that the applicant was regularised as TSM on 01.10.2000 vide letter dated 21.03.2002 (Annexure-R/2 of their reply). They also acknowledge that he retired from service

on 31.05.2013. Hence, the only contention of the applicant is that he is entitled for the pensionary benefits, as only 10 years qualifying service is required for the same. The learned counsel for applicant has relied upon the judgment of Hon'ble Apex Court in ***Hari Chand Vs. Bhakra Beas Management Board and Others*** (supra). The association of this case clearly shows that this judgment is based on the service rules with regard to a specific post and hence, this judgment cannot be relied upon, more so, when BSNL has its own specific service rules which governs its employees and these rules have neither been produced by the applicant nor clarified by the respondents.

7. As this is a matter of record, the respondents are directed to examine this claim of the applicant and that having completed more than 10 years of service in BSNL , he is entitled to pensionary benefits as per BSNL rules. And if he is entitled to pensionary benefits, as per their rules, they shall pass a speaking order on this matter and give him interest of the GPF rate from the date of filing of this OA. This exercise shall be completed within a period of 60 days. Accordingly, the OA stands disposed of. No costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

'rk'