

**Central Administrative Tribunal
Principal Bench**

OA No. 2495/2017

Order reserved on: 06.08.2018
Order pronounced on : 16.08.2018

Hon'ble Mr. Pradeep Kumar, Member (A)

1. Sh. Mange Ram Sharma
Age 57, Telecom Technical Assistant, Group C,
S/o Hukam Chand
Employee No.D0400959
HM-10, Telegraph Lane,
New Delhi-110001.
2. Ms. Sneh Lata Rawat,
Age 44, Personal Assistant, Group C,
D/o Shri Vikram Singh,
Employee No. D0600352,
565, Sector 2, Sadiq Nagar,
New Delhi-110049.
3. Ms. Saroj Yadav,
Age 42, Sr. TOA (G), Group C,
D/o Krishan Anand,
Employee No. D0900634,
c/o Sanjay Yadav,
V & PO Kherki Daula,
NH-8, Distt. Gurgaon,
Haryana-122001.
4. Shri Sudhir Kumar
Age 43, Sr. TOA (G), Group C,
S/o Shri Om Prakash,
Employee No. D0900630,
K-70, Puran Nagar,
Palam Colony,
New Delhi-110045.
5. Irshad Khan,
Age 41, Liaison Officer, Group B,
S/o H.A.Khan,
Employee No. D3100153,
A-1/69, Om Vihar Phase-V,
Uttam Nagar, New Delhi-110059.

6. Shri Naresh Kumar Bhardwaj,
Age 51, Junior Accounts Officer, Group B,
S/o Shri Nandram Bhardwaj,
Employee No. D1700322,
43, Evergreen CGHS,
Plot No.9, Sector-7, Dwarka
New Delhi-110075.
7. Shri Tarun Kumar Mehta,
Age 41, Sr. TOA (G), Group C,
S/o Late Shri K.L.Mehta,
Employee No. D3100153,
E-3, Sector-15,
Noida.
8. Shri Deepak Bansal,
Age 41, Sr. TOA (G), Group C,
S/o Late Shri J.N.Bansal,
Employee No. D0900637,
KG-1/631, Vikas Puri,
Delhi-110018.
9. Shri Parveen Mamgai,
Age 41, Junior Accounts Officer, Group B,
S/o Late Anusoya Prasad,
Employee No. D0900629,
D-133, Moti Bagh-I,
New Delhi-11021.
10. Shri V.C.Sharma,
Age 44, Sr. TOA (G), Group C,
S/o Late Shri D.D.Sharma,
Employee No. D0900473,
F-90, Jagapuri,
Delhi-110051.
11. Shri Rajesh Mohan Sharma,
Age 57, Deputy Manager, Group B,
S/o Late Shri D.R.Sharma,
Employee No. D0901057,
H-109, Sector 9B,
Ajanara Pride, Vasundhara,
Ghaziabad, U.P.
12. Shri Narendra Singh Dahiya,
Age 49, Personal Assistant, Group B,
S/o Shri Hoshiar Singh,

Employee No. D3100160,
Village and Post Office Nahra,
Distt. Sonipat, Haryana-131103.

13. Shri Pallav Chaturvedi,
Age 46, Deputy Manager, Group B,
S/o Shri P.C.Chaturvedi,
Employee No. D0901057,
A-52, MTNL Flat No.GH-17,
Pachim Vihar,
New Delhi-110087.
14. Shri Vijay Guleria,
Age 42, SS (O), Group C,
S/o Shri Raghubansh Singh,
Employee No. D2300827,
G-28/69-70, Ist floor,
Sector-3, Rohini,
New Delhi-110085.

... Applicants

(By Advocate: Sh. Deepak Tyagi proxy for Sh. K.K.Gautam)

Versus

Union of India through

1. Secretary,
Ministry of Personnel, Public Grievances and Pensions,
Department of Pension and Pensioners' Welfare,
Lok Nayak Bhavan,
New Delhi-11003.
2. Secretary,
Ministry of Communication & IT,
Department of Telecommunication,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi-110001.
3. Secretary,
Department of Expenditure,
Ministry of Finance,
Central Secretariat,
North Block,
New Delhi-110001.

4. The Chairman-cum-Managing Director,
Mahanagar Telephone Nigam Limited,
Lodhi Road, New Delhi.

... Respondents

(By Advocate: Sh. Subhash Gosain and Sh. Saiful Islam)

ORDER

Heard the learned counsel for applicants and the learned counsel for respondents.

2. The applicants pleaded that the Mahanagar Telephone Nigam Limited (MTNL), a public sector company was carved out from the Department of Telecommunication (DOT) on 01.04.1986. Applicants had initially joined the DOT as Government employees in the year 1998 and were sent on deputation to MTNL. Their services were subsequently permanently absorbed in MTNL vide Ministry of Communication OM dated 29.10.1998. Applicants, being in Group-C & D, were required to exercise their option for absorption within the target date of 15.12.1998 and they were required to give their option in terms of the then prevailing Rule 37 (3) of CCS (Pension) Rules, 1972 which reads as under:

“Rule 37 (3)

Where there is a pension scheme in a body controlled by the Central Government in which Government servant is absorbed, he shall be entitled to exercise option to count the services rendered under the Central Government in that body for pension, OR to receive pro-rata retirement benefits for the services rendered under the Central Government in accordance with orders issued by the Central Government.”

3. Therefore, as per Rule 37 (3) quoted above, Government servants are given following two options for absorption:

(i) to count the services rendered under the Central Government in that body for pension;

or

(ii) to receive pro-rata retirement benefits for the services rendered under the Central Government.

4. It is noted here that for combined option 3 (i) above, a fund was to be set up while pro-rata retirement benefits in option 3 (ii) above were to be provided by MTNL. Thus, the employees had to exercise an option whether they want to revert back to their parent department, namely, Department of Telecom or they want to be absorbed in MTNL. For those who chose to be absorbed in MTNL, they were also required to exercise an option whether they want to be treated under combined pension or under pro-rata retirement benefits.

5. The applicants exercised the option to continue with MTNL and accordingly also exercised the option for pro-rata retirement benefits as per 3 (ii) above.

6. Subsequently, one another public sector company, namely, Bharat Sanchar Nigam Limited (BSNL) was also formed on 15.09.2000 and some employees of DOT were deputed to BSNL also. Those, who sought absorption in BSNL as per the extant rules and policy, were also permitted to exercise the option in respect of

combined pension (option (i) of Rule 37 (3) in para 3 above) or pro-rata retirement benefits (option (ii) of Rule 37 (3) in para 3 above) and those in BSNL were permitted to exercise this option with retrospective effect from 01.10.2000 vide Gazette Notification dated 03.03.2014.

This option, which was to be exercised in BSNL from retrospective effect from 01.10.2000, was also extended in respect of those absorbed in MTNL from 01.10.2000 onwards.

7. The case of the applicants, who were in MTNL, is that had the source of fund of such combined pension which were specifically advised as “consolidated fund of India” while seeking options from BSNL employees, been known to those absorbed under MTNL and who had already exercised their option as of 15.12.1998, perhaps some of the MTNL employees including applicants, may also have chosen combined pension as per option 3 (i), and not chosen pro-rata retirement benefits, as per 3 (ii), as the applicants actually chose in the instant case. Thus, he pleads that applicant be also given this option to chose combined pension or pro-rata retirement benefits now with effect from 15.12.1998. This is the cause in the present OA.

8. Learned counsel for the respondents pleaded that in the instant case those who were absorbed in BSNL were permitted on 03.03.2014 to exercise the option with retrospective effect from

01.10.2000 and, as a matter of equity, those absorbed in MTNL were also granted this benefit after agitation by MTNL employees. Respondents also brought out that it was MTNL employees who agitated and did not allow setting up of a fund for option 3 (i) above and demanded parity with BSNL employees, which was extended vide notification dated 03.03.2014.

9. The applicants had already exercised their option as of 15.12.1998 and they had chosen pro-rata retirement benefits as per 3 (ii) above. The applicant had already opted for the pro-rata retirement benefits and the retrospective application from 01.10.2000 affected only those who opted for combined pension as per 3 (i) above. Therefore, this retrospective application has not affected the applicant in any way and this is a long settled matter, hence it cannot be disturbed at this stage. Accordingly, the prayer of the applicant needs to be dismissed.

10. The matter has been heard at length. The applicants had both options and they chose one of these. It is too late in the day to plead today that source of fund in one of the option, was not specified and thus vitiated this option, cannot be accepted. The plea of the applicant, therefore, does not sustain. The OA is dismissed being devoid of merits. No order as to costs.

(Pradeep Kumar)
Member (A)

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