

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
(CIRCUIT BENCH AT JAMMU)**

...

OA No. 061/00021/2016 Date of decision- 17.11.2017

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Harcharan Singh Lahri, Age 70

Son of Late S. Mian Singh,

Resident of 342-Lower Belicharana Satwari Jammu Cantt., Jammu

Retd. D.E, BSNL, Jammu, (Group A).

...APPLICANT

BY ADVOCATE : Mr. A.K. Sharma.

VERSUS

1. Union of India
Through Secretary, Ministry of Telecommunications,
New Delhi.
(Sanchar Bhawan, 20 Ashok Road, New Delhi).
2. Chairman and Managing Director BSNL,
Corporate Office, New Delhi
3. Chief General Manager,
Telecom, BSNL, J & K Circle,
Jammu, Bahu Plaza, Rail Head, Jammu.
4. General Manager, BSNL, Telecom District, Jammu, Bahu
Plaza Rail Head, Jammu.
5. Sub Divisional Engineer (HRD) office of GMTD, BSNL,
Jammu, Bahu Plaza, Rail Head, Jammu.

...RESPONDENTS

BY ADVOCATE: Mr. Harshwardhan Gupta, counsel for respondent
no. 1.
Mr. Baldev Salathia, counsel for respondents no. 2 to
5.

ORDER**SANJEEV KAUSHIK, MEMBER (J):-**

The applicant challenged the correctness of order dated 18.02.2016 (Annexure A-9) whereby the respondents have granted him promotion with retrospective date i.e. 04.09.2002 on notional basis till he retired and have accordingly fixed his pay and pension.

2. We have heard learned counsel for the respective parties at considerable length.

3. What born out from the record is that the applicant is aggrieved against the action of the respondents in not granting him actual benefit when he was granted promotion w.e.f. 04.09.2002 and was allowed him notional promotion from that date till he retired and re-fix his pension accordingly.

4. Mr. Sharma, learned counsel for the applicant vehemently argued that action of the respondents in not granting the benefit from actual date when it was allowed to person junior to him is illegal and arbitrary, thus, impugned orders be invalidated and a direction be issued to grant him benefit from the date when he was given promotion. To support his case, he submitted that the applicant was one of the applicant in Civil Appeal No. 4339/1995 wherein their Lordship while deciding the appeal upheld the order passed by the Principal Bench following the principles laid down by the Allahabad High Court vide order dated 20.02.1985 approved by the Hon'ble Supreme Court vide judgment dated 08.04.1986. He submitted that subsequent to that when the respondents did not comply with the direction of the Lordship, then they filed contempt petition (C.P (C) no. 248/2007) which was disposed of vide order dated 25.03.2008 wherein it was held in para 19 that the respondents had to rearrange

the seniority in terms of the principles laid down in case of Parmanand Lal's restoring their earlier position and was not putting any employee over and above the petitioners like the present applicant. He, thus, submitted that the applicant become entitled for the all benefits which was extended by the respondents to Parmanand Lal (supra), but by not granting him the actual benefit from the date when junior was promoted, thus, there is a violation of direction of the Lordship in Contempt Petition.

5. Per contra, learned counsel for the respondents vehemently opposed the prayer and submitted that directions were issued to rearrange the seniority in terms of the principles laid down in Parmanand Lal's case. Since they have already complied with the direction therein by granting not only seniority from an earlier date, they have also given him notional promotion from the date of his entitlement. Therefore, there is no violation as alleged by the applicant. He also submitted that in furtherance to notional promotion from an earlier date, they have also issued revised PPO and granted the benefit regarding pension. He has also produced a copy of order dated 08.02.2017 issuing revised PPO, which has already been taken on record.

6. We have given our deep consideration to the entire matter and have perused the pleadings as available on record.

7. In view of the aforementioned facts, we are of the considered view that the applicant has no case. Perusal of order of the Hon'ble Supreme Court in contempt petition, makes it clear that directions were issued to re-fix the seniority of the applicants as per the principles laid down in case of Parmanand Lal's (supra) which the respondents have already complied with and in furtherance thereto,

they have granted him promotion from the date when junior was promoted i.e. 04.09.2002, notionally. While allowing the retrospective promotion from earlier date, they have granted notional benefit but the actual benefit has been granted from the date when the applicant retired from service by refixing his pay. Argument raised by the applicant is that since they have allowed actual benefit to the applicant as in the case of Parmanand Lal's case (supra), therefore, the applicant be also given the benefit. We are afraid that this argument can be allowed. As noticed above, directions in contempt petition before the Hon'ble Supreme Court was only to rearrange the seniority in terms of the principles laid down in case of Parmanand Lal's case (supra) and there is no whisper for grant of actual benefit from the date when retrospective promotion was given to the applicant as the applicant did not work on that post, therefore, we find no fault in the view taken by the respondents in granting the benefit notionally and actually from the date when he retired on the principle of no work no pay.

8. In above backdrop of the matter, O.A is dismissed being devoid of merit. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 17.11.2017.

'jk'