

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO. 063/01039/2017

Chandigarh, this the 23rd day of April, 2018

...

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

...

Bhagat Ram, HRMS No.200004498, Aged 44 years, S/o Sh.Hazru Ram, working as Lorry Driver O/o Additional General Manager, Telecom Project, Shimla-171001 (H.P). Group C.

....APPLICANT

(By Advocate: Shri Saneep Siwatch)

VERSUS

1. Union of India, through the Secretary to Govt. of India, Ministry of Communications & Information Technology, Department of Telecommunications, New Delhi.
2. Bharat Sanchar Nigam Limited through its Chairman-Cum-Managing Director, Harish Chander Mathur Lane, Janpath, New Delhi.
3. Chief General Manager H.P Circle, Bharat Sanchar Nigam Limited, SDA Complex, Block No.11, Kasumpti, Shimla-9.
4. General Manager Telecom District, BSNL, Himuda Complex Saproon, District Solan, Himachal Pradesh.

....RESPONDENTS

(By Advocate: Shri K.K. Thakur)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

Present Original Application (O.A.), has been filed by the applicant, seeking the following reliefs:-

"1. Quash order dated 25.03.2017 (Annexure A-1) issued by the respondent NO. 2 and Order dated 16.03.2017 (Annexure A-2) vide which claim of the applicant to grant him benefit of judgment and promote him under NEPP, as it was granted to his juniors and similarly situated persons who approached this Hon'ble Tribunal by filing O.A. No. 279/HP/2012 decided on 16.01.2013 (A-10) titled as Sanjay Kumar and Others Versus UOI and Others, upheld

by the Hon'ble Himachal Pradesh High Court in CWP No. 2196/2013 decided on 08.10.2015 (Annexure A-11) and upheld by the Hon'ble Supreme Court in SLP © no. 12125/2016 decided on 01.08.2016 (A-12), has been ejected on the ground that he is not party in that case.

2. Direct the respondents to treat the applicant employee of erstwhile Department of Telecom and not BSNL with all the consequential benefits including grant of benefit of Non Executive Promotion Policy w.e.f. due date and restoration of his pay fixation, as if the impugned orders have never been passed, by extending the benefit of judgment rendered by this Hon'ble Tribunal in O.A. No. 279/HP/2012 decided on 16.01.2013 (A-10) titled as Sanjay Kumar and Others versus UOI and Others, upheld by the Hon'ble Himachal Pradesh High Court in CWP No. 2196/2013 decided on 08.10.2015 (Annexure A-11) and upheld by the Hon'ble Supreme Court in SLP © no. 12125/2016 decided on 01.08.2016 (A-12)."

2. Facts are not in dispute.

3. Shri Sandeep Siwatch, learned counsel appearing for the applicant, vehemently argued that the impugned order cannot be sustained as having been passed contrary to law. He submitted, that the applicant is entitled for grant of benefit of judgment of this Tribunal rendered in O.A. No. 279/HP/2012 titled **Sanjay Kumar and Ors. Vs. Union of India & Ors.** decided on 16.01.2013, which has been affirmed upto Hon'ble Supreme Court, whereas the applicant was denied the benefit only on the ground that he was not party to the said decision. He also placed reliance on order passed by this Tribunal in O.A. No. 060/00750/2017 titled **Poopathi & ors. Vs. Union of India & Ors.** decided on 17.02.2018 wherein similar plea raised by the respondents for denying the benefit has been rejected by the Tribunal. Therefore, learned counsel submits that the impugned order be quashed and set aside, the respondents be directed to decide is claim by considering the ratio laid down in the relied upon case and also in the latest case of **Sanjay Kumar** (supra).

4. Learned counsel for respondents is not in a position to support the impugned order.

5. Considering the above noted fact, the present O.A. is allowed, the impugned order is set aside, the matter is remitted back to the respondents to consider the case of applicant, in the light of decision rendered in the case of Sanjay Kumar (supra). If the applicant is found similarly situated, then the benefit of the decision be extended to him, within a period of one month from the date of receipt of certified copy of this order otherwise reasoned order be passed and communicated to him. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 23.04.2018

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