

**Central Administrative Tribunal
Madras Bench**

OA 310/00551/2018

Dated Monday the 10th day of September Two Thousand Eighteen

P R E S E N T

**Hon'ble Shri. R.Ramanujam, Member(A)
&
Hon'ble Shri. P. Madhavan, Member (J)**

M. Ganesan
Senior Telephone Supervisor (O)(Retired)
3/297, Bharathi Nagar, Thuraiyur Road
M. Pudhupatti, Musiri 621 211. .. Applicant

By Advocate **M/s N.K. Srinivasan**

Vs.

1. Union of India
Rep. by Secretary to Government
Department of Telecommunications
Sanchar Bhavan, 20-Ahoka Road
New Delhi 110 001.
2. The Chairman and Managing Director
Bharat Sanchar Nigam Limited
Harichandra Mathur Lane, Janpath
New Delhi 110 001.
3. The Chief General Manager
Bharat Sanchar Nigam Limited
Tamil Nadu Telecom Circle
7th Floor, BSNL Admin Building
No. 16, Greams Road, Chennai 600 006.
4. The Assistant General Manager (Admn)
O/o. Principal General Manger, BSNL
No. 1, Bharathidasan Salai, Trichy 620 001. .. Respondents

By Advocate Mr. G. Prabhakar (R3-4)

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

The applicant has filed this OA seeking the following relief:-

“To set aside the order No. AGM (Staff) TN Cricle, CNI ltr. No. TSB/18-74/2016/13 and No. E11/NEPP/Retd.TOAP/10-11/7 dated 22.11.2017 and 16.12.2017 issued by the 3rd and 4th respondents and direct the respondents to grant an extra increment one year prior to his superannuation i.e. from 01.05.2010 for pension and pensionary benefits based on the Judgment of Hon'ble Kerala High Court and Hon'ble Tribunals of Ernakulam and Chandigarh Bench within a period of time as stipulated”

2. It is submitted that when the applicant was working in the erstwhile Department of Telecom, a promotional scheme was introduced to grant one Time Bound Promotion (TBP) on completion of 16 years of service and for a Biennial Cadre Review (BCR) after completion of 26 years of service. Since many of the employees were retiring without further promotion, the administration also came forward and agreed that 10% employees of BCR grade would be granted Grade IV. It was also agreed that one extra increment would be granted to BCR Grad-III employees one year prior to the retirement for the purpose of pension and pensionary benefits. The applicant opted to remain in the scheme of erstwhile TBP/BCR. However, the respondent did not consider the applicant for granting the benefit of one extra increment one year prior to his superannuation.
3. The applicant made a representation to the respondents to consider his

request based on a decision of the Ernakulam Bench of this Tribunal but his claim was rejected on the ground that the applicant was not party in that OA. It is alleged that if the respondents were not inclined to grant the benefit of one extra increment one year prior to superannuation, then it was obligatory on their part to bring him under the Non-Executive Promotion Policy (NEPP) at the option of the individual which was explicitly provided for in the order No 27-7/2008-TE-II dated 23.03.2010 issued by the 2nd respondent. However, the applicant has neither been granted one extra increment one year prior to his superannuation nor brought under the NEPP which resulted in a reduced pension to the applicant. Hence this OA.

4. It appears that the notice was directed to be issued to the respondents on 26.04.2018. No reply has been filed so far. However on 27.6.18 Mr. G. Praphakar appeared for the respondents and requested for adjournment. Accordingly the matter was posted for 13.07.2018 and further adjourned to 30.08.2018 and 10.09.2018.

5. Learned counsel for the applicant would submit that the applicant was aggrieved by Annexure A9 order of the 4th respondent who rejected the claim of the applicant in spite of the fact that the order of the Ernakulam Bench of this Tribunal in OA 91/2011 dated 15.03.2012 and the order of the Hon'ble Kerala High Court in OP (CAT) No. 4133 of 2012 dated 03.07.2015 was produced in support of his claim. The rejection of the applicant's claim had been made without passing a speaking order but through a mere intimation that it was not feasible to

extend the benefit arising out of the order of the CAT, Ernakulam Bench to similarly placed officials who were not party to the OA.

6. As no reply is received and since the impugned order is non-speaking, we are of the view that this OA could be disposed of by directing the competent authority to consider the applicant's claim in the light of the order of the CAT, Ernakulam Bench in OA 91/2011 dated 15.03.2012 and the order of the Kerala High Court in OP (CAT) No. 4133 of 2012 dated 03.07.2015 and pass a reasoned and speaking order within a period of two months from the date of receipt of copy of this order. The claim of the applicant shall not be rejected only on the ground that he was not a party in the said OA / WP, if he is otherwise similarly placed as such a stand is impermissible in law.

7. OA is disposed of.

(P. Madhavan)
Member (J)

10.09.2018

(R. Ramanujam)
Member (A)

AS