

**Central Administrative Tribunal
Madras Bench**

OA/310/00312/2017

Dated the 28th September Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr.P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

1. M.Jothisivam
2. M.Abdulkhan
3. M.Nagarajan
4. S.Sadasivam
5. K.Balan
6. K.Maha Gandhi
7. R.Elangovan
8. P.Thilakar
9. P.Ranganathan
10. V.Kumar
11. K.Ramar
12. V.Sadasivam
13. G.Rajendharan
14. S.Raja
15. R.Subramanian
16. T.Paramasivam
17. S.Thirumalai
18. Thiruvenkata Vijayan
19. S.Thiyagarajan
20. C.Karunakaran .. Applicants

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

Vs.

1. The Chairman Telecom Commission & Secretary(T), Department of Telecommunications, Sanchar Bhavan, No.20, Ashoka Road, New Delhi 110 001.

2. The Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Harichandra Mathur Lane,
Janpath, New Delhi 110 001.
3. The Principal Controller of Communication Accounts,
Tamil Nadu Circle,
7th Floor, R.K.Nagar Telephone Exchange Building,
238, R K Mutt Road, Chennai 600 028.
4. The Chief General Manager, BSNL,
7th Floor, BSNL ADMN Building,
16, Greams Road, Chennai 600 006.
5. The General Manager, BSNL,
O/o General Manager, BSNL,
No.1, Seerangapalayam (West),
Salem 636007.
6. The Senior Accounts Officer(Drawals),
O/o General Manager, BSNL,
No.1, Seerangapalayam (West),
Salem 636007. .. Respondents

By Advocates **Mr.K.Kannan(R1&3), Mr.S.Udayakumar (R2,4-6)**

ORDER

Pronounced by Hon'ble Mr.P.Madhavan, Member(J)

The applicants were working as Telecom Mechanics in Salem SSA from 06.6.2000. The applicants seek the following relief(s) in the OA:-

“It is prayed that this Hon'ble Tribunal may be pleased to set aside and quash the letters issued by the Aos vide (1) Memo No.A/RM-TM (Rev)/2015-2016 dt. 08.01/2016; (2) No.AO(D)/Genl-ERP/2015-16 dt. 1st March 2016 and (3) A.O (Staff)/Slm/TM-Pay-Fix/2016-17/21 dated 02.12.2016;

to declare the Order of DOT, New Delhi vide OM No.1-1(1)/06-PAT dt. 17.12.2008 is inapplicable to the officials recruited and promoted during the period of DOT i.e. before the formation of Bharat Sanchar Nigam Limited;

to direct the respondents to restore the Basic Pay of the applicants (Rs.19,290/-) and repay the amount deducted till date;

to award costs and pass such further and other orders as may be deemed fit and proper and thus render justice.”

2. The applicants case is that they were appointed as Telecom Mechanics on 06.6.2000 and they were given an option to fix their pay on promotion from the next date of increment in the substantive post as per FR 22-C (FR 22(1)(a)(i). Thereafter, he was absorbed into BSNL w.e.f. 01.10.2000. Successive pay fixation had taken place after the formation of BSNL. Now the respondents, without giving prior notice had reduced the pay of the applicants unilaterally from Rs.19,290/- to Rs.18,300/- w.e.f. 2016. The respondents had not given valid grounds for reducing the pay. Accordingly, they filed OA 776/2016 challenging the action of the respondents. The

Tribunal then directed the respondents to consider the representations of the applicants and pass an order. But the respondents had passed an evasive order without touching the crux of the matter. The applicants had produced the impugned orders passed by the respondents as Annexure A2 and A9.

3. The respondents entered appearance and filed a reply denying the averments. According to them, the applicants were working as regular Mazdoors and they had undergone training of Telephone Mechanic and owing to paucity of technicians, they were posted as Line Man temporarily. They were posted as Telecom Mechanic w.e.f. 06.6.2000. At the time of fixing pay, basic pay of the temporary post of Line Man was taken instead of the scale of substantive post of Regular Mazdoor. The Controller of Communication Accounts (DOT Pension Cell) had objected to this and held that it is erroneous. All applicants who got promotion on 06.6.2000 as Telecom Mechanic was allowed to exercise option to fix the pay in new scale from date of promotion or from the next date of increment. According to the respondents, refixation memos were issued individually to all applicants and also regularization of pay was informed on 01.3.2013 as per Annexure A3.

4. The counsel for the applicants would submit that the respondents had unilaterally reduced the pay even though the option for fixation of pay was given to the DOT prior to the absorption of BSNL. So they have no right to reduce the pay now. The counsel appearing for respondents would contend that there has taken place an error in fixing the pay of Telecom Mechanic as their pay was fixed taking the pay of Line Man instead of regular Mazdoors and it is the main reason for the difference

in pay occurred in the case of applicants. The applicants had filed option to form part of BSNL and it was accepted by BSNL in 2002 itself. Now the applicants are not employees of DOT and they cannot seek protection of FR. According to him, IDA pay scale was introduced and accordingly pay was revised w.e.f. 07.8.2002 with retrospective effect. The applicants are now paid industrial Dearness Allowance pay scales instead of Central DA pay scales. The DOT had issued an OM clarifying the position as per Annexure R2. It is clearly stated in the above OM dated 17.12.2008 that the option for fixing the pay from the next increment date available under FR 22 will not be available for employees of BSNL as their status has changed w.e.f. 01.10.2000. The respondents in support of its case has produced a copy of judgment of the Hon'ble High Court of Madras in WP No.40807/16 dated 09.1.2018 wherein the High Court has taken such a view.

5. We have anxiously gone through the application and reply given by both sides. It is to be noted that the applicants had become part of BSNL by giving an option and now they form part of BSNL. The pay and other allowances are decided on IDA scale. The DOT OM dated 17.12.2008 has clearly stated that the erstwhile DOT workers cannot now claim the benefits given under FR 22 and no refixation can be given on the date of next increment. The applicants had not challenged the above decision contained in DOT Memorandum dated 17.12.2008. It was clarified that the FR 22 has no application after absorption into BSNL. Further, it is also brought to light that the fixation of pay done after appointment as Telecom Mechanic was done defectively taking the scale of post of Line Man which was held temporarily by the

applicants.

6. Therefore, we are of the view that there is no merit in the contention and they are not entitled to get any of the reliefs prayed for in this case. OA is dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

28.09.2018

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