

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

Original Application No. 260/00605 of 2011
Cuttack, this the 26th day of September, 2017

CORAM
HON'BLE MR. S.K.PATTNAIK, MEMBER (J)
HON'BLE DR. M. SARANGI, MEMBER (A)

.....

Krushna Chandra Mohapatra,
Aged about 62 years,
S/o- Late Rama Chandra Mohapatra,
Retired Sr. Section Supervisor,
Office of the Superintending Engineer (Electrical),
BSNL Electrical Circle, Bhubaneswar,
at present residing in Plot No. N/6-309,
IRC Villate, Bhubaneswar-751015.

...Applicant

Advocates: M/s. G.Rath, A.K.Mohanty, S.Rath.

VERSUS

Union of India represented through

1. Chairman cum Managing Director,
Bharat Sanchar Nigam Ltd.,
Bharat Sanchar Bhawan,
Harish Chandra Mathur Lane,
Janpath, New Delhi-110001.
2. Chief Engineer (Civil),
BSNL Civil Coordination circle,
BSNL Orissa Zone, Door Sanchar Bhavan,
Bhubaneswar-751022.
3. Superintending Engineer (Electrical),
BSNL Electrical Circle, 92,
Saheed Nagar (Ground Floor),
Bhubaneswar-751007.

..... Respondents

Advocate(s) : Mr. K.C.Kanungo

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ORDER

S.K.PATTNAIK, MEMBER (JUDL.):

The applicant has filed this O.A. for a direction to the Respondents to grant one extra increment in the scale of pay of BCR Grade-III from 1.5.2008 till 30.04.2009, i.e. for one year, and to take it into account for calculation in his pension. Applicant has challenged the inaction of the Respondents in not granting him one extra increment in the scale of pay of Rs. 7,800-11,175/- w.e.f. 01.05.2008, i.e. one year prior to his date of retirement, for pensionary benefits, which was granted to all Grade-III staff of BSNL who are covered under the OTBP/BCR Scheme of Department of Telecommunication (BSNL) vide BSNL Corporate Office Circular dated 18.11.2003 (Annexure-A/5).

2. Applicant's case in short runs as follows:

The Department of Telecommunication vide its letter dated 16.03.1994 (Annexure-A/1) extended the TOA pattern to the clerical staff of Telecom Civil Wing recruited prior to 01.10.1986. The applicant exercised his option to switch over to TOA pattern from the LDC-UDC pattern. Applicant was placed in the TOA cadre w.e.f. 5.3.1991. Subsequently, the Department of Telecom Services and Department of Telecom Operations were corporatized as Bharat Sanchar Nigam Ltd. (BSNL) w.e.f. 1.10.2000. Applicant like other employees was permanently absorbed in BSNL retrospectively w.e.f. 1.10.2000. Further case of the applicant is that on switch over to the TOA pattern and after completion of 26 years of service, applicant was promoted to the next higher grade of TOA(G) Gr. III w.e.f. 07.04.2003 under the BCR

Scheme of the restructured cadre. Cause of action for the present case arose on 18.11.2003 (Annexure-A/5) when BSNL corporate office issued an order for grant of one extra increment in BCR Grade-III from a date one year prior to the retirement to those Group-C officials, who were in BCR Grade-III and were unable to get BCR Grade-IV promotion. Further grievance of the applicant is that he was not granted the extra increment from 1.5.2008 onwards even though he retired from service w.e.f. 30.04.2009. In the meantime, BSNL corporate office introduced a policy for promotion of its non-executives (NEPP) vide its letter dated 23.03.2010 (Annexure-A/11) under which grant of one extra increment issued vide letter dated 18.11.2003 was withdrawn with immediate effect. Further BSNL corporate office vide its letter dated 04.05.2011 (Annexure-A/13) clarified that cases settled prior to issue of order dated 23.03.2010 need not be reopened. The sole contention of the applicant is that he is entitled to extra increment w.e.f. 1.5.2008 and the Respondents arbitrarily denied him such benefits under the pretext of an order dated 23.03.2010 (Annexure-A/11).

3. Respondents contested the case by filing counter. According to the Respondents as per BSNL corporate office letter dated 28.05.2009 (Annexure-R/1) it was intimated to all concerned that officials who have opted for the Restructured Cadre are not eligible for the benefit of one extra increment as the scheme is only applicable to official working in the Pre-Restructured Cadre (PRC) and there is no OTBP/BCR Scheme in the Restructured Cadre. Further case of the Respondents is that

subsequently the office of the CGMT Bhubaneswar vide its letter dated 15.06.2009 (Annexure-R/2) has clarified that no extra increment is to be granted to the officials in the Restructured Cadre and extra increment granted to the officials of Restructured Cadre may be withdrawn immediately and the amount paid be recovered from their salary. According to the Respondents, since the applicant had opted for Restructured TOA Cadre on account of conversion of the existing cadre vide letter dated 16.03.1994 and 19.08.1994, he is no more in the Pre-Restructured Cadre of OTBP/BCR and as such grant of extra increment one year prior to retirement is not admissible to the officials in the Pre-Restructured Cadre of OTBP/BCR and as such the applicant is not eligible for the benefits.

4. The whole case has been filed and fought under a misconception. The letter dated 28.05.2009 given by the corporate office to the Chief General Manager, Orissa Telecom Circle, clinches the issue which is extracted in verbatim to avoid all confusion and misrepresentation.

*“To
The Chief General Manager,
Orissa Telecom Circle,
Bhubaneswar.*

SUB: Grant of one extra increment in BCR Grade III to Non-Executive staff of BSNL covered under OTBP/BCR Scheme, one year prior to retirement.

Please refer to your Office letter No. ST-20/8-129/2002 dated 30/03/2009 on the above mentioned subject forwarding therewith a representation of Shri Sushanta Kumar Nayak, Sr. TOA(G) Gr.-III.

The matter has been examined in BSNL Corporate Office and it is clarified that the extra increment in BCR Gr. III granted vide BSNL C.O. letter of even no. dated 18/11/2003 is to be granted only to the officials working in the cadres, which are covered under OTBP/BCR schemes. Accordingly, since OTBP/BCR schemes are applicable for the officials working in the Pre-restructured Cadre (PRC) and there is no OTBP/BCR Scheme in the Restructured Cadre (RC), the officials, who have opted for the Restructured Cadre, are not eligible for the benefit of one extra increment.

In the instant case, since the official Shri Sushanta Kumar Nayak had opted for the Restructured Cadre, he is not eligible for being granted the extra increment in BCR Gr.III, one year prior to his retirement. Hence, the official may be informed accordingly.

*(BRIJESH TYAGI)
Asst. General Manager (TE-II)"*

5. Applicant could have been granted a benefit of one increment had he been working in Pre-Restructured Cadre. Since there is no OTBP/BCR Scheme in the Restructured Cadre, naturally the officials who had opted for Restructured Cadre are not eligible for one extra increment. Since the applicant himself had opted for a Restructured Cadre, he cannot be permitted to reap the benefit of a scheme applicable to official working in Pre-Restructured Cadre. In the said letter dated 28.05.2009, it has been clearly averred that the present applicant had opted for the Restructured Cadre and as such not eligible for being granted the benefit of one extra increment in BCR Grade-III one year prior to his retirement.

6. Knowing fully well that he is not eligible for extra increment, the applicant had not agitated his claim prior to his retirement in 2009 and wasted valuable time of this Tribunal by filing frivolous

litigation in 2011 that too without any substantive right. We would have imposed heavy exemplary cost on the applicant for misusing a judicial forum but, by way of judicial restraint, we refrain from doing so. Since there is nothing wrong in the circular or approach of the department, no interference is called for. Hence ordered.

7. O.A. being devoid of merit is dismissed. No costs.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)

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