

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/940/2017

Date of decision: 24.01.2019

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

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1. Harinder Singh, No.199900622 S/o Sh. Shingara Singh, working as Sub Divisional Engineer
2. Gurpreet Singh Plaha, HRMS No.199802221 S/o Sh. Joginder Singh Plaha, working as Sub Divisional Engineer
3. Mal Singh, No.199702639 S/o Sh. Gurbakhash Singh, working as Sub Divisional Engineer
4. Mukhtiar Singh, No.198308602 S/o Sh. Kur Singh, working as Sub Divisional Engineer
5. Paramjit Kaur, No.19800669, working as Sub Divisional Engineer
6. Ranjit Kaur, No.198800840 W/o Sh. Gurpreet Singh, working as Sub Divisional Engineer
7. Ravi Sharma, No.199702633 S/o Late Sh. Parja Ram Sharma, working as Sub Divisional Engineer
8. Romesh Chander, No.198306760 S/o Sh. Chaman Lal, working as Sub Divisional Engineer
All working under General Manager Telecom District, Bharat Sanchar Nigam Limited, Ludhiana.
9. Suriinder, Age 63 years S/O Late Sh. Nek Chand, Retired Sub Divisional Engineer, R/O House No. 44, Panchsheel Vihar, Part-II, Barewal, Ludhiana-141012.

**... APPLICANTS
VERSUS**

1. Bharat Sanchar Nigam Limited (A Govt. of India Enterprise), through its Chairman-cum-Managing Director, Corporate Office, Personnel-1 Section, 4th Floor, Bharat Sanchar Bhawan, Janpat, New Delhi.
2. Chief General Manager Telecom, B.S.N.L., Punjab Circle, Sector 34A, Chandigarh.
3. General Manager Telecom, Bharat Sanchar Nigam Limited, Telecom District Ludhiana.
4. Union of India through Secretary to Government of India, Ministry of Communication and Information Technology, Department of Telecom, Sanchar Bhawan, New Delhi.
- 5.

... RESPONDENTS

PRESENT: Sh. R.K. Sharma, counsel for the applicants.

Sh. D.R. Sharma, counsel for respondents No.1 to 3.

Sh. Ram Lal Gupta, counsel for respondents No.4.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. By means of the present O.A., the applicants assail order dated 28.02.2017 (Annexure A-1), order dated 15.05.2017 (Annexure A-2 to A-8) and order dated 13.07.2017 (Annexure A-16 colly).
2. Broadly, facts are not in dispute.
3. The applicants initially joined the respondent department as Junior Telecom Officer (for short "JTO") on different dates mentioned in para 2 of the O.A. and were placed in the pay scale of Rs.6500-10500. On formation of BSNL, their services were absorbed in BSNL and pay scale was converted from CDA to IDA in the scale of Rs.9850-250-14600. Next promotional post from the post of JTO is Sub Divisional Engineer (for short SDE), for which a JTO after rendering three years service, is eligible for promotion both under Limited Departmental Competitive Examination as well as Seniority-cum-Fitness under the respective quota. Post of SDE at the relevant time was in the pay scale of Rs.7500-250-12500, revised to Rs.11875-300-17275. It is the case of the applicants that Departmental Promotional Committee considered the case of applicants for promotion to the post of SDE and they were promoted on different dates during 2002 to 2005 on officiating basis instead of giving them regular promotion. Initially, they were promoted on officiating basis for a period of 179 days only and that was extended for another terms and they continued to perform duty as SDE. On availability of regular posts in the cadre of SDE, they were actually promoted in the year 2009 on regular basis and at that time they were also granted one increment under FR 22(1)(a)(1). At that time, respondents also took a decision to protect

their pay which they were getting at the time of officiating SDE. In the year 2012, respondents decided to withdraw pay scale by issuing order dated 24.08.2012 that became subject matter before this Tribunal in O.A. No.1394/PB/2012. Initially, this Court stayed operation of the impugned order and recovery thereto, which was ultimately disposed of on 10.02.2014 with liberty to the applicants to submit representation, which was to be decided by the respondents by passing a reasoned and speaking order and till such time, interim order was allowed to continue. It is thereafter, the respondents passed orders dated 15.10.2015/21.10.2015 (Annexure A-30). Aggrieved against that order, applicants filed CP No.60/187/2015 as order was in violation of direction of this Court which was not entertained. As such they filed O.A. No.60/1050/2015. Pending O.A., the respondents withdrew pay fixation orders 15.10.2015/21.10.2015 vide order dated 4.1.2016. Thus, the O.A. was disposed of on 8.1.2016. Order dated 4.1.2016 was challenged by the applicants by filing O.A. No.60/79/2016. During the pendency of that O.A., an identical matter came up before the Madras Bench of the Tribunal in O.A. No.310/440/2014 titled **P.K. Sethuraman and others vs. Union of India and Ors.** which was decided on 12.07.2016 directing the respondents to protect the pay already fixed and recovery made by them was held to be illegal. Accordingly, the O.A. filed by the present applicants was disposed of vide order dated 6.10.2016 in the same terms as in the case of P.K. Sethuraman and others (supra). When respondents did not comply with the order then applicants filed CP No.25/2017. During pendency of CP, the respondents passed

impugned orders, which applicants have challenged in this OA by taking various grounds.

4. Learned counsel for the applicants submitted that once a view has been expressed by the Madras Bench of the Tribunal in the case of **P.K. Sethuraman** (supra) then respondents cannot discriminate amongst the similarly placed persons, therefore, he prayed that the impugned orders be set aside and respondents may be directed to restore pay which the applicants were getting while officiating SDE and also grant one extra increment in terms of FR 22(1)(a)(1). Learned counsel for the applicants also referred to order passed by the Principal Bench of Tribunal in O.A. No.2649/2017 titled **All India Bharat Sanchar Nigam Limited Executive Association vs. U.O.I.** and Ors. where the identical issue has been considered and it has been held that applicants therein were entitled to protection of their pay which they were getting at the time of holding officiating charge as SDE and they were to be given one extra increment on regular promotion. It is therefore, prayed that the impugned orders be quashed and set aside and respondents may be directed to grant them same benefit as has been granted to applicants before the Principal Bench.
5. Learned counsel for the respondents did not dispute the fact that the similar issue had come before Madras Bench and also before Principal Bench and stands clinched in favour of the employees. He very fairly submitted that accepting the orders of the Principal Bench, respondents have passed order dated 11.05.2018 (Annexure A-47) whereby applicants therein have been granted benefit.

6. We have given our thoughtful consideration to the entire matter and are in agreement with the submissions made at the hands of the applicants that this petition deserves to be allowed for the simple reasons that Association i.e. All India Bharat Sanchar Nigam Limited Executive Association was before Principal Bench where similar issue was raised and once a Court of law has allowed petition qua Association then it is to be applied across the cadre without forcing similarly placed persons to approach Court of law for the same very benefit which has been allowed in representative capacity. Learned counsel for the respondents endorses that the order has been applied across similarly placed persons. However, he submitted that let matter be remitted back to the respondents to reconsider the same in the light of orders passed by Principal Bench and Madras Bench of the Tribunal, qua the applicants also.

7. Accordingly, the impugned orders are hereby quashed and set aside and matter is remitted back to the respondents to reconsider the case of the applicants in terms of above indicated decisions and accordingly they be granted benefit expeditiously but not later than three months from the date of receipt of a certified copy of this order. No costs.

(P. GOPINATH)
MEMBER (A)

Date: 24.01.2019.
Place: Chandigarh.

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(SANJEEV KAUSHIK)
MEMBER (J)