

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/20/709/2017

Dated: 01/01/2019

Between

U. Chakra Rao,
S/o. Late U. Nookaraju,
Aged about 49 years,
Occ: Draughtsman,
O/o. Sub Divisional Engineer (CAF),
PGMTD, BSNL Bhavan,
Krishna SSA,
Vijayawada ó 520 004.

... Applicant

AND

1. Union of India rep. by
the Secretary,
Dept. of Telecommunications,
20 Ashoka Road,
New Delhi ó 1.
2. The Bharat Sanchar Nigam Limited rep. by its
Chairman-cum-Managing Director,
BSNL Corporate Office, Barakumba Road,
Statesman House,
New Delhi ó 1.
3. The Chief General Manager,
A.P. Circle (BSNL), Chuttugunta,
BSNL, Vijayawada.
4. The Principal General Manager,
BSNL Telecom District,
Vijayawada.
5. The Sub Divisional Engineer (CAF),
O/o General Manager Telecom District,
BSNL, Vijayawada ó 520 004.

... Respondents

Counsel for the Applicant	:	Dr. A. Raghu Kumar
Counsel for the Respondents	:	Mrs. K. Rajitha, Sr. CGSC Mr. M.C. Jacob, SC for BSNL

CORAM :

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER

(Per Honøble Mr. Justice L. Narasimha Reddy, Chairman)

The applicant was appointed as Draughtsman in the department of Telecommunications in the year 1989. Later on, he became the employee of Bharat Sanchar Nigam Limited (for short ó BSNL). He was upgraded to the post of Draughtsman Gr-II before he completed 12 years of service. That benefit however was withdrawn in the year 2012 in view of the judgement of the Honøble Supreme Court. Before such withdrawal, the applicant opted to be governed by Non-Executive Promotion Policy (for short- NEPP) of 2010. This O.A. is filed with a prayer to declare the inaction of the respondents in not granting the first financial upgradation on completion of 12 years under the Assured Career Progression Scheme (for short ó ACP). He contends that once the benefit of upgradation to Draughtsman Gr.II was withdrawn, an occasion arises for extending the benefit of 1st ACP.

2. The respondents filed a counter affidavit opposing the O.A. They stated that the benefit of ACP can be granted only when an employee does not get promotion/ upgradation and when the applicant got the benefit of upgradation as Draughtsman Gr.II, he cannot claim the benefit of 1st ACP.

3. We heard Dr. A. Raghu Kumar, learned counsel for the applicant, Smt. K. Rajitha, learned Senior Central Government Standing Counsel and Sri M.C. Jacob, learned Standing Counsel for BSNL.

4. The claim in this O.A. is for extension of the benefit of the first upgradation under the ACP Scheme. Under the ACP scheme, an employee gets entitled to be extended the benefit of one upgradation on completion of 12 years of service and another on completion of 24 years of service, in case he did not get any promotion during that period. It is not in dispute that the applicant was extended the benefit of upgradation as Draughtsman Gr.II before he completed 12 years of service. It was withdrawn in the year 2012 in the light of the judgement of the Honøble Supreme Court. However, two years earlier to that, the applicant opted to be governed by NEPP. That would disentitle an employee for claiming the benefit under ACP/ MACP Scheme.

5. In case, the applicant wants the benefit of 1st ACP, he should return to the department whatever benefit he has enjoyed on account of the upgradation to the post of Draughtsman Gr.II. The question as to whether such a course is permissible, if chosen by the applicant, needs to be examined by the respondents. As of now, the issue has not been examined from that angle. The applicant has to make a representation in this behalf. Therefore, we dispose of the O.A., leaving it open to the applicant regarding the extension of benefit of 1st ACP, duly offering to refund whatever benefit he has obtained on account of the upgradation to the post of Draughtsman Gr.II. On such representation being made, the respondents shall pass a speaking order in accordance with the relevant

provisions of law, within a period of three months from the date of receipt of a copy of the order. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

pv