

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/01016/2017

Date of CAV : 12-11-2018

Date of Order : -11-2018

Between :

D. Moulali S/o D. Kasaiah,
Aged about 61 years, Telecom Mechanic,
HRMS No.198205041, retired from GMTD,
BSNL Guntur and now resident of D.No.10-65,
Chenavaripalem, Nallapadu, Guntur,
Andhra Pradesh.

....Applicant

AND

1. The Pr. Controller of Communication, Accounts,
(Attached office), A.P. Telecom Circle, 1st Floor,
CTX Building, Kaleswara Rao Market,
Vijayawada – 520 001.
2. The General Manager, Telecom District,
BSNL, Rajahmundry.
3. The Chief General Manager, Telecom, A.P.
Circle, BSNL, Doorsanchar Bhawan, Nampally,
Station Road, Abids, Hyderabad-500 001.
4. The Chairman & Managing Director,
BSNL Corporate Office, Bharat Sanchar Bhavan,
4th Floor, Janapath, New Delhi.
5. The Chief General Manager, Telecom,
A.P. Circle, Vijayawada.
6. Union of India, represented by its Secretary,
Department of Telecommunication and I.T.,
20, Ashok Road, New Delhi – 500 001.
7. The Pr. Controller of Communication, Accounts,
A.P. Telecom Circle, 3rd Floor, Triveni Complex,
Abids, Hyderabad – 500 001.

...Respondents

Counsel for the Applicant: Mr. K. Venkateswara Rao

Counsel for the Respondents : Mrs.K.Rajitha, Sr.CGSC

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the Administrative Tribunal's Act, 1985 to call for the records relating to the impugned Lr. No. Pr. CCA/20-Sup/00064/May-2016, dated 24.06.2016 and impugned Lr.No.PR. CCA/20-Sup/AP/00064/May-2016, dated 13.6.2016 both issued by the first respondent and quash and set aside the said impugned order so far withholding of Rs.50,000/- from DCRG amount and finalizing his retiral benefits on the basic pay of Rs.21,130/- in the pay scale of rs.10900-20400 as can be seen from page 3 and 4 of the pension payment order of the applicant instead of on the basic pay of Rs.22,750/- in the pay scale of Rs.13,600-25,420 is concerned and consequently be pleased to direct the respondents to recalculate his retiral benefits on the basic pay of Rs.22,750/- in the scale of pay of Rs.13,600-25,420 and pay

- (a) The difference in the monthly pension from 01.06.2016 to till the date of payment with interest @ 18% per annum ;
- (b) Difference in Gratuity with interest at the rate of 18% per annum from 01.06.2016 to till the date of payment ;
- (c) Difference in commutation amount with interest at the rate of 18% per annum from 01.06.2016 to till the date of payment ;
- (d) Refund of withheld amount of Rs.50,000/- from the DCRG @ 18% per annum from 01.06.2016 to till the date of payment ;
- (e) Difference in leave encashment amount from 01.06.2016 to till the date of payment with interest @ 18% per annum;

(f) And other attendant benefits with interest @ 18% per annum;

(g) And be pleased to award costs

and pass such other order or orders as this Tribunal may deem fit and proper in the circumstances of the case.

2. The brief facts of the case are that the applicant was appointed as Regular Mazdoor on 17.5.1982 under GMTD, Guntur. On passing the requisite test he was promoted as Telecom Mechanic on 20.12.1996. Hse was granted O.T.B.P scale of rs.4000-100-6000 from 1.12.1998 pursuant to orders of Hon'ble High Court of Andhra Pradesh in WA No.1959/2005, 2395/2005 and batch. When he was not granted NEPP I and NEPP II under BSNL Promotion Policy he filed OA No.676/2012 for grant of the same and the said OA was allowed on 13.07.2012 in terms of order dated 31.1.2012 in OA No.695/2011 and batch subject to the result of pending SLPs ie SLP No.20796/2006 and batch.

3. That a sum of rs.50,000/- (Rupees fifty thousand only) was withheld from DCRG and the benefit of NEPP.I and NEPP.II were not considered in fixing his pensioner benefit and this is quite illegal, arbitrary and unjust and violative of Articles 14, 16 and 21 of the Constitution. The applicant submits that the said with-holding of Rs.50,000/- (Rupees fifty thousand only) is also against the dictum of law laid down by Hon'ble Supreme Court in State of Punjab Vs. Rafiq Masih and others [2014 (8) SCC 833]. The applicant belongs to Group-C. Hence the present OA is filed praying for the refund of Rs.50,000/- and recalculate the pensioner benefits and pay the difference

with interest at the rate of 18% from the date of retirement to till the date of payment.

4. Respondents have filed reply statement stating that the applicant in the OA was appointed as Regular Mazdoor on 12-05-1982 in the pay scale of Rs.196-3-220-EB-3-232. He was confirmed in post on 1-3-1986. The applicant was promoted and appointed as Lineman on 6-6-1989 in the pay scale of Rs.825-15-900-EB-20-1200 and pay was fixed at Rs.885/- confirmed as Lineman on 6-6-1991. The applicant was later on promoted as Phone Mechanic on 6-7-1996 in the pay scale of Rs.975-25-1150-EB-30-1540 and the pay was fixed at Rs.1050/-.

5. The applicant got 2nd NEPP promotion on 1-10-2011 in the pay scale of Rs.13600-25420 and pay fixed at Rs.20,190/- with effect from 1-12-2011 due to option to DNI. The applicant retired on 31-5-2016 on attending superannuation. The applicant has been given 1st NEPP on 1-10-2004 in the pay scale Rs.6550-185-9325 and pay fixed at Rs.6920/- with effect from 1-12-2014 due to option to DBI and IDA pay scale from 1-1-2007 in the pay scale of Rs.12520-23440 and pay was fixed at Rs.16890/- and 2nd up-gradation under NEPP [as per BSNL Corporate Office] with effect from 1-10-2011 in the pay scale of Rs.13600-25420 and pay fixed at Rs.20,190/- with effect from 1-12-2011 due to option to DBI vide GMT-GTR Lr.No. TDG/STAFF/NEPP/Court cases/TM/2012/44, dated 10-12-2012 it is stated that DOT/CELL reduced pay in view of the final outcome of SLP yet to be received which is challenged and is subject matter in the OA.

6. In view of SLP pending in Hon'ble Apex Court on NEPP DOT/CELL after excluding 1st NEPP and 2nd NEPP promotion last pay arrived at Rs.22,750/- only and a sum of Rs.50,000/- was withheld towards OP and Pay and allowances. The Respondents further submit that the applicant is not entitled for any relief as claimed and prays for dismissal of the OA.

7. We have heard Mr.K.Venkateshwara Rao, learned counsel for the applicant, Mrs.K.Rajitha, learned Sr Central Govt., Standing Counsel and Mrs A.P.Lakshmi, learned Standing Counsel for BSNL.

8. Learned counsel for the applicant relied on the decision of this Tribunal in OA No.146/2017, dated 21-09-2017 in support of his contentions.

9. The applicant has retired on attaining the age of superannuation on 31.05.2016. It is submitted by the learned counsel for the applicant that the other reliefs as prayed for by the applicant have already been granted but he is entitled to the interest on the withheld gratuity amount of Rs.50,000/- (Rupees fifty thousand only). After filing of this OA the Respondents have paid other retiral benefits as claimed by the applicant.

10. The learned Standing Counsel for the Respondents submit that cases involving similar question of law are pending before the Hon'ble Apex Court in one SLP. In the absence of stay order and when similar benefits have already been granted by the Tribunal as seen by the judgment dated

21.09.2017 passed by this Tribunal in OA No.146/2017, this Tribunal directs that the Respondents are to pay interest on the gratuity amount of Rs.50,000/- (Rupees fifty thousand only) withheld at the rate of interest applicable to the General Provident Fund deposits within a period of one month from the date of receipt of a copy of this order.

11. With the above observations, the Original Application is allowed. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : November, 2018.

vi