



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

O.A. 350/01565/2014

Date of order: 05.03.2019

Present :Hon'bleMs.Bidisha Banerjee, Judicial Member
Hon'bleDr.NanditaChatterjee, Administrative Member

1. Smt. Jaya Bose, wife of late Jiban Narayan Bose, aged about 54 years.
2. Smt. Sangeeta Bose, (Dey Sarkar), aged about 32 years, daughter (Married) of late Jiban Narayan Bose.
3. Smt. Saraswati Bose (Mondal) aged about 30 years, daughter (Married) of late Jiban Narayan Bose, all of them reside at "Krishnakunja", 1st Floor, 158, Pufba Diganta, P.O. Santoshpur, P.S. Survey park, Kolkata- 700075.

.....Applicants.

versus-

1. Union of India, service through the Secretary, Ministry of Communication and IT, Govt. of India, Dept of Telecommunication, Sanchar Bhawan, Ashoka Road, New Delhi, Pin- 110001.
2. Bharat Sanchar Nigam Limited Service through the Chairman and Managing Director, Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, Eastern Court, Janapath, New Delhi- 110001.
3. The Chief General Manager, Telecom Factories, 3A, Chowringhee Place (Chowringhee Market), 7th Floor, Kolkata- 700 013.
4. The General Manager, Telecom Factory, Gopalpur, Kolkata- 700143.
5. The Sr. Accounts Officer (CA) O/O the Chief General Manager, Telecom Factories, 3A, Chowringhee Place, 7th Floor, Kolkata- 700 013.

.....Respondents.

For the Applicant : Mr. J.R. Das, Counsel

For the Respondents : None

ORDER (Oral)

Per Dr. Nandita Chatterjee, AM:

The instant original application has been filed in second stage litigation
praying for the following relief:

"8(a) An order/direction directing the respondents to cancel, rescind
withdraw or set aside the purported order dated 11.09.2014 since not
based on facts.

(b) An order/direction directing the respondent authority to
release/cause payment of all the dues including due pay and
allowance, leave pay, NEPP dues, interest on due, pension and
pensionary benefits including Gratuity and commutation due, CGEIS
dues, GPF dues along with due interest thereon as admissible by law
and any other amounts falling due in course of his employment and
following his retirement on 30.06.2013.

(c) An order/direction directing the respondents to place the
relevant papers/documents including service Book of the applicant
before Hon'ble Bench with copy to the Id. Advocate appearing on
behalf of the applicant for conscientious justice.

(d) An order/direction directing the respondents to dispose of the
representations made by the applicant from time to time.

(e) Cost and incidental expenses.

(f) Any other order/orders, further order/orders, as to this Hon'ble
Tribunal seems fit and proper."

The applicant had earlier approached the Tribunal in O.A. 350/00715/2014
which was disposed of on 27.06.2014 by directing the respondent authorities to
consider the representation of the applicant and to convey the same in form of a
reasoned decision. Subsequent to the same, and, in compliance of the order of

b/w

the Tribunal, the respondent authorities issued a reasoned order which is reproduced as below:

"AO/TF/GP/Court case/J.N. Bose/2014-15/17

dated: 11.09.2014

ORDER

O.A. No. 350/00715/2014 dt. 27.05.2014

Jiban Narayan Bose

Vs.

Union & Others (BSNL)

I have perused the order dated 27th June, 2014 passed by the Hon'ble Central Administrative Tribunal, Calcutta Bench in the aforesaid Original Application.

Thereby, the General Manager, BSNL, Telecom Factory has been directed to consider the representation dated 5th November, 2013 of the Applicant above named and pass reasoned decision in accordance with law.

The applicant above named claimed the following as appeared in the representations dt. 05.09.2013.

Sl. No.	Particulars	Amount Claimed
1.	<i>Arrear salary bill for the period from 08/05 to July, 06</i>	<i>Rs. 3611244.00</i>
2.	<i>Leave Encashment with interest</i>	<i>Rs. 20000.00</i>
3.	<i>Pension w.e.f. 1.07.2013 upto date with interest</i>	<i>Rs. 250000.00</i>
4.	<i>P.L. Bonus for the year 2006-07 with interest</i>	<i>Rs. 20000.00</i>
5.	<i>GPF due with interest</i>	<i>Rs. 5000.00</i>
6.	<i>Interest on delayed payment of Gratuity</i>	<i>Rs. 60000.00</i>
7.	<i>Interest on Commutation of Pension</i>	<i>Rs. 40000.00</i>
8.	<i>CGEIS due with interest</i>	<i>Rs. 2000.00</i>
9.	<i>Arrear of NEPP Payment with interest thereon</i>	<i>Rs. 15000.00</i>

In compliance of the aforesaid order, I have perused each and every claim of the applicant mentioned in the said representation. Reasoned decision in respect of each and every aforesaid claim mentioned below:

1. *Arrear salary bill for the period from 01.10.2003 to 30.06.2013:*

As per record no dues arises from 01.10.2003 to 31.12.2004. But total amount of Rs. 2,45,546/- has been paid towards Arrear Pay & Allowances (Diff. Amt.) during the period from 01.01.2005 to 30.06.2013. So, further payment does not arise. Payment made by (i) cheque no.

314463, dt. 28.09.06 of Rs. 101564/- (ii) by Cheque No. 148360, dt. 26.6.13 of Rs. 123471/- & (iii) by RTGS Bill No. 1226 dt. 2.2.13 of Rs. 20155.

2. *Arrear leave pay/encashment + Interest due:*

The amount of Rs. 1,91,402/- has been paid towards leave encashment against leave at credit up to date of increment considering his last pay which was admitted by DOT Cell (Pension Sanction Authority) and further payment has not arise. Paid by RTGS.

3. *Dues of pension with interest thereon since 01.07.2013:*

Entire amount of dues of pension effective from 01.07.2013 was credited to his Pension Account by Bank as per advice of CCA (DOT-Cell) after settlement of the case. So, no amount is due.

4. *Thus for the year 2006-07 (1 year):*

He was absent for more than 4 years since 26.02.2007. P.L. Bonus due for 2006-07 was paid in Oct, 2007. Due to this long absence from Feb, 2007 Salary Bill as well as Bonus Bill could not be drawn, although the salary which was due & admissible was paid subsequently as arrear on resumption of his duty, but P.L. Bonus which was paid in October, 2007, the unpaid amount could not be carried forward and fund was surrendered in the Financial Year 2007-08 as per Corporate Office Guidelines. So matter was closed and question of payment does not arise at this stage.

5. *GPF dues with interest:*

G. P. F. balance at credit on 30.06.2013 along with interest as due & admissible has been directly credited to his Bank Account in due course after retirement by CCA (DOT Cell) after full & final settlement since BSNL is not empowered to make such payment. So, no further payment arises.

6. *Interest due on belated payment of Gratuity:*

The payment under this Head amounting to Rs. 7,34,448/- was sanctioned by CCA (DOT Cell) and credited to his Bank Account directly by DOT Cell after taking reasonable time for processing the case both from BSNL & CCA (DOT Cell) since it was the complicated case due to his frequent absence in service life and lastly more than four (4) years at a stretch. So, payment of interest by DOT Cell does not arise.

for him

7. Interest due on belated payment of Commutation:

The payment under this Head amounting to Rs. 5,00,490/- was sanctioned by CCA (DOT Cell) and credited to his Bank Account directly by DOT Cell after taking reasonable time for processing the case both from BSNL & CCCa (DOT cell) after settlement of Pension. So, payment of interest by DOT Cell does not arise. Head of Account 2071 Pension.

8. CGEGIS Payment due with interest:

The payment under this Head was made by CCA (DOT Cell) in the year 2007 to the officials who were absorbed in BSNL w.e.f. 01.10.2000 on receipt of Annexure - 'C' (Pre-receipt) submitted by the official which was remitted to CCA (DOT Cell) prior to payment. Since the official was long absent from 26.02.2007 for the period of more than four (4) years, no Annexure - 'C' was obtained from the official and fund was surrendered to DOT Cell. So, at this stage payment under this head does not arise since the matter was closed since long.

9. Arrear dues of NEPP payment with interest:

Payment of further arrear dues for NEPP does not arise since arrear which was due & admissible has already been paid amounting to Rs. 20,511/- as per promotion order under NEPP issued by Administrative Branch. Paid by RTGS. It is included in the amount mentioned in Para 1.

*Assistant General Manager, BSNL
(For Chief General Manager)
Telecom Factories, Kolkata*

From the above mentioned reasoned decision, it transpires that the present dispute has arisen on account of disparity of amounts sanctioned to the applicant in compliance to order in O.A. 715/2014 vis-à-vis his claims which are being pursued his legal heirs in the instant OA.

Ld. Counsel for applicants further submits that the applicants would be fairly satisfied if a direction is issued to the competent authority to accord a personal hearing to the applicants who would then have an opportunity to convince the respondent authorities of their claims with supporting documents.

hph

4. None appears for the respondents when the matter is called and, given that the instant matter has been filed by the widow and other legal heirs of the deceased employee in 2014, Rule 16(1) of CAT (Procedure) Rules, 1987 is invoked and we proceed to issue the following order which would not be prejudicial to either of the parties.

5. We hereby direct the concerned respondent authority, the respondent no. 3, namely, the Chief General Manager, Telecom Factories, to accord a personal hearing to the applicants (legal heirs of original applicant permitted to be substituted vide Tribunal's order dated 14.03.2016) in OA. 1565/2014. The applicants will thereafter attend the said hearing with relevant supporting documents. Consequent to such hearing, respondent no. 3 will issue a reasoned and speaking order untrammelled by their earlier speaking order dated 11.09.2014 and will convey the same immediately thereafter to the applicants. The entire exercise is to be completed within 6 weeks from the date of receipt of copy of this order.

It is made clear that we have not entered into the merits of the matter and all relevant issues are kept open to be decided by the respondents in accordance with law.

6. With these directions, this OA is disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

pd

(Bidisha Banerjee)
Member (J)