

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01105/2015

Dated Tuesday the 11th day of September Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

&

HON'BLE MR. P. MADHAVAN, Member (J)

Mr. C. Jebamalai,
S/o A. Chinnappan,
Working as Telecom Mechanic (now Retired),
BSNL Thanjavur,
Res : No. 13, Ramesh Kumar Nagar,
Reddy Palayam Road,
Ramanathapuram Post, Thanjavur 613004.

....Applicant

By Advocate M/s. T. N. Sugesh

Vs

1.The Union of India,
Rep by the Chief Managing Director,
BSNL, New Delhi 110001.

2.The Chief General Manager,
BSNL Tamil Nadu Circle,
Anna Salai, Chennai 600002.

3.The General Manager,
BSNL, Thanjavur.

4.The Accounts Officer,
O/o. The General Manager,
BSNL, Thanjavur.

....Respondents

By Advocate Mr. M. S. Velusamy

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA seeking the following relief :

"To call for the records relating to the impugned order passed by the General Manager, BSNL, Thanjavur (the third respondent herein) in Memo No. E5/11/SU-TMS/2014/20 dt. 29.06.2015 and quash the same and direct the respondents to step up the pay of the applicant on par with that of his junior Mr. T. Rajendran and grant him arrears of pay and all other attendant benefits, including revision of pension and terminal benefits and to grant him all arrears and pass such further or other orders as this Hon'ble Tribunal may be pleased to deem fit and proper in the circumstances of the case and thus render justice. "

2. It is alleged that the applicant is similarly placed as the petitioners in WPs 28909 & 28910/2012 which were allowed by the Hon'ble Madras High Court by an order dt. 04.10.2013 directing the respondents therein to extend all monetary benefits to the petitioners by stepping up their salary at par with their junior one T. Rajendran and disburse the same within a period of eight weeks. The applicant herein was not only senior to the said T. Rajendran but also senior to four of the Writ Petitioners and being identically placed could not be denied the same benefits. However, the applicant's representation for stepping up of his pay for fixation at par with the said Rajendran was summarily rejected by Annexure A5 communication dt. 29.06.2015 whereby he was intimated that his request for stepping up of pay could not be acceded to as per prevailing rules. Aggrieved by such non-speaking rejection of his representation, the applicant is before this Tribunal.

3. The respondents have filed a reply submitting that lowering of pay of the applicant was on account of a changeover from CDA to IDA in the wake of the

formation of BSNL from the erstwhile DoT. The applicant who was senior and who was promoted to NE-7 scale of 5700-160-8100 had earned only one increment in the NE-7 scale of 5700-160-8100 and hence his pay was fixed at Rs. 5860/- upto the date of next increment on 01.12.2000 raising the same to Rs. 6020/- whereas the said Rajendran had earned 8 increments in the NE-6 scale of Rs. 4720-150-6970 and his pay was therefore, fixed at Rs. 5920/-. It is submitted that there was no discrimination against the applicant and his pay fixation at a lower level than the said Rajendran was on account of his promotion to a higher scale wherein he had earned only one increment whereas in terms of the relevant rules, the number of increments earned in a pay scale was to be taken into account for the purpose of pay fixation. As the said Rajendran had earned 8 increments, it was inevitable that he would be granted higher pay, it is contended.

4. We have considered the pleadings and submissions. Prima facie, we are not satisfied that a person who is senior and promoted ahead of a junior could be fixed at a lower pay than a junior who has not yet been promoted and who continues to be in lower scale under the garb of changing over from CDA to IDA. It is not contended that the anomaly is due to the junior's longer service overall than the applicant which would be the case in a dispute between a direct recruit senior whose length of service would be less than a promotee junior and could, therefore, be considered somewhat legitimate. In the instant case, the anomaly appears to be entirely due to the faulty manner in which the

changeover from CDA to IDA is effected. Under such circumstances, we are of the view that the applicant has made out a prima facie case, especially when his representation has been summarily rejected without assigning any reason therefor.

5. Learned counsel for the respondents would submit that as the applicant's representation had been rejected by a non-speaking order, the respondents would be willing to revisit the claim of the applicant in terms of the order of the Hon'ble High Court in the WPs and pass a reasoned and speaking order. We accordingly dispose of this OA with the following direction :

"The competent authority shall reconsider the representation of the applicant dt. 09.02.2015 in accordance with law and in the light of the order of the Hon'ble High Court in the aforesaid WPs and pass a reasoned and speaking order within a period of six weeks from the date of receipt of a copy of this order. "

6. OA is disposed of. No costs.

(P. Madhavan)
Member(J)

(R.Ramanujam)
Member(A)

11.09.2018

SKSI