

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION No.376/2014.**

**Dated this the 5<sup>th</sup> day of February, 2019**

**CORAM: HON'BLE DR. BHAGWAN SAHAI, MEMBER (A)  
HON'BLE SHRI R.N. SINGH, MEMBER (J)**

Ms. Jyoti Shivrul Shah  
Accounts Officer,  
O/o Chief General Manager (Mtnce) BSNL  
Western Telecom Region, Telephone  
House Prabhadevi Mumbai-400028  
Residing- C-309 Veena Sur Co-Op.  
Housing Society Dahanikarwadi  
Mahavirnagar Kandivali (West)  
Mumbai 400067.

...

**Applicant.**

**(Advocate Shri G.B. Kamdi )**

**Versus.**

1. Bharat Sanchar Nigam Ltd  
Through Chairman & Managing Director,  
Bharat Sanchar Bhawan H C Mathur  
Lane Janpath New Delhi-110001.
2. The Chief General Manager, MTCE,  
BSNL, Western Telecom Region,  
12<sup>th</sup> Floor, Telephone House,  
V.S. Marg Prabhadevi Mumbai-400028.
3. The Chief Accounts Officer,  
O/o the Chief General Manager, MTCE,  
BSNL, Western Telecom Region,  
11<sup>th</sup> Floor, Telephone Region,  
11<sup>th</sup> Floor, Telephone House,  
V.S. Marg Prabhadevi Mumbai-400028.

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**Respondents**

**(Advocate Shri V.S. Masurkar )**



Reserved on : 22.11.2018.

Pronounced on : 05.02.2019.

ORDER

Per : Shri R.N. Singh, Member (J)

The Applicant has approached this Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 seeking the following reliefs;

"a). To allow the Original Application.

b). This Hon'ble Tribunal may be pleased to call for record of the case and after going through its propriety and legality be pleased to quash and set aside the impugned order of refixation of pay dated 14.12.2012 and reply dated 12.03.2014.

c). The respondent may please be restrained to change or reduce the pay which was already fixed earlier with allowing the increment in the pay scale of JAO during the officiating period.

d). The respondent may please be restrained to recover any excess paid amount shown as per the revised pay fixation memo dated 14.12.2012.

e). To pass any other just and appropriate orders this Hon'ble Tribunal may deem fit, proper and necessary if the facts and circumstances of the case.

f). The cost of this original application please be provided."

2. The facts of the case as contended by the applicant are that presently the applicant is working as Accounts Officer in



the office of Chief General Manager (Mtcs.) WTR, Mumbai. Earlier, while she was given local officiating promotion from 13.09.2000, since she had qualified JAO Part-I Examination and her pay was fixed under FR-22 (1)a(1) and FR-35 during officiating period and increment was allowed as per FR-26. It is stated that the pay of the applicant was fixed in accordance with the instructions contained in FR-22 (1)a(1) and Rule-35 with GOI-5 which permits JAO Local officiating promotion to JAI Part-I candidate and pay fixation in such case as per GIO-2 GIO-3 of FR-35. The GIO-2 and 3 state that in case of appointment on promotion in normal line within the cadre but which are not on regular basis, the pay may be fixed under FR-22 (1)a(1) also and may be restricted under FR-35, if there is substantial increase. Further, as per GOI-4 below Rule-35, it is clarified that since the officer is not drawing pay in the pay scale of the post in which he is appointed, he will be drawing increment only in the pay scale of the lower post till he reaches the



minimum of the pay scale of the higher post. The officer will continue to be entitled for increment in the higher scale on completion of one year after he reaches at the minimum of the higher post.

3. It is stated that earlier the pay of the applicant was fixed correctly on officiating promotion as per provision of FR-35 and the officiating period in which the minimum pay in the promoted scale was drawn, had been counted for the increment for JAO scale as per FR-26 and G.I. (11) and from 13.11.2005 on BCR promotions which was shifted to 0.11.2004 due to option for NEPPP Policy up gradation in substantive cadre.

4. As per DGP&T Instructions dated 30.03.1998, the matter of increment in officiating period is clarified and according to which the applicant is entitled to the increment in the higher post. Further, her pay as JAO local officiating promotion was fixed below the minimum of higher post under FR-35 from 13.09.2000 to 20.09.2004. During her officiating period of JAO the applicant got the BCR promotion in



substantive cadre from 13.11.2005 which is now shifted to 01.10.2004 due to up-gradation policy in SS (O) post and her pay under FR-35 reached the minimum of JAO pay and subsequently increment was drawn in the higher post after completion of 12 months under FR-26. As per NEPP Policy the pay fixation was to be done notionally w.e.f. 01.10.2004 under FR-22 (1)a(1) but financial effect was to be given from 01.04.2008. Accordingly, the pay fixation on up-gradation in Sr.TOA cadre was done and JAO pay was also revised from 01.10.2004 but financial effect was given from 01.04.2008 and subsequently, increment/pay fixation was done.

5. It is stated that revised pay is fixed at minimum of the JAO i.e. Rs.9850/- from 01.10.2004 to 31.08.2007 during the period of officiating period under FR-35 with DNI 01.09.2007 @ Rs.10100/- as per order dated 14.12.2012. On introduction of up-gradation policy from 01.10.2004 the pay is notionally fixed at Rs.10,350/- on 01.11.2006 with DNI on 01.11.2007 at the stage of Rs.10,600/-



with financial effect from 01.04.2008. The increment given during the officiating period in the officiating pay after completion of 12 months in that scale on 02.11.2005 has been withdrawn by the Respondent No.3 vide revised fixation memo dated 14.12.2012 without giving any opportunity. The revised calculation shown in Memo dated 14.12.2012 is incorrect as it has taken into account the NEPP up-gradation pay which is actually not drawn by the applicant. She was given officiating promotion in A.O. Cadre from 24.02.2010 to 31.10.2010 is also not mentioned. As per FR-26 and revised pay fixation withdrawing the benefit of said increment is as under:-

ORIGINAL FIXATION			REVISED FIXATION	
SN	DATE	BASIC (Rs.)	DATE	BASIC (Rs.)
1	01/01/07	23980/- (10350/- in old)	01/01/07	9850/- (in old pay)
2	01/11/07	24700/-	01/09/19	23510/-
3	01/11/08	25450/-	01/09/08	24200/-
4	01/11/09	26270/-	01/09/09	24950/-
5	01/11/11	27010/-	01/09/10	25700/-
6	01/11/11	28640/-	01/09/11	27250/-
7	01/11/12	29500/-	01/09/12	28070/-
8	01/01/13	30385/-	01/09/13	28920/-



The difference in basic pay as on 01.11.2013 is Rs.1,465/- (Rs.30,385/- minus Rs.28,920/-) and including the allowances on this pay there will be recurring loss in the salary to the extent of Rs.3,200/- and more per month from June, 2013 onwards as well as in pensionary benefits after retirement.

6. Aggrieved by the revised fixation the applicant submitted a representation dated 30.03.2013 (Annexure A-6) to the President Grievance Cell O/o CGMM Mumbai requesting therein to restore the original fixation. She has also enclosed a copy of the judgment of Jabalpur Bench of this Tribunal passed in Original Application No.1106/2005 alongwith her representation. The representation of the applicant was forwarded to the BSNL HQ, New Delhi by the Respondent Nos.2 and 3 vide letter dated 16.04.2013 (Annexure A-8). Again on 20.08.2013 the Dy. General Manager, WTR BSNL, Mumbai had sent a reminder to the BSNL HQ vide letter dated 20.08.2013 with the request to examine the case and pass suitable guidelines in the matter. In response to the aforesaid reminder, the BSNL



HQ, New Delhi has intimated that the case has been examined in consultation with the Establishment Finance Branch and ruling on the subject is already available. Thereafter, the applicant again submitted another representation dated 01.03.2014 to the President, Grievance Cell for consideration of her case. In response, it was informed to the applicant that the fixation is correct.

7. It is further stated by the applicant that the respondent did not consider the actual ruling and the judgment of Jabalpur Bench of this Tribunal. Moreover, the Respondent No.1 did not supply any guidelines and the Respondent Nos. 2 and 3 were not sure about the ruling as such they have referred the matter to the BSNL HQ, New Delhi for consideration. Rule FR-22 (1)a(1) and its provisions are not applicable in the 2<sup>nd</sup> PR w.e.f. 01.01.2007. As per this provision, pay in all officiating promotions is to be fixed by giving 3% of the pay of the basic post, subject to the prescribed limit. The case of the applicant is covered



by the rule as was existing during the year 2002 to 2006 i.e. prior to 2<sup>nd</sup> PR taking into account FR-22 (I)a(I) and FR-35 and provisos and Rule-26. She submitted that there is no logic in comparing her case with Mrs.V.K. Bangera, A.O. It is stated that respondent had fixed the pay and allowed the increment in officiating period since she officiated for more than 12 months and after eight years the revised pay fixation memo was issued reducing her pay and recovery of excess payment is ordered without giving any opportunity, which is illegal and bad in law and in violation of natural justice. Hence, this OA.

8. Opposing the claim of the applicant, the respondents have filed reply. They have not disputed the facts stated by the applicant precisely noted herein above but they have contended that the clerical mistake committed by the respective officers is corrected in accordance with law and hence the action of the respondents is strictly in accordance with rules. They have stated that the recovery is permissible in



law as per the judgment of Hon'ble Apex Court in the case of **Chandi Prasad Uniyal and Others vs. State of Uttarakhand reported in 2012 (5) SLR 607 (SC)**. They have stated that applicant has to pass in two departmental examinations namely Part-1 and Part-2 to become a JAO. Passing of Part-1 examination alone doesn't qualify an employee to work as a regular JAO. But due to shortage in the cadre of JAO's during the year 1998 to 2006, when the administration allowed the Part-1 qualified candidates to officiate as JAO they will not be allowed the JAO scale and for their officiating work Rs.1000/- (maximum) is paid extra with the condition that their substantive pay + Rs.1000/- will be restricted to the minimum of the JAO scale i.e. Rs.9850/-. They have contended that in the light of the aforesaid position, the OA is totally devoid of merit and hence liable to be dismissed with costs. They have submitted that the reduction in her pay to the tune of Rs.1465/- as stated by the applicant, is consequent to the correct fixation memo issued vide Memo



No.CGMM/WTR/CA-10/JSS/163 dated 14.12.2012 is in accordance with the existing rules on the subject. They have contended that applicant is repeatedly claiming for the increment, which is not due to her for the officiating periods from 01.11.2004 to 31.10.2005 and from 01.11.2005 to 31.10.2006. For the aforesaid period she has been granted Rs.1000/- as an extra benefit/allowance alongwith her substantive pay as per the provisions of FR-35.

9. They have further contended that the revised pay fixation order was issued to regularize the incorrect pay drawn by the applicant. As the applicant does not reach the minimum pay of the JAO scale of Rs.9850/- in her substantive post/scale as such the wrongly allowed increment needs to be regularized to avoid recovery in later stage. They have contended that there is bonafide intention of the respondents that applicant should not suffer at the time of her retirement by one time huge recovery. Hence, over-payment is being recovered in easy instalments. The recovery order is not



against the law as the applicant had enjoyed the financial benefit which is not due to her as such there is no question of financial loss. They have stated that the applicant herself working as JAO (Cash), and entrusted with the work of pay fixation of all the employees including herself took advantage of the position to her favour by allowing increment and excess fixation and drawal of pay. They have also stated that the earlier pay fixation memo was prepared in her own handwriting. They have prayed that the OA is devoid of merit and deserves to be dismissed with cost.

10. In the Rejoinder, the applicant has reiterated the averments made in the OA and denied the contention raised in the Counter-reply. It is reiterated on behalf of applicant that the recovery ordered by the respondent is not permissible in law because no such recovery is justified since the payment was correctly made as per the rules. Moreover, the case of the applicant is for counting of officiating period for increment which is already decided by the Jabalpur

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Bench of the Tribunal in O.A.No.1106 of 2005 considering the judgment of Hon'ble High Court of Mumbai in W.P.No.1010 of 2006 **Union of India & Others vs. Vinay V. Parab**, being similar facts and upheld the judgment of Mumbai Bench of the Tribunal passed in O.A.No.601/2004 in the case of Vinay V. Parab. In view of the aforesaid judgments, recovery is not at all tenable. It is denied that she made her earlier pay fixation memo and the respondents cannot make such allegation without proving and without giving any opportunity to explain the correct position. Further, if there was any wrong done by the applicant then why her case was forwarded to HQ for guidance and clarification which shows that the applicant has not done anything wrong. As regards the contention of the respondents that the applicant should pass in two departmental examinations namely Part-1 and Part-2 to become a regular JAO in the pay scale of Rs.9850-250-14600/-, the respondents did not conduct the Part-2 examination as early as possible but the said examination was



conducted after a lapse of long period and in that examination the applicant had appeared and passed the said examination. Therefore, it is not the mistake or fault of the applicant. As per the FR-26 the period of officiating is being counted for increment in the promoted scale.

11. As regard the contention regarding the shortage in the cadre of JAO's during 1998 to 2006 due to which the administration allowed the Part-1 qualified candidates to officiate as JAO though they will not be entitled for the JAO scale is denied as the scale is attached to the post whether it is officiating or regular.

12. The respondents have filed Sur-rejoinder reiterating the averments as has already been made in their reply to which the applicant had filed Additional Rejoinder controverting the allegations made by the respondents. The the respondents have also filed reply to the Additional Rejoinder.

13. The applicant has relied upon the following judgments:-

1. Hon'ble High Court of Gujrat in SCA No.14871/2004 Union of India vs. Dorisingh D. Rajput dated 19.03.2014.



2. Hon'ble High Court of Mumbai in Union of India vs Vinay V. Parab in W.P.No.1010/2006.

3. CAT Ernakulam in TA No.84 to 97 of 2008 in M.V. Salilakumar vs. BSNL & Others.

4. CAT Allahabad in O?A.No.1291/2009 in Raejsh Chandra vs. BSNL.

5. CAT Principal Bench in O.A.No.1282/2010 BSNL Officers Association & Others vs. BSNL dated 26.10.2010.

6. Hon'ble Supreme Court in Shyam Babu Verma vs. Union of India (12994 SCR (1) & 700).

7. Hon'ble Supreme Court in Sahib Ram vs. The State of Haryana & Others decided on 19.11.1994 (1995 SCC Supp.(1)).

8. Hon'be High Court of Madras in K. Palaniammal vs. Deputy Director of Health in WP No.17801/2007 decided on 10.09.2008.

9. Hon'ble Supreme Court in Civil Appeal No.11527 with 11528,11530,11531 of 20014 State of Punjab & Others vs. Rafiq Masih (White Washer) AIR 2015 SC 696.

10. Hon'ble Supreme Court in Civil Appeal No.5447/1994 in Bhagwan Shukla vs. Union of India & Others.

14. We have gone through the OA alongwith Annexure A-1 to A-12.

15. We have also gone through the Reply filed on behalf of the respondents alongwith Annexure R-I to R-2, Rejoinder to reply alongwith Annexure A-13, Sur-rejoinder alongwith Annexure-MA-1 filed on behalf of respondents, and Reply to Sur-rejoinder alongwith Annexure MA-1 and reply to this



filed on behalf of respondents alongwith Annexure MA-1.

16 . We have heard the learned counsels for the applicant and respondents, and carefully considered the facts, circumstances, law points and rival contentions in the case.

### Findings

17. It is an admitted fact that the applicant was working as Accounts Officer in the office of Chief General Manager (Mtcs.) WTR, Mumbai and she was given local officiating promotion from 13.09.2000, since she had qualified as JAO Part-I Examination and her pay was fixed under FR-22 (1) a (1) and FR-35 during officiating period and increment was allowed as per FR-26. As per DGP&T Instructions dated 30.03.1998 the matter of increment in officiating period is clarified, according to which the applicant is entitled to the increment in the higher post. The pay of the applicant was fixed at minimum of the JAO i.e. Rs.9850/- from 01.10.2004 to 31.08.2007 during the officiating period under FR-35 with DNI 01.09.2007 @ Rs.10100/-



as per order dated 14.12.2012 and on introduction of up-gradation policy from 01.10.2004 the pay is notionally fixed at Rs.10,350/- on 01.11.2006 with DNI on 01.11.2007 at the stage of Rs.10,600/- with financial effect from 01.04.2008. The increment was also given during the officiating period in the officiating pay after completion of 12 months in that scale on 02.11.2005 which has been withdrawn by the respondent No.3 vide revised fixation memo dated 14.12.2012 without giving any opportunity to the applicant to reply. The difference in basic pay as on 01.11.2013 is of Rs.1,465/- (Rs.30,385/- minus Rs.28,920/-) and including the allowances on this pay there will be recurring loss in the salary to the extent of Rs.3,200/- per month from June, 2013 onwards as well as in pensionary benefits after retirement of the applicant.

18. The applicant submitted a representation dated 30.03.2013 (Annexure A-6) to the President Grievance Cell O/o CGMM Mumbai requesting therein to restore the original fixation enclosing therewith a copy of the



judgment of Jabalpur Bench of this Tribunal passed in O.A.No.1106/2005. The aforesaid representation was forwarded to the BSNL HQ, New Delhi by the Respondent Nos.2 and 3. Reminder was sent to the BSNL HQ vide letter dated 20.08.2013 with the request to examine the case and pass a suitable guidelines. Thereafter, the BSNL HQ, New Delhi has intimated that the case has been examined in consultation with the Establishment Finance Branch and ruling on the subject is already available. Again the applicant submitted another representation dated 01.03.2014 to the President, Grievance Cell for consideration of her case. In response, it was informed to the applicant that the fixation is correct. Moreover, the respondent had fixed the pay and allowed the increment in officiating period after she officiated for more than 12 months and after eight years the revised pay fixation memo was issued reducing her pay and recovery of excess payment is ordered without giving any opportunity to the applicant which is illegal and bad in law, and in violation of



natural justice. On the other hand the respondents have taken a ground that it is a clerical mistake and the same is corrected in accordance with law and the recovery is permissible in law as per the judgment of Hon'ble Apex Court in the case of **Chandi Prasad Uniyal and Others vs. State of Uttarakhand reported in 2012 (5) SLR 607 (SC)**. The intention behind is that the applicant should not suffer at the time of her retirement by one time huge recovery; as such the over-payment is being recovered in easy instalments. The recovery order is not against the law and there is no question of financial loss. The case of the applicant is for counting of officiating period for increment which is already decided by the Jabalpur Bench of the Tribunal in O.A.No.1106 of 2005 after considering the judgment of Hon'ble High Court of Mumbai in W.P.No.1010 of 2006 **Union of India & Others vs. Vinay V. Parab**, being similar facts and upheld the judgment of Mumbai Bench of the Tribunal passed in O.A.No.601/2004 in the case of Vinay V. Parab. The relevant portion



of the order passed by the Hon'ble Bombay High Court reads as under:-

"The Union of India has come to this Court to invoke the extra ordinary jurisdiction of this Court. We find from the order of the Tribunal that the respondent had worked in the post and the promotion was effected by the petitioners themselves and considering the judgments relief upon, it would not be appropriate to make recoveries. We find that once the Tribunal on the totality of circumstances has exercised its discretion it would not be proper on our part in exercise of the extra ordinary jurisdiction to interfere with the order passed by the Tribunal. The view taken by the Tribunal cannot be said to be a view which could not be taken. In the light of that no interference called for. Petition dismissed."

19. As regards the contention of the respondents that the applicant should pass in two departmental examinations namely Part-1 and Part-2 to become a regular JAO is concerned the respondents are themselves responsible for not conducting the Part-2 examination within time and the said examination was conducted after a lapse of long period and in that examination the applicant had appeared and was declared successful in the said examination.

20. For sake of brevity, we consider it not necessary to incorporate the facts, findings and the ratio discussed in all the



cases, referred to and relied upon on behalf of the applicant as noted hereinabove. However, a few binding precedents are being referred to herein below. The respondents have relied upon the judgment in **Chandi Prasad Uniyal & Others Vs. State of Uttarkhand & Others (2012) 8 Suppl. 7 (vii) SCC-417.** However, the judgment in **Chandi Prasad Uniyal (Supra)** and other similar judgments were considered in the case of **Rafiq Masih (Supra)**. In view of an apparent difference of views expressed on the one hand in **Shyam Babu Verma (Supra)** and **Sahib Ram Verma (Supra)** and in **Chandi Prasad Uniyal (Supra)** on the other hand, the Court held the view that the matter should be placed before Bench of Three Judges for taking instructions and obtaining an authoritative pronouncement. The Three Judges bench on 08.07.2014 concluded as follows:-

"13. In view of the above, we are of the considered opinion that reference was unnecessary. Therefore, without answering the reference, we send back the matters to the Division Bench for its appropriate disposal."

21. Accordingly, the Hon'ble Supreme Court in **Rafiq Masih (Supra)** concluded in the operative part of the judgment in para 12, at variance with the judgment in **Chandi Prasad**



**Uniyal (Supra)**, as follows:-

"12. Therefore, in our opinion, the decisions of the Court based on different scales of Article 136 and Article 142 of the Constitution of India cannot be best weighed on the same grounds of reasoning and thus in view of the aforesaid discussion, there is no conflict in the views expressed in the first two judgments and the latter judgment.

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

22. The case of the applicant is fully covered by judgment in **Rafiq Masih (Supra)**. The error was detected at the time of issuance of the pay fixation order when the respondent had fixed the pay and allowed the increment in



officiating period of more than 12 months and after 8 years the revised pay fixation memo was issued reducing her pay and recovery of excess payment that too without giving any opportunity to the applicant which is illegal and violation of the principles of natural justice. This action is nothing but harsh and as per para 12 of the judgment in **Rafiq Masih (Supra)** completely illegal. The recovery of the excess payment after eight years for no fault of applicant, is completely untenable from any perspective and illegal in the light of law laid down in **Rafiq Masih (Supra)**.

23. The claim of the applicant in the present OA is also strengthened by the ratio of the common order/judgment date 15.07.2009 of Ernakulam Bench of this Tribunal in O.A.No.84/2008, titled **M.V. Salilakumar & Others vs. Chairman-cum-Managing Director, Bharat Sanchar Nigam Ltd. & Others**, etc., etc, para 10 of which reads as under:-

".....It was further held that the temporary nature of the posts, the non-regularisation of the posts etc



are matters irrelevant as far as fixation of pay is concerned. The High Court vide judgment in W.A.No.1735/2006 and connected cases, set aside the aforesaid judgment of the Learned Single Judge only for the reason that the applicants have not been given any notice before their pay was fixed under FR 35 causing reduction in their emoluments. As held by the single judgment of the High Court (supra) what is relevant in the matter of fixation of pay is whether the applicants are performing duties attached to the posts of JTOs having higher responsibilities. There is no dispute in this regard. Hence these T.As succeed. Consequently, we set aside the Annexure P25 and P26 orders dated 20.11.2007 and 4.12.2007 respectively. Respondents are directed not to recover the pay and allowances already paid to the applicants in the scale of pay of JTO. They are further directed to continue to pay to the applicants pay and allowances due to them in the scale of pay of JTO as per Rule 22(I) (a) (1) of Fundamental Rules."

24. In view of the facts and circumstances as discussed above, and considering the decisions rendered by the Hon'ble Apex Court referred to herein above, there is no reason to arrive at a different conclusion except to conclude that the OA is having merit. Accordingly, OA deserves to be allowed and is accordingly allowed with the following directions:-

(i). The impugned orders dated 14.12.2012 & 12.03.2014 are hereby quashed and set aside.

(ii). The respondents are



directed not to change or reduce the pay of the applicant which was already fixed allowing the increment in the pay scale of JAO during the officiating period.

(iii). The respondents are also directed not to recover any excess amount paid to the applicant and the recovery, if any, made from the applicant shall be refunded to the applicant alongwith interest payable at the rate applicable on GPF.

(iv). The aforesaid exercise shall be completed by the respondents within four months from the date of receipt of a certified copy of this order.

25. The OA is disposed of with the above directions. No costs.

(R.N. SINGH)  
MEMBER (J)

(Dr. Bhagwan Sahai)  
MEMBER (A)

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