

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00340/15
With
MA/050/00224/17

Reserved on: 02.04.2019
Pronounced on: 05.04.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

1. Tarun Kumar Lal, S/o Late Kamlesh Narain Lal, Resident of Village- Betauna, PS- Benipatti, District- Madhubani.
2. Umesh Chandra Verma, S/o Late Mahendra Lal Verma, resident of Village- Kharka, PS- Nanpur, District- Sitamarhi.
3. Vikramaditya Singh, S/o Late Aatmanand Singh, resident of Village- Bihiyara, PS- Chandi, District- Bhojpur.

.... **Applicants.**

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Bharat Sanchar Nigam Limited, through the CMD, BSNL, Bharat Sanchar Bhawan, Janpath, New Delhi-1.
2. The Chief General Manager, CGM Project, BSNL, Kolkata.
3. The Chief General Manager, BSNL, Bihar Circle, Patna.
4. The G.M. Telecom Project, Patna.
5. The DGM, OFC Project, Muzaffarpur.

.... **Respondents.**

By Advocate: - Mr. K.P. Narayan

O R D E R

Per Dinesh Sharma, A.M:- The case of the applicants is that after having been absorbed in BSNL they are eligible for getting presidential orders issued to allow them benefit of counting 50% of the temporary status Mazdoor (TSM) period for pensionary benefits. However, the same has not been granted in case of the applicants. They are also entitled to be given

benefit of the provisions of Non-Executive Promotion Policy (NEPP), but despite their applications these benefits are not being given to them and hence the OA. The applicant has also filed an application (MA/050/00224/2017) for calling for records (since no W.S. was filed immediately) and deciding the case on that basis. This M.A. has now become infructuous since WS has been filed.

2. The respondents have filed written statement in which they have denied the claims of the applicants. It is stated that the applicants had already filed an OA (OA 611/1998) for the same relief and it was disposed of with direction to the respondents to pass appropriate orders. The applicants have not objected or filed any case before any Court of law against the orders passed by the respondents. The applicants while working as Casual labour in DoT were appointed as Regular Mazdoor(RM) w.e.f. 01.10.2000 and are still working as RM in the Department. Since they have either worked as casual labourer (since 1998, 1979 and 1987 respectively) or as regularized employees, there was never a time when they were granted temporary status. Thus, the direction regarding grant of pension through presidential order as per letter no. 17-1/2011-LE dated 13.04.2012 (Annexure R/2) is not applicable to them. The applicants are regular BSNL PSU employees after 01.10.2000 and no presidential order has been issued in such cases. The respondents have also alleged that the applicants have sought plural remedies (which is not maintainable as per CAT Procedure Rules). However, as far as promotion of applicants are concerned, they all

have got first NEPP pay upgradation. The second upgradation are under progress with respective SSAs.

3. The applicants have filed rejoinder in which they have stated that the earlier OA filed by them was for grant of a different relief. The applicants are already covered under the GPF scheme (and not EPF scheme which is applicable for PSU employees). They have also alleged that a similar person was regularized without temporary status in Odisha Circle and identical employees have been allowed pension in Jamshedpur. Applicant no. 2 has, in the meanwhile, retired from service.

4. We have gone through the records and heard both the parties. The main issue here is whether the applicants can be given benefit of an order which was applicable only to those which were granted temporary status. The learned counsel for the applicant has argued that just because applicants were not granted temporary status they cannot be treated in a worse way than those who were granted such status before getting finally regularised. The learned counsel for the respondents argued that the applicants got their regularization and became a regular PSU employee while others were first granted temporary status and were regularized only later. These employees (in the category of applicants) got all the benefits of the regular employees including the NEPP. Therefore, their claim for grant of pension benefits on ground of subsequent orders issued with respect to temporary status employees is not maintainable. The applicants had prayed for allowing benefits of Non-Executive Promotion Policy which has already been given to them as alleged in the written statement and not

denied by the applicants in their rejoinder. The applicants have not been able to advance any legally maintainable reason for giving them a benefit which was meant only for employees who were granted temporary status. Thus, their claim for getting presidential orders issued in their favour to give them benefit of 50% for a non-existent temporary service period, cannot be granted. The OA is, therefore, dismissed. No order as to costs.

**[Dinesh Sharma
Administrative Member
Sr.k.**

**[Jayesh V. Bhairavia]
Judicial Member**