

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
**ORIGINAL APPLICATION NO.063/00544/2019
Chandigarh, this the 23rd day of May, 2019**

...
CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

...

1. Bhagat Ram, HRMS No. 200004498, aged 46 years, S/o Sh. Hazru Ram, working as Lorry Driver, O/o Additional General Manager, Telecom Project, Shimla-1 71001 (H.P.) 'Group C'
2. Jai Pal, HRMS No. 200000220, aged 59 years, S/o Sh. Lachhman Dass, working as Assistant Telecom Technician (ATT), NTR O/o Additional General Manager, Telecom Project, Baddi (H.P.) Group C
3. Shyam Lal, HRMS No. 200000334, S/o Sh. Lodhi Ram, working as Assistant Telecom Technician (ATT), O/o The Sub Divisional Engineer OFC Route NTR Nahan (H.P.) – 173001 Group C.

....**Applicants**

(Present: Mr. Sandeep Siwatch, Advocate)

Versus

1. Union of India, through the Secretary to Govt. of India, Ministry of Communications & Information Technology, Department of Telecommunications, New Delhi
2. Bharat Sanchar Nigam Limited through its Chairman-cum-Managing Director, Harish Chander Mathur Lane, Janpath, New Delhi.
3. Chief General Manager, H.P. Circle, Bharat Sanchar Nigam Limited, SDA Complex, Block No. 11, Kasumpti, Shimla – 9.
4. General Manager Telecom District, BSNL, Himuda Complex Saproon, District Solan, Himachal Pradesh.

..... **Respondents**

(Present: Mr. Sanjay Goyal ,Advocate for Resp. No. 1

Mr. K.K. Thakur, Advocate for Respondents No. 2 to 4)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. MA No. 063/00887/2019 is allowed and the applicants are allowed to join together to file this single O.A.
2. Applicants are before this Court impugning the order dated 28.02.2019 (Annexure A-1) and dated 01.03.2019 (Annexure A-2), whereby their claim for grant of benefit of Non Executive Promotion Policy w.e.f. due date, treating them as employees of erstwhile DoT and not BSNL, in terms of decision dated 16.01.2013 in the case of Sanjay Kumar and Others Vs. Union of India (O.A. No. 279/HP2013), affirmed up to the Hon'ble Supreme Court, has been denied, on the ground that they are not party to the proceedings in the relied upon case.
3. Heard.
4. Learned counsel submitted that the applicants joined the Department of Telecommunication as daily rated Mazdoors in the year 1996. They were granted temporary status of Mazdoor w.e.f. 12.02.1999, vide letter dated 08.09.1999. Subsequently, their services were regularized vide order dated 30.11.2000 w.e.f. 30.09.2000, before creation of BSNL and they were subsequently absorbed in the BSNL. The respondents introduced Non Executive Promotion policy (in short NEPP) for employees in the IDA pay scales on 23.03.2010. When the benefit of NEPP was denied to the persons who were regularized vide order dated 01.10.2000, along with the applicants, some similarly placed persons filed O.A. No. 279/HP/2012, which was allowed vide order dated 16.01.2013,

and further affirmed up to the Hon'ble Supreme Court by dismissing the SLP(C) No. 12125 of 2016, filed at the hands of the respondents. When the order was not implemented by the respondents, a C.P. was filed and pending that C.P. the respondents implemented the said order qua the applicants therein. Immediately thereafter, the applicants submitted a representation, for grant of benefit of decision in the case Sanjay Kumar (supra), which was duly forwarded to the higher authority. However, ultimately the grant of similar benefit was denied to the applicants and they approached this Court by filing O.A. No. 063/01420/2017, which was disposed of, in limine, vide order dated 04.05.2018, with a direction to the respondents to decide the claim in the light of relied upon cases. The respondents, in furtherance to the order of this Court, passed a speaking order dated 28.02.2019 and 01.03.2019, rejecting the claim of the applicants, on the plea that there is no specific direction to grant the benefits to the other similarly placed persons.

5. Learned counsel argued that once an issue has been put to rest by the Court of Law, affirmed upto the Hon'ble Supreme Court, then to deny those benefits to the similarly circumstanced persons, on the ground of absence of a general direction by the Court qua the whole category or their being not a party, is arbitrary and against the law laid down in the case of **State of Karnataka Vs. C. Lalitha** (2006) 2 SCC 747. He, therefore, prayed that the impugned order be quashed and the respondents be directed to grant the

relevant benefits arising out of judgment in the case of Sanjay Kumar (supra).

6. Issue notice to the respondents.

7. At this stage, Mr. Sanjay Goyal, Sr. CGSC, appears and accepts notice on behalf of Respondent No. 1 and Mr. K.K. Thakur, Advocate, accepts notice on behalf of Respondents No. 2 to 4. They submit that the respondents be granted reasonable time to examine the case of the applicant in the light of relied upon case.

8. I have given thoughtful consideration to the entire matter. This Court holds that the action of the respondents in denying the benefit to similarly circumstanced people on the ground of lack of general direction to cover the whole category, is arbitrary. Therefore, the impugned order is quashed and set aside. The matter is remitted back to the respondents to re-examine the matter in the light of the case of Sanjay Kumar (supra) and if the applicants are found similarly situated, they be granted notional benefit from the due date, restricting the actual benefits from the date of filing of the O.A. The needful be done within a period of three months from the date of receipt of a copy of this order. No costs.

**(SANJEEV KAUSHIK)
MEMBER (J)
Dated: 23.05.2019**

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