

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.614/2019

Monday, this the 25th day of February 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

H K Bansal, age + 71 years
Retired Group A
s/o late Sh. N R Bansal
r/o Flat No.D-506
NPSC Co Op Gr Housing Society Ltd.
Plot No.5, Sector 2, Dwarka (Phase-I)
New Delhi – 110 075

..Applicant

(Mr. D K Gupta, Advocate)

Versus

Union of India through

1. The Secretary
Ministry of Communications & I.T.
Govt. of India, Sanchar Bhawan
20, Ashoka Road, New Delhi – 110 001
2. The Secretary
Deptt. of Personnel & Training
North Block, Central Secretariat
New Delhi – 110 001
3. The Secretary
Union Public Service Commission
Dholpur House, Shajahan Road
New Delhi – 110 001
4. The Secretary
Central Vigilance Commission
Satrakta Bhawan CGO Complex
INA, New Delhi – 110 023
5. The Comptroller & Auditor General of India
Through the DG of Audit & P&T
Sham Nath Marg (Near Old Secretariat)
Delhi – 110 054

6. The Secretary
Deptt of Posts
Dak Bhawan, Parliament Street
New Delhi – 110 001
7. The Chairman & Managing Director
Mahanagar Telephones Nigam Limited
Corporate Office, MTNL, 5th Floor
Mahanagar Door Sanchar Sadan
9, CGO Complex, Lodhi Road,
New Delhi – 110 023
8. The Chairman & Managing Director
Bharat Sanchar Nigam Limited
Corporate Office
Bharat Sanchar Bhawan
HC Mathur Lane, Janpath
New Delhi – 110 001

..Respondents

(Mr. Trilok Singh, Advocate for Mr. Subhash Gosain, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant worked in the Department of Telecommunications. He retired as Superintending Engineer (SE) on 31.05.2007, on attaining the age of superannuation. This O.A. is filed with a prayer to direct the respondents to issue order of regularization in favour of the applicant for regularization in the grade of SE in the pay scale of ₹3700-5000, equivalent to ₹14300-18300 w.e.f. 01.01.1996, by suitably modifying the order of regularization issued in the final seniority list as on 01.08.2014 in the grade of SE, and as mentioned in letter dated 09.11.2016. Further direction is sought to the respondents for regularization in

the grade of SE from the first July of empanelment by regular DPC for the grade of SE, and with consequential reliefs.

2. The applicant contends that though he was promoted on regular basis to the post of SE w.e.f. 30.12.2004 vide order dated 01.08.2014, he was holding that post on *ad hoc* basis since 1996 onwards and he was entitled for regularization of his services at least from 01.01.1996. He contends that the pay scale for the post of SE was ₹14300-18300, as per the recommendations of 5th Central Pay Commission and the same was denied to him wrongfully. Other contentions are also urged.

3. We heard Mr. D K Gupta, learned counsel for applicant and Mr. Trilok Singh for Mr. Subhash Gosain, learned counsel for respondents extensively at the stage of admission.

4. To be precise, the prayer of the applicant reads as under:-

“I. To direct the respondents to issue the regularisation order in the grade of Superintending Engineer in the Pay Scale of Rs.3700-5000 = Rs 14300-18300/- w.e.f. 01.01.1996, by suitably modifying the impugned regularisation issued final seniority list as on 01.08.2014 in the grade of S.E. (Civil) issued vide Letter No:-33-1/2005-CWG dt 09.11.2016. (Order No:-2-2/2002-CWD (PT) R Dt 01.08.2014), instead of in the Pay Scale of Rs.12000-16500 [which is meant for Executive Engineer as non functional grade].

II. To direct the respondents to order regularisation in the grade of Superintending Engineer from first July of the Year of empanelment by the regularisation DPC for the grade of Superintending Engineer.”

5. The applicant was holding the post of SE on *ad hoc* basis, maybe for quite sometime, before he was regularly promoted to the post on 04.01.2005. It was clearly mentioned that the promotion on regular basis is in the pay scale of ₹12000-16500, w.e.f. 30.12.2004. In case the applicant had any objection to this order of promotion, be it as regards the effective date or the scale of pay, he was expected to pursue the remedy initially before the Department and thereafter before this Tribunal. Nothing of that sort was undertaken.

6. In the prayer, a reference is made to seniority list dated 01.08.2014 and letter dated 09.11.2016. Except that, certain amendments were made in the context of orders issued by the Tribunal in respect of certain other candidates, no rights of the applicant were dealt with in those proceedings. As observed earlier, the applicant retired way back in the year 2007, in a substantive capacity, as SE and none of his rights were determined either in the year 2014 or in 2016. Those proceedings appear to have been mentioned to show that the O.A. is filed within limitation.

7. Another aspect is that the applicant placed heavy reliance on O.M. dated 29.12.2010. The gist of it is that non-functional pre-revised pay scale of ₹14300-18300 for the post of SE is made functional. It is important to note that the eligibility criteria for

extension of that scale of pay were mentioned in paragraph 3. It reads as under:-

“3. Consequently, the Sub-para (a) of this Department’s O.M. No.22/1/2000-CRD dated June 6, 2000 would now read as under:-

“The ‘functional’ grade of Rs.14300-18300 shall be applicable to the posts of Superintending Engineers and equivalent that are variously designated and included in the Organised Group ‘A’ Engineering Services. Placement of Personnel in this ‘functional’ grade will, however, be subject to actual availability of vacancies in the grade. This shall be permitted only on completion of thirteen years of regular service in equivalent including the service rendered in the Non-Functional Second Grade Or nine years of regular service in the grade of Executive Engineer and equivalent, including regular service, if any, rendered in the Non-Functional Second Grade for the Executive Engineer and equivalent in the pay-scale of Rs.12000-16500.”

8. That state of affairs existed even while the applicant was in service. No effort was made by the applicant to state that he fits into the parameters laid therein, while he was in service. It is too late for him to claim that relief one decade after his retirement.

9. Further, in the prayer portion, an incorrect equivalence is furnished. In the O.M. dated 29.12.2010 pre-revised pay scale of ₹4500-5700 is revised to ₹14300-18300. The applicant, however, pleads that the pre-revised pay scale is ₹3700-5000. When there is so much of uncertainty and lack of clarity and the applicant approached the Tribunal ten years after his retirement, no relief can be granted.

10. The O.A. is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 25, 2019
/sunil/