

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**R.A. No. 59/2018 in
O.A. No. 1226/2010**

New Delhi, this the 15th day of July, 2019

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

A.K. Gupta & Ors. .. Applicants

Versus

Union of India & Anr. .. Respondents

And

A.K. Nagar .. Applicant

Versus

Union of India & Anr. .. Respondents

And

Bharat Sanchar Nigam Ltd. .. Review Applicant

(By Advocate : Shri D.S. Mahendru)

Versus

A.K. Nagar .. Review Respondent

(By Advocate : Shri Vinay Sabharwal)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The O.A. No.1226/2010, which was filed by three applicants, claiming relief as regards their functioning as

incharge of higher posts. The OA was dismissed by the Tribunal on 15.04.2010, mostly on the ground of limitation. Writ Petition No.3027/2012 was filed by them before the Hon'ble Delhi High Court. The dismissal of the O.A. in respect of applicants No.1 and 2, viz. Shri A.K. Gupta and Shri Gurbax Singh, was affirmed. However, the OA was remanded, in so far as it concerned the 3rd applicant, Shri A.K. Nagar.

2. After remand, the Tribunal allowed the O.A. through order dated 23.07.2016, directing that the applicant shall be granted the pay in the Higher Administrative Grade (pre-revised Rs.22400-525-24500) with effect from the date of his entitlement, i.e. the date from which he actually held the additional duty of the higher post.

3. Challenging the same, the respondent – BSNL filed Writ Petition No.3546/2017. The grievance was mostly as to the accuracy of the pay scale mentioned in the order in the OA. Through its order dated 02.05.2017, the Hon'ble High Court took the view that there was no discussion on the said aspect and, accordingly, disposed of the Writ Petition, leaving it open to the BSNL to approach the Tribunal itself, for clarification. Accordingly, the respondent – BSNL filed this Review Application.

4. The issue in the R.A. is as to whether the applicant is to be paid the salary attached to the post of Chief Engineer, which he held on “lookafter charge basis”. The applicants in the Review Petition state that the scale of pay mentioned at the end of the order in the OA was factually incorrect. Taking the same into account, the R.A. was allowed by mentioning that for the figure “22400-525-24500”, the figure “23750-600-28500” shall be substituted.

5. The applicant in the O.A. filed Writ Petition No. 13501/2018, feeling aggrieved by the said order. According to him, the Review Application was allowed without hearing him and that the order passed therein cannot be sustained. The Hon'ble High Court allowed the Writ Petition vide order dated 14.12.2018, setting aside the order in the R.A. 59/2018 and remanded the matter for re-hearing.

6. Today, we heard learned counsel for both the parties in detail.

7. The main controversy is as to what shall be the scale of pay, in which the applicant shall be put. Before indicating the pay scale of Rs.22400-525-24500, in its order passed in the OA, the Tribunal did not undertake necessary verification in that behalf. The applicant in the

OA held one post in substantive capacity, but was kept in lookafter charge of a higher post for some time. The exact scale of pay of the higher post, the text of the order which kept the applicant as incharge of the post and the relevant provisions of law need to be verified; by giving opportunity to both the parties. The very fact that the RA was heard twice indicates that the matter needs to be considered in detail.

8. We, therefore, allow the R.A. and recall the order dated 23.07.2016 passed in the O.A., and direct that the OA be listed for hearing on 21.08.2019.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/jyoti/