

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.210/319/2017

Dated this Monday, the 03rd day of June, 2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)
R.N. SINGH, MEMBER (JUDICIAL)

Dr. V.N.Shenoy
Retired Chief General Manager (WTP) BSNL,
Admn Building, Juhudanda,
Santacruz (W), Mumbai 400 054.
Residing at : Flat No.9, 2nd Floor,
Chandar Niwas, Plot No.186,
Road 28/A Sion (E) Mumbai 400 022. ... **Applicant**
(By 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 110 001.
2. The Chief General Manager (WTP),
 BSNL Maharashtra Circle, Admn Building,
 Juhudanda Santacruz (W),
 Mumbai 400 054.
3. The Chief General Manager,
 BSNL Maharashtra Circle, Admn Building,
 Juhudanda, Santacruz (W),
 Mumbai 400 054.
4. The Union of India,
 Through the Secretary of the Government of India,
 Ministry of Communication,
 (Department of Telecommunications)
 Sanchar Bhawan,
 New Delhi 110 001. .. **Respondents**
(By Advocates Shri V.S.Masurkar)

O R D E R (ORAL)

Per: R.N. Singh, Member (Judicial)

Heard both the learned counsels for the parties.

2. The applicant stated to have retired while working as Chief General Manager (WTP) under the respondents has challenged the order dated 31.01.2017 (Annex A-1) passed by the respondents whereby they have rejected his claim for pay fixation with notional increment in the pay scale on promotion to the post of Chief General Manager which carries higher responsibilities. The applicant further challenges the order dated 15.10.2014 (Annex A-2) issued by the respondent No.1 vide which certain clarifications were given.

3. In the aforesaid facts and circumstances, the applicant has approached this Tribunal by way of the present OA seeking the following reliefs :-

"8.a) This Hon'ble Tribunal be pleased to call for record and after examining the legality, validity and propriety of the same be pleased to declare the action of the respondent regarding not allowing the pay fixation on promotion to the Higher Grade is illegal,

null & void.

b) This Hon'ble Tribunal may set aside the impugned order dated 31.01.2017 and clarification dated 15.10.2014 and be directed to fix the pay of the Applicant as per GIO (6) below FR 22 and be directed to allow one increment @ 3 of existing pay scale on promotion to the Chief General Manager as per clarifications dated 23.06.2009 & dated 04.04.2016.

c) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.

(d) The cost of this original application be provided."

4. The learned counsel for the applicant submits that the impugned orders are bad in law as they are without any reasons and have been passed in a mechanical manner. He further submits that the action of the respondents in not fixing his pay on his promotion as Chief General Manager in violation of GIO (6) below FR 22.

5. In response to the notice issued by this Tribunal, the respondents have filed reply affidavit and they have disputed the claim of the applicant. The applicant has filed rejoinder along with copy of judgment of the Principal Bench of this Tribunal dated 21.12.2017 (Annex A-16) in OA No.2649/2017

title *All India Bharat Sanchar Nigam Limited Executive Association and others Vs. Union of India and others.*

6. The learned counsel for the applicant further submits that the claim of the applicant is covered by the above judgment and that in identical facts and circumstances, the Chandigarh Bench of this Tribunal vide order judgment dated 16.01.2018 has directed the respondents to re-fix the pay of the applicant on promotion to the post of Principal Chief Engineer / Principal General Manager after allowing one additional increment and grant all consequential retiral benefits accordingly.

7. On promotion of the applicant while re-fixing the pay, the Competent Authority had denied an additional increment. It has also been brought to our notice that the direction in the judgment order dated 16.01.2018 in OA No.060/00813/2016 title *Vipin Sharma Vs. Union of India & Another* has already been complied with by the respondents vide their order No.40-9/2014-Pen(B) dated

25.02.2019 and the same reads as under :-

"To

All Heads of Circles / Telecom Districts / Regions / Projects / Telecom Stores / Telecom Factories & Other Administrative Offices Bharat Sanchar Nigam Limited.

Sub : Grant of one increment on functional promotion as PGM/CGM in E-9A pay scale.

2. Pursuant to implementation of the judgment of the Hon'ble CAT, Chandigarh Bench dated 16/01/2018 in OA No.60/813/2016 filed by Shri Vipin Sharma partial modification of the clarifications issued vide this Office letter of even no. dated 15/10/2014, it has been decided with approval of the Competent Authority in BSNL to allow one increment on post based promotion to the grade of PGM/CGM, as per BSNL MSRR in the same pay scale i.e. E-9 (Rs.62000-80000).

2. Accordingly, necessary action in this regard may please be taken on the urgent basis.

Yours faithfully,

sd/-

(S.N.Tiwari)

Assistant General Manager (Estt.)

Tele No.23037486."

8. The learned counsel for the respondents has not been able to show us as to how the order / judgment of Chandigarh Bench of this Tribunal dated 16.01.2018 in Vipin Sharma (Supra) is not applicable in the present case.

9. In the aforesaid facts and circumstances, the OA is disposed of with a direction to the respondents to consider the claim of the applicant made in the present OA keeping in view the order / judgment dated 16.01.2018 in Vipin Sharma (supra) and pass a reasoned and speaking order within eight weeks from the date of receipt of certified copy of this order. No costs.

10. MA No.546/2018 also stands disposed of

(*R.N.Singh*)
Member (Judicial)

(*Dr. Bhagwan Sahai*)
Member (Administrative)

kmg*

JD
6/6