

**Central Administrative Tribunal
Ernakulam Bench**

CP(C) No./180/00100/2018
in OA No.180/01184/2012

Monday, this the 28th day of October, 2019.

CORAM

Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member

R. Vijayan, aged 71
S/o K.Raghavan,
Staff No.11016, Retired Divisional Engineer (Telecom),
BSNL, Kollam SSA, Kerala Circle.
Residing at Ushus, Vadamon P.O.,
Anchal, Kollam-691 306. Petitioner

(Advocate: Mr.Vishnu S.Chempazhanthiyil)

versus

1. Dr.P.T.Mathew
Chief General Manager
Bharat Sanchar Nigam Limited
Kerala Circle, Thiruvananthapuram-695 033.
2. Sri Anupam Shrivastava
Chairman & Managing Director,
Bharat Sanchar Nigam Limited
Corporate Office, Statesman House,
New Delhi-110 001. Respondents

(Advocate: Mr.George Kuruvila)

The CP(C) having been heard on 28th October, 2019, this Tribunal delivered the following order on the same day:

O R D E R (oral)**By E.K.Bharat Bhushan, Administrative Member**

Heard Sri Vishnu S.Cempazhanthiyil, counsel on behalf of the petitioner, as also Sri George Kuruvila representing the respondents. The point being considered in the CP(C) is implementation of the order at Annexure P1 wherein the following has been stated:

"4. From the available facts and circumstances and considering the fact that the applicants have been fighting their cause since 1991 to obtain their rightful seniority as ordered by this Tribunal, in order to bring a quietus to the protracted litigation, it is highly essential that the prayer in these two OAs have to be allowed once again. Accordingly, we allow the OAs. However, it is made clear that this order would be subject to the result of the aforementioned Civil Appeals pending before the Apex Court."

2. Subsequently, when the matter reached the Apex Court, the direction was as below:

"7. We do not consider it necessary to pass any further order on above recommendations except that 14 persons who are said to have been given promotions - 3 persons in BSNL and 11 persons in the MTNL contrary to the law laid down by this Court in (1997) 10 SCC 226 (Supra) may not be now disturbed. Their promotions and seniority may be considered personal to them without their being treated as class or a precedent for future. The judgment of this Court in (2015) 12 SCC 360 (Supra) will be treated as final between the parties on the principle of seniority.

8. We, however, make it clear that no arrears will be payable in terms of the impugned judgment. Consequential benefits of pay fixation including the pensionary benefits, if any, will be payable in terms of the judgment only w.e.f. 01.01.2018 and not for the post.

9. No further orders are necessary on the applications for impleadment and intervention and the same stands disposed of.

10. The appeals are disposed of in above terms..."

3. The issue raised by the learned counsel for the petitioner is to the effect that his junior Smt.T.M.Santhamma who had been promoted earlier has been

found to have been wrongly promoted and going by the fact that the applicant is also senior, he should be given notional seniority along with financial benefits due to him. Sri George Kuruvila, learned counsel on behalf of the respondents submitted that as per Annexure R1 order which is a speaking order, no financial benefits are due to the applicant, as the benefit that accrued to Smt.Santhamma has been declared as personal to her by the Hon'ble Supreme Court. So the relative comparison with the benefits that accrued to Smt.Santhamma is irrelevant and inadmissible in this case.

4. After hearing both sides, we are of the view that the petitioner has no claim to seek financial benefits with respect to Smt. Santhamma as the Apex Court has clearly stated that benefits which had been drawn by her were personal to her. In any case, as pointed out by the learned counsel for the respondents and as admitted by the counsel for the petitioner, the seniority has been re-fixed putting the applicant ahead of Smt Santhamma.

5. In view of the above, this CP(C) is closed. MA 94/2015 is also closed.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

aa.

Annexures filed by the petitioner:

Annexure P1: Copy of the order dated 21.8.2014 in OA No.1184/2012 of this Tribunal.

Annexure P2: Copy of order dated 1.6.2018 in MA No.180/94/2015 in OA No.1184/2012 of this Tribunal.

Annexure P3: Copy of communication no.1-10/2013-STG.II dated 6.5.2013 issued under RTI Act.

Annexure P4: Copy of the order No.232-32/87 STG II dated 17.5.1991 issued by the Govt of India, Department of Telecommunications.

Annexure P5: Copy of judgment dated 11.1.2010 in W.P.(C) No.30551/2009 of the Hon'ble High Court of Kerala.

Annexure P6: Copy of order No.54-43/2009-Pers. (Legal) dated 23.7.2010 issued by the BSNL.

Annexure P7: Copy of order No.ST/III-3-25(R)/2009/Pt dated 28.7.2010 issued by the BSNL.

Annexure P8: Copy of order No.ST/III-3-25(R)/2009/Pt dated 28.7.2010 issued by the BSNL.

Annexure P9: Copy of order No.16-3/92-STG-II dated 29.7.1992 issued by the Govt of India, Department of Telecommunications.

Annexure P10: Copy of order No.Q 191/IV/90 dated 27.8.2010 issued by the Chief Accounts Officer (CA), O/o the PGMT, Kottayam.

Annexure P11: Copy of the judgment dated 27.5.1992 in OA No.215/1991 of this Tribunal.

Annexure filed by respondents:

Annexure R1: Copy of the speaking order dated 24.7.2019 issued by the BSNL Corporate Office.