

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A.No.020/00616/2014

Date of Order : 08.04.2019.

Between :

M.S.S.Ramachandra Murty, s/o Suryanarayana Murty,
aged about 63 yrs, Hindu, Retd. Personnel
Assistant to DGM (Marketing), 6th Phase,
Venkatadri Nivas, KPHB Colony, Hyderabad-500 085.
...Applicant

And

1. The Union of India, rep., by its Secretary
(Dept. of Telecom), 20, Ashoka Road,
Sanchar Bhavan, Govt. of India,
New Delhi-110 001.

2. The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Personnel Branch-II,
4th Floor, Janapath, New Delhi-110 001.

3. The Chief General Manager, Telecom
Bharat Sanchar Nigam Limited, Nampally Station Road,
Hyderabad-500 001.

4. The Principal General Manager,
Hyderabad Telecom District, BSNL Bhavan, Adarsh Nagar,
Hyderabad-500 063.

... Respondents

Counsel for the Applicant

... Mr.M.S.S.Ramachandra Murty,
(Party-in-Person)

Counsel for the Respondents

... Mrs.K.Rajitha, Sr.CGSC
... Mr.M.C.Jacob. SC for BSNL

CORAM:

**THE HON'BLE MR.JUSTICE R.KANTHA RAO, MEMBER (JUDL.)
THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)**

ORDER

(As per Hon'ble Mrs.Naini Jayaseelan, Member (Admn.))

Brief facts of the case:

The applicant served in the office of Principal General Manager, Hyderabad Telecom District and retired on 31.12.2011 as Personal Assistant to the Deputy General Manager (marketing), O/o PGM, HTD, Hyderabad.

2. The applicant was initially appointed on 07.09.1973 as Group-D employee and subsequently qualified as Telecom Office Assistant (TOA) and was appointed on 03.01.1978 as TOA. While working as Time Scale Clerk, he qualified the Stenographers Test and appointed as a Grade-III Stenographer on 23.09.1981 against departmental quota was confirmed in the said post on 01.03.1986. Subsequently, in 1997, the applicant was promoted to Grade-II Steno in pay scale of Rs.1400-2600/- under DOT (Department of Telecommunications). Later on, in 2002, he was promoted as Grade-I Steno in the pay sale of Rs.7800-225-11175.

3. The applicant submitted that BSNL Corporate Office, New Delhi, had restructured the pay scales of Stenographer cadres in field units of BSNL with effect from 01.01.2004 and merged the Grade-II (in CDA scale of Rs.5000-8000) and Grade-I (Rs.5500-9000) Stenographers. The merged grade is designated as Personal Assistant (PA) and classified as Executive

and upgraded to the pay scale of Rs.6500-10500 (CDA scale) as per office order dated 20.02.2004 of O/o CMD, BSNL, New Delhi, which came into effect from 01.01.2004. The applicant was granted ACP w.e.f. 23.9.2005.

4. The applicant approached this Tribunal by filing OA.No.1104/2011 questioning the action of the respondents in denying him the 2nd Time Bound Promotion. The said OA was allowed as per order dated 08.11.2012. The operative portion of the order reads as under:

“14. In view of the above circumstances, the applicant is justified in seeking the benefit of financial upgradation of Executive Promotional Policy under para 3 of OM dated 18.01.2007 of respondent-BSNL and as such the respondents are directed to take decision in respect of such entitlement of the applicant under EPP with a reasoned order within a period of four weeks from the date of receipt of a copy of this order.”

In compliance with the directions of this Tribunal, BSNL passed a speaking order dated 23.01.2013, which reads as under:

“It is very much clear as per the provisions contained in the Executive Promotion Policy and in particular, para 1 (I) (d) (8), any upgradation due to the Executives on or before 01.10.2004 based on the earlier policy under the ACP Scheme, such upgradation will be granted to the Executives on the basis as one time relaxation, if he/she is willing for such promotion and adjudged fit for regulatory conditions.

In view of the above provisions, any promotion granted under the old policy on or before 01.10.2004, shall be retained by the Executive by exercising his option and further there is no provision to retain such type of promotion granted to the Executive after 01.10.2004 under the old Promotion Policy.

Applying the said provision in your case as you were given Time Bound promotion under ACP policy with effect from 23.09.2005 which incidentally falls after 01.10.2004. As such the said upgradation shall be

deemed to be withdrawn and you will be entitled for the first upgradation with effect from 01.10.2006 and further upgradations under the Executive Promotion Policy dated 18.01.2007.

Since you are eligible for the first upgradation with effect from 01.10.2006, the said benefit will be extended to you by modifying the date of upgradation as on 01.10.2006 under EPP policy duly cancelling the upgradation issued as on 23.09.2005 under ACP Scheme. The subsequent upgradation will be after five years of regular service reckoning from 01.10.2006 and as such you are entitled for 2nd upgradation with effect from 01.10.2011.

Hence, you are not entitled for grant of subsequent upgradation under Executive Promotion Policy dated 18.01.2007 taking the 1st upgradation as on 23.09.2005 issued under earlier Promotion Policy as it is not fit as per the provisions of Executive Promotion Policy, 2007.

In view of the above, your claim for treating the upgradation under the ACP Scheme, granted with effect from 23.09.2005 as the first upgradation under the Executive Promotion Policy is not correct hence regretted. However, you are entitled for the first upgradation to the next higher IDA pay scale with effect from 01.10.2006 and the second upgradation to the next IDA scale with effect from 01.10.2011 as per the Time Bound Promotion Policy and the financial upgradation issued with effect from 23.09.2005 under the ACP Scheme be withdrawn as ACP Scheme of Govt. of India has been discontinued w.e.f 1.10.2004."

5. The applicant submitted that the BSNL Corporate Office, New Delhi, as per office order dated 10.06.2013, issued orders for allowing benefit of merger of 50% DA effectively amounting to 78.2% fitment w.e.f. 10.06.2013 with notional fixation of the pay w.e.f. 1.1.2007 to the existing working employees on 10.06.2013. The BSNL employees, who retired subsequent to the BSNL Corporate office order dated 10.06.2013, were given monetary benefits like DCRG, Leave Encashment, Computation of Pension etc. In the said order, no mention was made about extending the same benefit

to the employees, who retired between 01.01.2007 to 10.06.2013 and also retired pensioners, whose pay scales were revised w.e.f. 01.01.2007. Therefore, it is the applicant's contention that denying the monetary benefit to the BSNL pensioners is unjust, against settled legal principles and principles of natural justice, and also violative of Articles 14, 16, 21 and 300-A of the Constitution of India.

6. It is the case of the applicant that the respondents 2 and 3 be directed to grant 50% DA effectively amounting to 78.2% for the purpose of fitment to the pensioners who retired between 1.1.2007 to 10.6.2013 for revision of pay notionally fixed on par with the existing working Executives with consequential benefits like DCRG, Leave Encashment, Commutation of Pension and also resultant hike in pension.

7. The respondents have filed a reply statement contesting the OA.

8. It is the contention of the Counsel for the Respondents that as the applicant had retired from service on 31.12.2011, he is not entitled to the fitment benefit of merger of 78.2% of IDA as per the office order dated 10.06.2013. The detailed speaking order dated 23.01.2013 categorically states that the ACP granted on 23.09.2005 cannot be taken as the first upgradation and that the applicant is entitled for the first upgradation to the next higher IDA scale only w.e.f. 01.10.2006 and the second upgradation w.e.f. 01.10.2011. Needless to add, the above upgradations can be granted only if the financial upgradation granted under the ACP Scheme is

withdrawn. Therefore, no re-fixation of retirement benefits can be done. Such benefit can only be extended to the employees, who retired on or after 10.06.2013. Also, all retiral benefits including pension have already been paid to the applicant/pensioner.

9. This Tribunal is not vested with any power to set aside the abovementioned policy, which was issued after inter-ministerial consultation with the approval of the Union Cabinet. Therefore, the prayer for the applicant to set aside the impugned order dated 10.06.2013 cannot in any way be interfered.

10. In view of the above, it is clear that as per the policy of the BSNL, merger of 50% Dearness Allowance amounting to 78.2% as on 1.1.2007 for the purpose of fitment in respect of Board level and below board level executives and non-unionised Supervisors of BSNL can be given only with effect from 10.06.2013 i.e., the date of issue of Presidential order i.e., for those employees of BSNL, who retired after 10.06.2013. Since the applicant retired on 31.12.2011, no re-fixation of retirement benefits can be done in the present case.

11. The OA is, therefore, dismissed.

12. As the main OA is dismissed, the M.A.No.1020/2015 seeking permission for making perjury application against the respondents for

filing false affidavit, M.A.No.862/2016 for filing additional documents and M.A.No.240/2018 for early hearing of the OA also stands disposed of.

13. No order as to costs.

Sd/-

(NAINI JAYASEELAN)
MEMBER (ADMN.)

Sd/-

(JUSTICE R. KANTHA RAO)
MEMBER (JUDL.)

Dated: this the day of April 2019

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