

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/21/522/2019

Dated: 16/07/2019

Between

Sudarshan Gopu,
S/o. Sambaiah Gopu,
Aged about 42 years, HRMS No.200302190,
Occ: Jr. Telecom Officer, BSNL,
O/o. Principal General Manager
Telecom District,
Warangal District, Warangal.

... Applicant

AND

1. Union of India rep. by Secretary,
Dept. of Telecommunications,
20 Ashoka Road, New Delhi - 1.
2. The Bharat Sanchar Nigam Limited
Rep. by its Chairman cum Managing Director,
BSNL Corporate Office,
Barakumba Road,
Statesman House, New Delhi - 1.
3. The Chief General Manager, BSNL,
Telangana Telecom Circle,
Hyderabad - 1.
4. The Principal General Manager, HTD,
BSNL Bhavan, Adarshnagar, Hyderabad.
5. The General Manager Cell-One,
Secunderabad.
6. The Accounts Officer (Cash & Pay) Main,
O/o. Principal General Manager, HTD,
BSNL Bhavan, Adarshnagar,
Hyderabad. ... Respondents

Counsel for the Applicant : Dr. A. Raghu Kumar
Counsel for the Respondents : Mrs. K. Rajitha, Sr. CGSC
Mr. M.C. Jacob, SC for BSNL

CORAM :

Hon'ble Mr. A.K. Patnaik, Judl. Member

Hon'ble Mrs. Naini Jayaseelan, Admn. Member

ORAL ORDER

[A.K. Patnaik, Judl. Member]

Heard Sri B. Pavan Kumar, learned counsel for the applicant and Smt. K. Rajitha, learned Senior Standing Counsel appearing for the respondents, in extenso.

2. This O.A. has been filed u/Section 19 of the Administrative Tribunals Act, 1985 with the following prayer:

..... to call for the records pertaining to the LrNo.E-6/Pay-Fix/Gr.A&B/2018-19 dated 8.5.2019 and Lr. No.BSNL/PGMTD-WL/AO (Pay)/Pay-Fix/2018-19 dated 22.5.2019 revising the pay of the applicant and proposing to recover the excess paid amount and quash and set aside the same as illegal, arbitrary and violative of Article 14 & 16 of the Constitution of India and of the provisions of FR 22 and Rule 26 of the CCS (Pension) Rules and the Government of India instructions thereunder from time to time and consequently declare that the applicant is entitled for pay fixation in terms of FR 22(I)(a)(1) and Para 3.6 of their Office Order dated 7.5.2010.ö

3. At the outset, learned counsel for the applicant submitted that the applicant has filed the instant O.A. challenging the pay fixation Memo in LrNo.E-6/Pay-Fix/Gr.A&B/2018-19 dated 8.5.2019 and Lr. No.BSNL/PGMTD -WL/ AO (Pay)/Pay-Fix/2018-19 dated 22.5.2019 and proposing to recover the excess paid amount from the pay and allowances of the applicant on the ground that the earlier pay-fixation was done as per para 3.6 of BSNL CO ND order No.1-16/2010-PAT (BSNL) dated 7.5.2010 and that the BSNL CO ND vide their Lr.No.1-07/2012-PAT (BSNL) dated 28.3.2012 has

clarified that the appointment given under Direct Recruitment Outside quota after tendering technical resignation by the employee cannot be treated as promotion and such employees are not entitled for exercising option for fixation of pay in terms of the para 3.6 of the Office Order dated 7.5.2010 which is illegal, arbitrary and violative of the provisions of FR 22 and the Government of India orders under Rule 26 of the CCS (Pension Rules).

4. On the other hand, learned counsel for the official respondents submitted that the pay fixation has been rightly made and, therefore, there is no illegality or irregularity in the action of the respondents. She has vehemently opposed the O.A. both on facts and law.

5. However, with the aid and assistance of Sri Pavan Kumar, learned counsel for the applicant, we came across Annex.A-XI, which is the representation of the applicant addressed to Respondent No.6 and Sri Kumar submitted that till now the applicant has not received any reply from the respondents. The law is well settled that right to know the outcome of the representation is a vested right and a duty has been casted on the respondent authorities to consider the representation or appeal, if at all preferred by an employee, and communicate the result thereof to him, whether it is positive or negative, as early as possible.

6. As the respondents have not filed reply so far, without awaiting reply and rejoinder, we think it appropriate to dispose of the O.A. with certain directions to the respondents. Accordingly the O.A. is disposed of, directing the respondents to dispose of Annex.A-XI representation of the applicant, if

at all preferred by the applicant and is still pending consideration, keeping in mind the rules governing the field (BSNL) and the other points raised in the said representation, and communicate the result thereof to the applicant by a reasoned and speaking order, within a period of six weeks from the date of receipt of a copy of the order. We also make it clear that till the representation of the applicant is disposed of and the result thereof is communicated to the applicant, there shall be no recovery from the salary of the applicant.

7. Although we have not expressed any opinion on the matter, we still hope and trust, after such consideration, if the case of the applicant is found genuine, then expeditious steps may be taken for re-fixation of his pay, by following due procedure and law, within six weeks of such consideration.

8. As prayed by Sri Pavan Kumar, learned counsel for the applicant, a copy of the order along with the paper book be sent to the respondents for which, Sri Kumar will deposit the costs in the Registry,

9. There shall be no order as to costs.

(NAINI JAYASEELAN)
ADMN. MEMBER

(A.K. PATNAIK)
JUDL. MEMBER

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