

CENTRAL ADMINISTRATIVE TRIBUNAL,
MADRAS BENCH

Original Application No. 2018 of 2017

Thursday, this the 17th day of February, 2022

CORAM:

Hon'ble Mr. P. Madhavan, Judicial Member
Hon'ble Mr. T. Jacob, Administrative Member

1. All India BSNL Pensioners' Welfare Association,
(Regd. No. T. 1833/09), Rep. by its Circle Secretary,
Tamilnadu Circle, 1A, Amirtham Avenue, Bharani Street,
Bharathi Nagar, Velacherry, Chennai – 600 042.
2. R. Delliraj, S/o. N. Ramachandran, aged about 68 years,
45A, Malliam Nagar 2nd Street, Poonamallee, Chennai – 600 056.
3. M.K. Atchayakumar, S/o. M. Krishnan, aged about 69 years,
No. 9, Dr. Ambedkar Nagar, New Avadi Road, Kilpauk,
Chennai – 600 010. **Applicants**

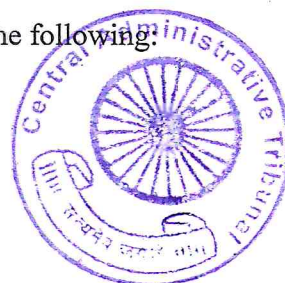
(By Advocate : M/s. Menon, Karthik, Mukundan & Neelakantan)

V e r s u s

1. Union of India, Ministry of Communications,
Department of Telecommunications, Re. by its Secretary,
Sanchar Bhavan, 20, Ashoka Road, New Delhi – 110 001.
2. Principal Controller of Communication Accounts, Tamil Nadu,
R.K. Nagar, Telephone Exchange, 7th Floor, 239, R.K. Mutt Road,
Chennai – 600 028.
3. The Chairman-cum-Managing Director, Bharat Sanchar Nigam
Limited, M.S. Mathur Lane, Janpath, New Delhi – 110 001.
4. The Chief General Manager, BSNL, Tamil Nadu Circle,
Greams Road, Chennai. **Respondents**

(By Advocate : Mr. Su. Srinivasan, M/s. M.S. Velusamy)

This application having been heard on 03.02.2022 through video conferencing, the Tribunal on 17.02.2022 delivered the following:



ORDER**Hon'ble Mr. P. Madhavan, Judicial Member –**

The 1st applicant the Association of All India BSNL Pensioners Welfare, 2nd and 3rd applicants have filed this OA seeking the following reliefs:

“i. To quash the order of the 1st respondent dated 7.3.2017 bearing No. 40-16/2-12-(PenT) and the consequential order of the 2nd respondent dated nil.06.2017 bearing No. DoT/CCA/TN/Pen Rev/50% CVP and order No. DoT/CCA/TN/Pen Rev., dated 8.12.2017 issued by the 2nd respondent and

ii. consequently direct the respondents to pay pension including extra increment already granted to the pensioners who are members of the 1st applicant association, whose names are given in the Annexure to the application and continue to pay the pension as earlier determined prior to the issue of the order dated 7.3.2017 of the 1st respondent; and

iii. pass such other orders or directions as this Hon'ble Tribunal may deem fit in the circumstances of the case.”

2. The applicants are retired BSNL employees who had worked both in the Department of Telecommunication (DoT) and Bharat Sanchar Nigam Limited (BSNL). According to the applicants, on formation of respondent No. 3 there was a demand from the employees for getting time bound promotion from Grade-III to Grade-IV. The BSNL after deliberation in the 2nd National Council held on 28.5.2003 decided to continue the then existing 10% promotion of Grade-III to Grade-IV. It was also decided that for persons who do not get that promotion will be given one extra increment in Grade-III one year prior to retirement. The terms and conditions are as follows:

“i. This will be applicable only to those cadre, which are covered under OTBP/BCR schemes and only those officials who have been absorbed in BSNL.

ii. The officials should have earned at least one increment in BCR Grade III i.e. he/she must have completed at least one year regular qualifying service in BCR Grade III.



(Signature)

iii. *This benefit is being given in appreciation of the long years of good service rendered by an official and hence claim of this benefit on any other ground will not be entertained. The fitness of the official for getting the benefit of one extra increment will be judged by a screening committee headed by appointing authority. The screening is to be held in advance so that benefit is extended from the due date.*

iv. *In case any official, who had been given an extra increment under this scheme, subsequently becomes eligible and promoted to Grade IV due to any reason, such official would have to exercise option at the time of promotion either for retention of the extra increment or for Grade IV promotion. If the official opts for Grade IV promotion, then he would be promoted to Grade IV and the amount already paid to the official on account of extra increment would have to be refunded or to be adjusted accordingly.*

v. *In the case of officials who have preferred representation or filed cases in any court of law, claiming for Grade IV promotion on any ground, the benefit of this scheme will not be extended to such officials till the finalization of representation/court case.*

vi. *The scheme of extra increment will be effective from 1.6.2003. Hence, the officials retiring after 1.6.2003 will get the financial benefit from that date only. This extra increment will be counted for the pensionary and other retirement benefit purposes."*

As per the proposal forwarded, the 1st respondent approved the same as a special case for employees who have been absorbed in BSNL in accordance with option exercised by them.

3. The 1st respondent after having approved the grant of extra-increment, is now going to withdraw the same without notice and without any justification as per impugned orders dated March, June and December, 2017. The increment granted to the applicants already was taken into consideration for granting their pensionary benefits as well.

4. The respondents appeared and filed a reply admitting the grant of extra increment to BCR Grade-III staff of BSNL covered under OTBP/BCR Scheme one year prior to their retirement. It was granted as a special case as per OM No. 40-12/2004-Pen(T), dated 27.7.2009 (Annexure R2). It was



granted to the officials of pre-restructured cadre covered under OTPB/BCR Scheme and such benefit was not extended to those officials who have opted for restructured cadre. The benefit of extra increment was not extended to the officials in the restructured cadre in lieu of higher scale granted. There is no OTBP/BCR scheme in the restructured cadre.

5: We have heard the counsel appearing for the parties through video conferencing and had also perused the pleadings and various judgments of the Tribunal, Hon'ble High Court and Hon'ble Apex Court.

6. On a perusal of Annexure R1 order dated 18.11.2003 it can be seen in clause (b)(i) that the grant of one extra increment one year prior to retirement is applicable to those cadres which are covered under OTBP/BCR schemes and only to those employees absorbed to BSNL. There is no mention in the condition that those who had opted to restructured cadre is not entitled to get it. The employees herein came from DoT and they were absorbed to BSNL. The applicants in this case retired long before the impugned orders were issued. It is clear that the re-fixation had to be undertaken only because of the mistake committed by the respondents. The applicants had invited our attention to the decision of the Hon'ble apex court in *Sushil Kumar Singhal v. Pramukh Sachiv Irrigation Department & Ors.* – (2014) 16 SCC 444 wherein Hon'ble apex court had quashed the order for recovery from retired pensioners. In this case also the increment was granted to the applicants and similarly placed employees as per Annexure R1 dated 18.11.2003 prior to the retirement of the applicants and



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there is no justification in recovering the increment and benefits due in pension as per Annexure A22 order dated 7/10.3.2017. The Chandigarh Bench of this Tribunal in a similar case in *Jiwan Singh & Anr. v. Union of India & Ors.* – OA No. 79/2017 dated 24.1.2018 held that respondents are not entitled to withdraw the benefits i.e. the extra increment granted which has formed the part and parcel of calculation of pensionary benefits.

7. We have no reason to disagree with the above orders of the Hon'ble apex court as well as the Chandigarh Bench of this Tribunal. Accordingly, we hereby quash the impugned orders issued by the respondents dated 7/10.3.2017 (Annexure A22), June, 2017(Annexure A24) and 8.12.2017 (Annexure A29).

8. The Original Application is allowed as above. No costs.

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