

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5524 of 2015 (O&M)

Date of Decision: 10.05.2018

Hukam Chand

...Petitioner

VS.

CAT & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Shekher Dhawan**

Present: Mr. Gaurav Singla, Advocate for the petitioner
Mr. Rajesh Gupta, Advocate for respondents No.2 to 4

SURYA KANT J. (Oral)

(1) The petitioner is aggrieved by the order dated 09.12.2014 passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby his claim for grant of benefit of one increment w.e.f. 30.09.2004 and to grant revised consequential retiral benefits has been turned down.

(2) The petitioner was an employee of respondent-BSNL and he lastly, at the time of his retirement on 30.09.2005, held the post of Senior Telegraph Master which is a BCR Group-III post.

(3) BSNL has issued a policy circular dated 18.11.2003 (Annexure A1 before the Tribunal) resolving that "*One extra increment in BCR Grade-III may be given one year prior to retirement, without benefit of FR 22(C), to those Group 'C' officials who are in BCR Grade-III and are unable to get Grade-IV promotion on the following terms and conditions...*".

(4) The petitioner claimed that he fulfilled all the conditions (i) to (vi) contained in the above-stated Circular hence he was entitled to grant of one extra increment in BCR Gr-III from one year prior to his retirement. His claim was not accepted and was expressly turned down in the year 2011. He challenged the said order but the Tribunal has dismissed the OA primarily on

the ground that since the Central Government has not approved the decision of BSNL and it being a policy decision, petitioner cannot claim the said benefit as a matter of right.

(5) We have heard learned counsel for the parties and gone through the record.

(6) It appears to us that the learned Tribunal has not considered three aspects of the matter, namely,

(i) whether the policy decision of 2003 was implemented and remained in force till different policy decision was taken in the year 2011? If so, whether the petitioner fulfilled the eligibility conditions contained in the above-stated Circular dated 18.11.2003?

(ii) whether similarly-placed employees were given the benefit of one extra increment under the Circular dated 18.11.2003, and if so, does it amount to discrimination with the petitioner?

(iii) whether the fresh policy decision was taken in the year 2011, and if so, can it be applied retrospectively?

(7) Since all these questions require summoning of record etc., we allow the writ petition in part; set aside the order dated 09.12.2014 passed by the Tribunal and remit the case to the learned Tribunal for afresh adjudication in the light of the questions formulated above.

(8) Parties are directed to appear before the Tribunal on 28.05.2018.

(Surya Kant)
Judge

(Shekher Dhawan)
Judge

10.05.2018

vishal shonkar

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No