

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :18.06.2019
CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN

and

The Honourable Ms.JUSTICE P.T.ASHA
W.P.Nos. 31110 and 31111 of 2017

1. G. Vellaichamy

S/o. Govindasamy,

aged 62 years,

retired as Telecom Mechanic,

Telecom Exchange,

O/o. SDE South, BSNL, Dindigul- 624 001.

..Petitioner in W.P.No.31110 of 2017

2. P. Arputhasamy,

S/o. Pitchaimuthu,

aged 59 years

working as Telecom Mechanic,

Telecom Exchange,

O/o. SDE Commercial, BSNL, Dindigul,

residing at C2/2, BSNL Staff Quarters,

Murugapakkam, Palani Road,

Dindigul- 624 001.

..Petitioner in W.P.No.31111 of 2017

Vs.

1. Union of India, Represented by the

Chairman - Managing Director,

Corporate Office, BSNL,

Harish Chandra Mathur Lane,

Janpath, New Delhi-110001.

2. Assistant General Manager (Pers III),

Corporate Office, BSNL,

Harish Chandra Mathur Lane,

Janpath, New Delhi -110001.

3. General Manager,

Telecom BSNL, Madurai -625 002.

4. Senior Accounts Officer (Drawal -II),

Office of the General Manager,

BSNL, Madurai -625 002.

5. The Registrar,
Central Administrative Tribunal,
High Court Compound,
Chennai- 600104.

.. Respondents in both WPs.

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ, Order or Direction particularly in the nature of a writ of Certiorari, calling for the records relating to order dated 08.09.2016 passed by the 5th respondent Tribunal in O.A.Nos. 625 and 611 of 2013 respectively.

For Petitioners : Ms. Kavitha & Ms. Nithyashree
For Respondents : Mr. K.R. Ramesh Kumar for R1 and R4
Tribunal for R5

C O M M O N O R D E R

Order of the Court was delivered by P.T.ASHA, J)

The subject matter in both the above writ petitions relates to the stepping up of pay of the petitioner to be in parity with their junior in keeping with the extant orders of the Government whereby it is directed that wherever the junior draws a higher pay in a particular cadre then the senior's pay would be stepped up on par with his junior.

2. The petitioners in both the writ petitions were appointed as regular Mazdoor on 25.02.1982 and 28.02.1982 respectively with effect from 27.02.1982 and 28.07.1982 respectively. Both of them on completion of 16 years of service were placed in the scale of pay Rs. 2,610-4000/- with effect from 27.02.1998 under the One Time Bound Promotion Scheme (OTBP) Scheme. The basic pay was fixed at Rs.3150/- in the said scale.

3. The petitioners would submit that in keeping with the growing Telecom technology, the respondents had decided to send candidates for training in a phased manner. Based on their education qualifications, the successful candidates were then sent for training in a phased manner, as per a select panel screened by a DPC. Their seniority was fixed as per training marks and they were absorbed as Telecom Mechanic in every recruitment year based on the sanctioned post. The petitioners had completed their training and were posted as Phone Mechanic at different stations on 15.09.1998 and the scale of pay was fixed at Rs.3200 -85-4900 and basic pay was fixed at Rs.3200.

4. Thereafter by order dated 27.05.1999, the promotion to the post of Telecom Mechanic was granted with effect from

17.11.1997 instead of 18.02.1998. Therefore the petitioners were entitled to a pay scale of 3200-4900 with effect from 17.11.1997. Thereafter on 1.10.2000, the petitioner were absorbed in BSNL.

5. The respondent had introduced replacement in the pay scales termed as industrial DA pay scale (IDA for short) with effect from 1.10.2000. A point to point pay fixation from Central DA pay scale (CDA scale for short) to IDA pay scale was introduced. By reason of this transition, juniors who were drawing CDA pay scale for a longer period, got their pay fixed in the new IDA pay scale, as a result of which they drew a higher pay than the petitioners.

6. Several representations were made by the petitioners questioning this anomaly. In a similar case, the Ernakulam Bench of the Central Administrative Tribunal had allowed the petitions filed by the affected employees. Therefore, petitioners had moved the Central Administrative Tribunal, Chennai in OA.No.625 of 2013 and O.A.No.611 of 2013 respectively.

7. The Tribunal by its order dated 08.09.2016 dismissed the petitions by holding that the junior namely S.Muthukamu has exercised his option to fix his pay on the date of next increment and therefore the petitioners cannot question the same.

8. Aggrieved by the order passed by the Central Administrative Tribunal, the petitioners have moved this Court by way of the above referred writ petitions.

9. Heard Mrs.Y.Kavitha & K. Nithya, learned counsels for the petitioners and Mr.K.R.Ramesh Kumar, learned counsel appearing for respondents 1 to 4.

10. The learned counsel for the petitioner would draw our attention to a case of K. Rengasubramani, arising out of a similar set of facts. The said Officer had filed O.A.No.608 of 2013 and the Central Administrative Tribunal had allowed the application with a direction to the respondents to consider the pay anomaly consequent to the introduction of the IDA of the petitioner to the CDA pay scale placing it before the Anamolies Committee. The applicant therein was directed to make his representation and on receipt of such representation, the respondents were directed to consider the same and pass orders within a period of one (12) weeks thereafter. The Learned counsel for the petitioner also produced the order of the 3rd respondent, Deputy General Manager wherein the orders of the Central Administrative Tribunal, Chennai in O.A.No.608 of 2013 was given effect to in and by which, they have stepped up the

pay of K.Rengasubramanian on par with juniors.

11. Considering the fact that the case of the petitioners are also similar to that of the petitioner in O.A.No.608 of 2013, the writ petitions are allowed by directing the respondents to step up the pay of petitioners herein on par with their junior S.Muthukamu. The said exercise shall be completed within period of four (4) weeks from the date of receipt of a copy of this Order. No cost.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mrn

To

1. Union of India, Represented by the
Chairman - Managing Director,
Corporate Office, BSNL,
Harish Chandra Mathur Lane,
Janpath, New Delhi-110001.

2. Assistant General Manager (Pers III),
Corporate Office, BSNL,
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Telecom BSNL, Madurai -625 002.

4. Senior Accounts Officer (Drawal -II),
Office of the General Manager,
BSNL, Madurai -625 002.

5. The Registrar,
Central Administrative Tribunal,
High Court Compound,
Chennai- 600104.

+2cc to Mr.Giridhar & Sai, Advocate, S.R.No.49772 49771

+2cc to Mr.K.R.Ramesh Kumar, Advocate, S.R.No. 49711, 49712

W.P.Nos. 31110 and 31111 of 2017

RR(CO)

GN(29/07/2019)