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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4757/2019 & CM APPL. 21164/2019

RUPENDRA PATHAK AND ORS.

..... Petitioner

Through: Mr. Manish Kumar with Mr. Rajan
Arora, Advs.

versus

DEPARTMENT OF TELECOMUNICATION AND ORS.

..... Respondent

Through: Mr. A.S. Singh for Mr. R.V. Sinha,
Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

14.05.2019

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Issue notice. Mr. A.S. Singh accepts notice on behalf of the respondents.

The petitioner has preferred the present writ petition to seek a direction to implement the order dated 15.06.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 357/2018. The petitioner seeks clarification that the said order dated 15.06.2018 would be applicable to the petitioners and that the order dated 06.06.2018, cancelling the promotions granted to inter alia, the petitioners to the Grade of AGM (ad hoc) and reverting them to the Grade of SDE, passed

by the respondent BSNL has been stayed by the said order dated 15.06.2018 by the Tribunal.

The petitioners' Original Application i.e. O.A No. 357/2018 is pending consideration before the Tribunal. The Petitioner moved M.A No. 2632/2018 to seek stay of the impugned order dated 06.06.2018 passed by the BSNL. The Tribunal disposed of the said Original Application by passing the following order:

“MA No.2632/2018

Notice on this application were issued to the respondents. Reply on behalf of respondent No.2 has already been filed. Learned counsel for respondent No.1 submits that though he has received notice but failed to file any reply. Learned counsel for respondent No.3 submits that he has received the notices but no copy of the application was given to him and, therefore, he could not file the reply.

Learned counsel for the applicant has produced before this Bench two orders passed by CAT, Guwahati Bench dated 12.06.2018 passed in OA Nos.204/2018 & 205/2018 by which the impugned letters No.412-03/2017-Pers.I/III dated 06.06.2018, No.412-03/2017-Pers.I/IV dated 06.06.2018 and No.56-04/2017-Pers (DPC)/Pt/06 dated 06.06.2018 were stayed. Learned counsel for respondent No.2 has not disputed this aspect.

Since the impugned letters, as mentioned above, have already been stayed by the CAT, Guwahati Bench, which is a coordinate bench of this Tribunal, it appears that no further order is required to be passed in this MA. The same is accordingly disposed of. Order 'Dasti'.

*(JUSTICE DINESH GUPTA)
CHAIRMAN”*

The petitioner then moved an application to seek clarification i.e. M.A. No. 2905/2018. The petitioner states that that application has remained pending and has been adjourned from time to time with no effective orders being passed by the Tribunal. Consequently, the petitioner has approached this Court with the aforesaid prayer.

We have heard learned counsels for the petitioner as well as the counsel for the respondent. Counsel for the petitioner has submitted that the purport of the order dated 15.06.2018, clearly is to extend the benefit of the stay granted by the Guwahati Bench of the Central Administrative Tribunal on 12.06.2018 in O.A. Nos. 204/2018 and 205/2018 to the petitioners. Otherwise, it would not make sense that even though the Guwahati Bench of the Tribunal has stayed the impugned communication dated 06.06.2018, while recognising that position, the Tribunal would dismiss the petitioner's interim application (M.A. No. 2632/2018).

On the other learned counsel for the respondent submits that the petitioner has been taking adjournments before the Tribunal. He also moved another application i.e. M.A. No. 841/2019 – claiming similar relief by praying that the petitioners may be extended the same relief as granted by this Court in W.P. (C.) No. 1072/2019.

Learned counsel further submits that so far as the petitioner is concerned, he already stands reverted to the post of SDE in terms of the impugned order dated 06.06.2018. On the other hand, learned counsel for the petitioner submits that he has not yet been handed over charge as he has been on leave ever since.

In these proceedings, we are not concerned with the aforesaid dispute i.e. whether the impugned order has been actually given effect to, or not.

We are only considering the impact of the order dated 15.06.2018, passed by Tribunal. It is clear to us that when the said order was passed, the Tribunal intended to extend the benefit of the interim order passed by the Guwahati Bench of the Tribunal on 12.06.2018 in O.A. Nos. 204/2018 and 205/2018 to the petitioners. It is for this reason that the Tribunal takes note of the fact that the impugned communication dated 06.06.2018 has been stayed by the Guwahati Bench of the Tribunal and “since the impugned letters as mentioned above have already been stayed by the Central Administrative Tribunal, Guwahati Bench, which is a co-ordinate Bench of this Tribunal”, no further orders were required to be passed by the Tribunal in the petitioner's Miscellaneous Application. Thus, the petitioner was entitled to benefit of the interim stay in respect of the impugned letter dated 06.06.2018 as on 15.06.2018 when the said order came to be passed.

Pertinently, the order passed by the Guwahati Bench of the Tribunal on 12.06.2018 stayed the communication dated 06.06.2018, passed by the respondent BSNL and did not limit its stay only qua the applicants before it.

The petition stands disposed of in the aforesaid terms.

Counsels agree that neither of them shall take adjournment before the Tribunal when the same comes up for hearing before it on 17.05.2019, or any other subsequent date.

Order dasti under the signatures of the Court Master.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 14, 2019/N.Khanna