



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2020

CORAM:

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**THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD**

W.A.[MD]No.506 of 2014
against W.P.(MD)No.7892 of 2007

J.Baskar

: Appellant

Vs.

1. The Union of India
represented by Member (Production) Telecom Commission,
Department of Telecommunication,
West Block, I Wing-2nd Ground Floor,
R.K.Puram, New Delhi.

2. The Director (HRD),
BSNL Corporate Office,
2nd Floor, B-Wing, Statement House,
Bahrakamba Road, New Delhi - 01.

3. The Chief General Manager,
BSNL Tamilnadu Telecom Circle,
Annasalai, Chennai - 600 002.

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by a learned Single Judge of this Court in W.P.(MD) No.7892 of 2007, dated 08.01.2014.

Prayer in WP(MD). 7892/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the 2nd respondent in his order No. F.No. 235-55/04 -O&M, viz., III dated 14/12/2006 and quash the same.

For appellant : Mr.N.Sundareshan
For 1st respondent : Mr.S.Jeyasingh
Senior Panel Counsel
For respondents 2 & 3 : Mr.M.D.Pooranachare



JUDGMENT

**[Judgment of the Court was delivered by
Subramonium Prasad, J.]**

The Writ Petitioner / appellant has filed the instant appeal assailing the order dated 08.01.2014, whereby a learned Single Judge dismissed the writ petition which sought to challenge an order dated 14.12.2006 denying the appellant/writ petitioner the next higher pay scale of Rs.10,000 - 325 - 15,200 on the ground that the petitioner was facing departmental proceedings.

2. The undisputed facts are that the petitioner, who was working under the respondents, had completed 24 years of service in the year 2002. By an order dated 16.09.2002 the department of Telecommunications decided to grant second financial upgradation in the pay scale of Rs.10,000 - 325 - 15,200 to the Officers who had completed 24 years of service as on 16.09.2002. The petitioner was facing departmental proceedings on 16.09.2002. The departmental proceedings ended in an order imposing a punishment of stoppage of increment for one year with cumulative effect. The said punishment was modified on appeal as one of stoppage of increment for one year without cumulative effect. The petitioner retired from service on 30.11.2006. The order reducing the punishment was passed after the petitioner retired from service.

3. Be that as it may, the issue which arises in this proceeding is as to whether the petitioner is entitled to the benefit of the order dated 16.09.2002, whereby the Department of Telecommunications decided to grant second financial upgradation in the pay scale of Rs.10,000 - 325 - 15,200 to the Officers, who had completed 24 years of service as on 16.09.2002. The petitioner's name figured in the said list at serial No.10. The claim of the petitioner was denied only on the ground that he was facing departmental proceedings.

4. Learned Single Judge has dismissed the Writ Petition on the ground that the petitioner had retired from service and the writ petition has become infructuous. The learned Single Judge was also of the view that the petitioner had not sought for a consequential relief for deciding the issue relating to his promotion, for which he was given liberty to approach the authorities.

5. The appellant has challenged the order of the learned Single Judge contending that the learned Single Judge has failed to appreciate that in the order permitting upgradation on completion of 24 years of service, there is no rider that a person, who has suffered a punishment minor or major, is not entitled to financial upgradation, even if he had completed 24 years of service prior to the imposition of punishment.



6. We agree with the contention of the appellant. In the order there is no stipulation that the benefit of the order will not be extended to the employees who were facing departmental proceedings and had been awarded punishment.

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7. We, therefore, set aside the impugned order and direct the respondents to consider the case of the petitioner in view of the fact that the order dated 16.09.2002 can be applied to an employee who had completed 24 years of service, disregarding the fact that he had suffered a punishment whether major or minor. The said exercise shall be completed by the respondents within a period of six weeks from the date of receipt of a copy of this order.

8. This Writ Appeal stands disposed of accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Member (Production) Telecom Commission,
Department of Telecommunication,
West Block, I Wing-2nd Ground Floor,
R.K.Puram, New Delhi.

2. The Director (HRD),
BSNL Corporate Office,
2nd Floor, B-Wing, Statement House,
Bahrakamba Road, New Delhi - 01.

3. The Chief General Manager,
BSNL Tamilnadu Telecom Circle,
Annasalai, Chennai - 600 002.

+1 CC to M/s.N.SUNDARESAN, Advocate (SR-8017[F] dated 25/02/2020)
+1 CC to M/s.S.JEYASINGH, Advocate (SR-8055[F] dated 25/02/2020)
+1 CC to M/s.M.D.POORNACHARE, Advocate (SR-8015[F] dated 25/02/2020)

GCG

TE : 09/03/2020 : 3P/7C

JUDGMENT MADE IN
W.A.[MD]No.506 of 2014
24.02.2020