

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-28399-2023 (O&M)

Date of decision: 18.12.2023

BSNL & others

... Petitioners

Vs.

Harinder Singh & others

... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Rajesh Gupta, Advocate for the petitioners.

...

DEEPAK SIBAL, J. (ORAL).

1. The present petition has been filed by the Bharat Sanchar Nigam Limited (for short – BSNL) to challenge therein the judgment dated 24.01.2019 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short – Tribunal).

2. Briefly stated, the facts are that the private respondents joined the Department of Telecommunications, Govt. of India as Junior Telecom Officers (for short 'JTOs'). On formation of BSNL, they were absorbed therein. The next promotional post from the post of JTO is Sub Divisional Engineer (for short – SDE). After consideration of their respective cases by the Departmental Promotional Committee, between the year 2002-2005, the private respondents were promoted to the post of SDEs. Such promotion was on officiating basis. While officiating as SDEs, the BSNL granted them the pay scales applicable to SDEs. In the year 2009, on the availability of regular posts of SDEs, they were

promoted as regular SDEs. As per the applicable rules, at the time of their appointment on regular basis they were granted an additional increment. At the time of their regular promotion the BSNL also protected their pay.

3. In the year 2012, BSNL decided to withdraw the benefit of protection of pay granted to the private respondents at the time of their regular promotion as SDEs. Such action of the BSNL was challenged by the private respondents before the Tribunal. As an interim measure, the Tribunal stayed the operation of the impugned order as also the recovery sought to be made by the BSNL. The private respondents' OA was finally disposed of by the Tribunal on 10.02.2014. The private respondents were granted liberty to submit a representation against the action of the BSNL challenged by them with a further direction to the BSNL to decide their representation through a speaking order. Till the decision to be taken on the private respondents' representation, the Tribunal directed that the interim stay would continue.

4. In pursuance to the liberty granted by the Tribunal, the private respondents made a representation to the BSNL which was decided against them. The private respondents then challenged such decision of the BSNL through filing of an OA before the Tribunal. While their OA was pending, the BSNL passed another order dated 04.01.2016 through which detailed reasons were given by them as to why they had withdrawn the benefit of pay protection granted to the private respondents at the time of their regular promotions as SDEs.

The private respondents withdrew their OA with liberty to challenge the subsequent order of the BSNL dated 04.01.2016. The OA was permitted to be withdrawn with the liberty sought for by the private respondents.

5. In the meanwhile, in pursuance to its order dated 04.01.2016, the BSNL issued another circular dated 28.02.2017 through which all heads of the telecom circles/units of BSNL were directed to recover from the JTOs the benefit of pay protection granted to them at the time of their regular promotion as SDEs. Thereafter, orders dated 15.05.2017 and 13.07.2017 were passed by the BSNL through which not only did the BSNL seek to recover from persons like the private respondents the benefit of pay protection granted to them at the time of their regular promotion as SDEs but also the additional increment granted to them at the time of their regular promotion. All the aforesaid orders were then challenged by the private respondents through an OA filed by them before the Tribunal which was allowed on 24.01.2019. Thereafter, the BSNL filed an application seeking review of the order dated 24.01.2019 which was dismissed by the Tribunal on 20.04.2023. Orders of the Tribunal dated 24.01.2019 and 20.04.2023 have been challenged by the BSNL through the present petition.

6. We have heard learned counsel for the petitioners and have also perused the record.

7. It is not disputed before us that employees of the BSNL posted in the State of Tamil Nadu, who are similarly placed as the

private respondents, had challenged the action of the BSNL with regard to withdrawal of the benefit of pay protection before the Central Administrative Tribunal, Madras Bench, Madras and that such challenge was decided in favour of the employees through judgment dated 12.07.2016 passed in **OA No.310/00440/2014** titled as **P.K. Sethuraman Vs. Union of India & others.**

8. It is further the admitted position that the employees of the BSNL who are similarly placed as the private respondents had also challenged the action of the BSNL to withdraw the additional increment granted to them at the time of their regular promotion before the Principal Bench of the Central Administrative Tribunal, New Delhi which issue was decided against the BSNL through judgment dated 21.12.2017 passed in **OA No.2649 of 2017** titled as **All India Bharat Sanchar Nigam Limited Executive Association Vs. Union of India & others.**

9. Learned counsel for the BSNL fairly states that both the issues raised by the private respondents were the same issues which were also raised and decided against the BSNL in the aforesaid two judgments in P.K. Sethuraman's case (supra) and All India Bharat Sanchar Nigam Limited Executive Association's case (supra) which judgments have been accepted and implemented by the BSNL.

10. The BSNL has its presence all over the country. Therefore, it having accepted and implemented the judgments in P.K. Sethuraman's case (supra) and All India Bharat Sanchar Nigam Limited

Executive Association's case (supra) qua its employees in the State of Tamil Nadu and other employees who had approached the Principal Bench of the Central Administrative Tribunal, New Delhi cannot be allowed to take a different stand qua the private respondents who are admittedly identically placed as the applicants in P.K. Sethuraman's case (supra) and All India Bharat Sanchar Nigam Limited Executive Association's case (supra). Therefore, we find no error, factual or legal in the impugned judgment of the Tribunal through which directions have been issued to the BSNL to reconsider the cases of the private respondents in terms of the judgments passed in P.K. Sethuraman's case (supra) and All India Bharat Sanchar Nigam Limited Executive Association's case (supra).

11. Dismissed.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

18.12.2023
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |