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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 16129 OF 2024

The Chairman and Managing Director BSNL and ors.... Petitioners
Versus
Shantilal R. Sutaria Respondent

Mr.Bernado Reis a/w Mr.Pratik Dixit i/b Arun Sapkal & Co., for the
Petitioners.

Mr.Ramesh Ramamurthy a/w Mr.Saikumar Ramamurthy and
Ms.Seema Sorte, for the Respondent.

**CORAM : M.S.KARNIK AND
N.R.BORKAR, JJ.**

DATE : 17th JULY 2025

ORAL JUDGMENT (M.S.KARNIK, J.) :

1. Heard learned counsel for the parties.
2. The challenge in this petition is to an order dated 15/05/2024 passed by the Central Administrative Tribunal (“for short “the Tribunal”, for short) allowing the original application filed by the respondent.
3. Learned counsel for the petitioner- Union of India invited our attention to the impugned order passed by the Tribunal. It is submitted that the respondent who was Junior Telecom Officer

and aspiring for next promotion to the post of Sub-Divisional Engineer was required to pass departmental examination which was a condition precedent even for application of ACP scheme in terms of DoPT order dated 10/02/2000 which according to him was not considered by the Tribunal.

4. Learned counsel next submitted that the Tribunal failed to consider that the Bharat Sanchar Nigam Ltd. ("BSNL", for short) had issued its own promotion policy i.e. Executive Promotion Policy ("EPP", for short) which granted financial up-gradation i.e. 1st after 4 to 6 years and subsequent up-gradation after 5 years and any up-gradation granted between the said period i.e. 01/10/2000 to 30/09/2004 shall be considered as 1st up-gradation under EPP. It is submitted that as per option given by the respondent and as per DoT order dated 7-1-99-TFS dated 01/08/2001, the respondent was not found fit for promotion/up-gradation. It is then submitted that as per EPP of BSNL, the respondent was granted 2 financial up-gradations on 01/10/2006 & 01/10/2011 and a regular promotion on 27/11/2007, which was completely ignored by the Tribunal. Learned counsel submits the Tribunal erred in extending the benefit of ACP scheme to respondent as the

new recruitment rules of SDE (TF) in BSNL came into existence from 01/03/2002 and that the respondent had submitted option for absorption in BSNL with effect from 01/10/2000 and was absorbed accordingly.

5. The facts briefly stated are that the respondent joined service as Technical Assistant in the Telecom Factory at Deonar at Mumbai, in the Department of Telecommunication in the Government of India. The post of Technical Assistant was re-designated as Junior Engineer initially and thereafter further re-designated as Junior Tele-com officer (JTO). The petitioners approached the Tribunal for the following reliefs.

“a) That this Honourable Court be pleased to hold and declare that the action of the Respondents in not extending the benefits of the ACP Scheme to the Applicant from the due date is illegal, bad in law, discriminatory and Violative of Article 14 and 16 of the Constitution India.

b) That this Hon'ble Court be pleased to issue appropriate directions to the Respondents to grant the benefits of the ACP Scheme to the Applicant from the dates mentioned in the Screening Committee/DPC note dated 22/11/2010 (Annexure" A-42") with full consequential benefits including re-fixation of pay, full arrears from the due date along with interest @ 18% per annum on the said amount of arrears from the due date till actual payment.

(c) That this Hon'ble Court be pleased to direct the respondents to re-work and re-fix, the Retiral Benefits payable to the Applicant including pension, Leave Encashment, commutation value of pension and all other benefits in pursuance of prayer clause (a) and (b) above and pay to the arrears arising out of such re-fixation alongwith interest @ 18% per annum from 1/6/2013 till actual payment.

cc) The Hon'ble Court be pleased to quash and set aside the letter dated 15/1/2015 (Annexure "A-47) and grant the Applicant the relief as sought for any prayer clause 8 (A) to (C) of the Original Application with all other consequential service benefit flowing therefrom.

d) That such other and further order or orders be passed as the facts and circumstances of the case, may required

(e) That the costs of this application be granted.”

6. The Government of India on 08/09/1999 accepted ACP scheme for grant of two financial up-gradations to employees on completion of 12 years and 24 years service as laid down in the said scheme. The said scheme was made applicable to all departments and Ministries of Government of India including Department of Telecommunication but the said benefit was not extended to the JTO of the Telecom factories. The Government of India in the Department of Telecommunication issued order dated 16/11/1999 to give effect to the recommendation of the 5th Pay Commission and thereby 50% of the post of JTO (Telecom Factory) and Assistant Engineer (Telecom Factory) were placed in the higher pay scale. On 16/02/2000, the BSNL issued order in pursuance of the order dated 16/11/1999 and placed 22 Employees in the Higher Pay Scale who were all working as Junior Telecom Officer. The name of the Respondent appears at Serial No.

2 of the said order. On 01/10/2000, BSNL, was created by bifurcation of the Department of Telecommunication. The Respondent exercised option for absorption in BSNL by retaining the Government Pensionary benefits. The recruitment rules of BSNL came into force on 01/03/2002. On 03/10/2002, Department of Telecom issued order extending benefits of the ACP scheme to the Employees working in the Telecom Factory. The respondent was not given the benefit. The respondent was granted regular promotion to the grade of Sub-Divisional Engineer on 30/11/2007. On 04/09/2009, BSNL continued a committee to examine the issue of extension of benefit of ACP scheme. The respondent and other employees were held eligible for being granted the benefit of scheme. The respondent completed 24 years of service on 02/11/2003. The committee recommended grant of first and second financial up-gradation to the respondent under ACP scheme from 02/11/2003 on completion of 24 years of service.

7. We have perused the impugned order. We see no reason to interfere with the order of the Tribunal which has granted relief in favour of the respondent of 2nd ACP with effect from 02/11/2003.

In fact, the DPC convened by BSNL has considered the case of the respondent and recommended 2nd ACP from 02/11/2003. We do not find any error in the observations of the Tribunal in holding that the BSNL had granted the petitioner promotion on the basis of seniority with effect from 27/11/2007, however, so far as the benefits of the ACP scheme is concerned, the period spent by the respondent with the Department of Telecom has to be considered while computing 24 years of service. The recruitment Rules of BSNL which came into force in the year 2002 entitles the respondent to the benefit of 2nd ACP on completion of 24 years of service on 02/11/2003. This aspect was considered by DPC. We see no reason to interfere with the impugned order of the Tribunal. The petition stands dismissed.

(N.R.BORKAR, J.)

(M.S.KARNIK, J.)