

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 03.02.2026 & 04.02.2026
DELIVERED ON: 04.02.2026

CORAM:
THE HON'BLE CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN

WP.CT. 10 of 2016
The Chief General Manager, West Bengal
Telecom Circle & Ors.

Versus
Sri Prithwis Ranjan Guha Roy & Ors.

Appearance:-

Mr. Rajib Mukherjee
Ms. Shreyasi Bhaduri

.....for the Petitioners

Mr. S.K. Dutta
Mr. Barun Chatterjee

.....for the respondent no. 1

JUDGEMENT (ORAL):

PER, SUJOY PAUL, CJ.:-

1. This petition filed under Article 226/227 of the Constitution assails the order dated 01.05.2015 passed by Central Administrative Tribunal, Calcutta Bench (Tribunal) in O.A. No. 267 of 2012, whereby original application filed by respondent/applicant succeeded and Tribunal by following its previous order dated 25.07.1994 passed in O.A. 1442 of 1993 directed the petitioners to provide pro-rata pension to the respondent.
2. In short, the facts are that the respondent previously filed O.A. 1442 of 1993 before the Tribunal seeking promotion, benefit of pro-rata pension

and provident fund. The Tribunal, after hearing the parties, passed the final order dated 25.07.1994.

3. Pursuant to the said order of the Tribunal, learned counsel for department informed that provident fund benefits have been extended in favour of the respondent. The respondent was aggrieved by non-payment of pro-rata pension and other retiral dues and filed second round of litigation (O.A. 267 of 2012). In this round, the department took a stand that the respondent, although, was an employee of P &T Civil Division, he was sent to a public sector company on deputation, namely, Indian Drugs and Pharmaceuticals Limited. From there, he joined Bharat Heavy Electrical Limited (BHEL). He retired on attaining the age of superannuation on 23.11.2007. On this factual background, it is canvassed before the Tribunal that the respondent has not completed 10 years' of qualifying service for the purpose of grant of pension in the parent department.
4. The Tribunal, by considering its previous order passed in O.A. 1442 of 1993 coupled with the fact that in obedience of said order, the respondent paid requisite amount to the department but department has not paid the pro-rata pension, directed the department to pay the said pension.

CONTENTION OF PETITIONERS:

5. Learned counsel for department submits that as per CCS (Pension) Rules, 1972 (Pension Rules), the respondent was not eligible to get the pension unless he completes 10 years' of qualifying service with the parent department.
6. Learned counsel for petitioners submits that the order of Tribunal runs contrary to the statutory provisions of Pension Rules and therefore, liable to be interfered with.

7. Another argument faintly raised is that that basic order passed by Tribunal in O.A. 1442 of 1993 was passed way back on 25.07.1994 when Department of Telecom was the parent department and BSNL was not even formed. Thus, said order dated 25.07.1994 passed by Tribunal cannot be pressed into service against the BSNL.

CONTENTION OF RESPONDENT:

8. Learned counsel for the respondent supported the impugned order and informed that the first order passed by the Tribunal in O.A. 1442 of 1993 dated 25.07.1994 has attained finality. This order was not called in question either by DoT or by BSNL. Hence, fruits arising out of this order were rightly directed to be passed in favour of the petitioner in subsequent O.A. 267 of 2012.
9. No other point is pressed by learned counsel for the parties.
10. We have heard the parties at length and perused the record.

FINDINGS:-

11. Taking the last objection as first point, we deem it proper to observe that the assets and liabilities of Department of Telecom needs to be taken care of by BSNL. We do not find any merit in the contention of the counsel for the department that since in OA 1442 of 1993 Department of Telecom was a party and BSNL was not a party, the said order is not binding on the BSNL.
12. Admittedly, O.A. 267 of 2012 was the second visit of the respondent to the Tribunal. In the first round in O.A. 1442 of 1993, the Tribunal recorded thus:

“Mr. Ghosh submits that the applicant does not want to be repatriated. Therefore the respondents’ plea that he could not be repatriated has nothing to do with the prayer which he has made. So

far as the claim for the benefit of the promotion as Assistant Engineer we are of the view that when the applicant has admitted that though he was asked to appear in the examination for Assistant Engineer, he did not appear and that is why his juniors got the promotion to the post of Assistant Engineer (C) in the P & T Department and now that he does not want to be repatriated and is working under public sector undertaking, the only relief that can be claimed by the applicant is the provident fund dues and pro-rata pension and **pro-rata pension shall have to be paid at the time of his retirement.** But so far as the provident fund is concerned the same has to be paid immediately. In the light of the above circumstances it is fit and proper that the applicant's representation which was admittedly received by the Superintending Engineer on 27.4.93 shall have to be disposed of by the concerned Superintending Engineer within 3 months of the communication of this order and the Provident Fund which was accrued to the applicant and has not been paid even if the same was released and the office of the Superintending Engineer, Calcutta Circle was to make such payment then it is fit and proper that the said payment should be made within the above period. If, however, for consideration his pro-rata pension any contribution has to be made by the present applicant then the applicant shall deposit the same as per requisition to be sent to him. His pension shall be appropriately declared to be paid to him on his retirement. The application is disposed of directing the Superintending Engineer (Civil) to dispose of his representation in terms of the Government of India circular dated 9.3.64. The amount which the applicant shall have to pay shall be communicated to him and after being deposited the appropriate pension order shall be passed and the same shall be paid to him immediately after his retirement. For the provident fund dues the same shall have to be paid with appropriate interest which has been accrued due to him till the date of payment. The application is disposed of at the admission stage without any order as to costs."
(Emphasis Supplied)

13. The highlighted portion of this order of Tribunal leaves no room for any doubt that specific direction was given for grant of pro-rata pension to the respondent. For the purpose of granting said pro-rata pension, if any payment was required to be made by the respondent, the said amount was directed to be paid by the respondent. The respondent admittedly complied with the said order and paid the requisite amount, which is evident from a plain reading of internal pages 5 and 6 of the impugned order of the Tribunal.

14. No doubt, the learned counsel for the department raised the question of entitlement of respondent for pension in the teeth of the relevant rules, however, it cannot be forgotten that O.A. 267 of 2012 was the second round of litigation before the Tribunal. In the first round, it was open to the department to raise such question/objection of not completion of 10 years' qualifying service with the parent department and any other relevant objection. If those objections were not decided or wrongly decided, the department could have challenged the order dated 25.07.1994 passed in O.A. 1442 of 1993 before appropriate forum. Admittedly, the said order passed in O.A. 1442 of 1993, in absence of challenge, had attained finality. Thus, neither for the Tribunal nor for this Court, it is possible to travel beyond or behind the first order of Tribunal passed in O.A. 1442 of 1993.
15. Pertinently, the Tribunal in the impugned order passed in O.A. 267 of 2012 based its order on para 4 of the order passed in the earlier round of litigation. No fault can be found in the procedure adopted by the Tribunal. If an order of Tribunal has attained finality between the parties *inter se*, they are bound to implement the same.
16. In view of the foregoing discussions, in our opinion, the Tribunal has rightly followed its previous direction in O.A. 1442 of 1993. We do not find any perversity or illegality in the impugned order.
17. Resultantly, the petition fails and is therefore, **dismissed**.

(SUJOY PAUL, C.J.)

I agree.

(PARTHA SARATHI SEN, J.)