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

+ **CONT.CAS(C) 885/2020 & CM APPL. 34035/2021**

DALJIT KUMAR & ORS.

.....Petitioners

Through: Ms. Poonam, Advocate.
versus

SRI. ANSHU PRAKASH & ORS.

.....Respondents

Through: Mr. Himanshu Pathak, SPC with Mr. Chetan Sharma, Advocates for UOI. Mr. R.V. Sinha, Mr. A.S. Singh, Ms. Shriya Sharma and Ms. Jyoti Garg, Advocates for R-2. Mr. Abhishek Chandra Mishra, Ms. Sarita Mehta, Ms. Diksha Belwal and Mr. Aas Mohmad, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

05.01.2026

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1. This hearing has been done through hybrid mode.
2. The present petition under Sections 11 and 12 of the Contempt of Courts Act, 1971, seeks the following prayers: -

“(a) Initiate contempt proceeding against the alleged contemnor for willfully and deliberately disobeying the judgment dated 12.2.2020 of this Hon'ble Court passed in the Writ Petition (Civil) 1605 of 2020 and direct them to re-fix Salary at par with their Junior **Sh. Brij Mohan & Sh. P.N. LAL** and to pay arrears arising out of re-fixation and all Consequential Benefits / Reliefs in Deptt. of Telecom / PSUs in which the Applicants herein got absorbed (in the interest of Service) i.e. Absorption in PSUs at appropriate Positions Commensurate with the Revised Last cadre in Deptt. of Telecom. and subsequent time to time Promotions and Payments



Arrears of Revised Pay & Allowances in their Respective PSUs. Accordingly, the REVISION of Pension is also Prayed.

(b) Pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. *Vide* judgment dated 12.02.2020, the learned Division Bench of this Court in W.P.(C) 1605/2020 has passed the following directions:-

“4. Learned counsel for the petitioner submits that the petitioner is more than 73 years of age and, to put a quietus to the matter, is willing to accept the same benefits which have been provided to Shri P.N. Lal and Shri Biswanath Pradhan, who were junior to him.

5. Mr. Abhay Kumar Sahay, learned Standing Counsel submits that he would examine the matter as to whether the petitioner can be granted the same benefits which were granted to Shri P.N. Lal and Shri Biswanath Pradhan.

6. Let this aspect of the matter be considered by the respondent within four weeks from today ; and the petitioner be informed about the same immediately thereafter.

7. Needless to say, if the petitioner is aggrieved by the speaking order, the petitioner would be at liberty to assail the same in accordance with law.”

(emphasis supplied)

4. Learned counsel for the petitioners submits that the aforesaid direction with respect to the grant of benefits to the petitioners as has been granted to Sh. P.N. Lal and Shri Biswananth, who were junior to them, has not been complied by the respondents. It is further submitted that the case of the petitioners for grant of benefits was to be considered within four weeks of the passing of the aforesaid order, however, respondents had passed the speaking



order after the expiry of said period. Therefore, the respondents are in wilful disobedience of the aforesaid directions.

5. *Per contra*, learned counsel for the respondents submits that the direction of the learned Division Bench was for consideration of the petitioners' case for grant of the same benefits, as were granted to Shri P.N. Lal and Shri Biswananth, under due intimation to them. It is submitted that respondent No.1 has passed speaking orders with respect to the petitioners in compliance with the aforesaid directions. It is further submitted that the case of the petitioners for grant of benefits at par with Shri P.N. Lal and Shri Biswananth, has been duly considered in the said speaking order and the petitioners were also informed regarding the passing of their respective speaking orders.

6. Heard learned counsel for the parties and perused the records.

7. Initially, the petitioners had filed OA No.1831/2018 which was disposed of by learned CAT, *vide* order dated 09.05.2018, at the stage of admission itself, without going into the other merits of the case, by directing the respondents to consider representations of the petitioners and to pass appropriate speaking and reasoned order thereon in accordance with law within 90 days from the receipt of a certified copy of said order. Thereafter, respondent No.2/BSNL passed speaking orders on 04.09.2019 stating that no consequential benefits of pay fixation including any pensionary benefits is accrued to the petitioners in terms of judgment of Hon'ble Supreme Court in CA No.4389/2018 dated 21.01.2015. Thereafter, petitioners filed contempt petition, C.P. No.518/2018 in OA No.1831/2018, before learned CAT alleging wilful disobedience of directions passed by learned CAT *vide* order dated 09.05.2018 which was dismissed by learned CAT *vide* order dated



08.11.2019 by observing as under: -

“4. The Respondent No. 3 (MTNL) have also submitted their additional affidavit vide Diary No. 7282 dated 31.10.2019. It is pleaded that in compliance to the directions of the Tribunal dated 09.05.2018, the Department of Telecommunications (DoT) called all the applicants to represent their respective grievances. However, the said applicants chose not to appear before DoT. Thereafter, the MTNL scrutinised the representation of three applicants, namely, Sh. V.P. Marwah, Sh. D.K. Agarwal and Sh. Sudaarshan Khanria and disposed of the same by passing an speaking and reasoned order dated 10.10.2018 and communicated the same to each of the applicants.

5. In view of above, Since the directions of this Tribunal has been complied with. Thus, no contempt is made out.

6. Accordingly, the aforesaid CPs stand closed. Notices are discharged. Pending MAs also stand disposed of. The applicants have liberty to file an OA, if their grievance still subsists. No costs.”

8. Against the aforesaid order passed by learned CAT, the petitioners filed W.P.(C) 1605/2020 wherein, the aforesaid directions were passed by learned Division Bench to the effect that the respondents will examine the case of the petitioners whether they can be granted the same benefits which were granted to Sh. P.N. Lal and Shri Biswananth, who were junior to them.

9. In pursuance of the said direction, respondent No.1 has placed on record respective speaking orders with respect to the petitioners respectively whereby, the claim of the petitioners for the grant of benefits on promotion and consequential pay including pensionary benefits was examined and in view of the same, the combined seniority in respect of SDE (T) Grade was re-casted and copy of the same was also sent to the petitioners. It is further recorded, in the said order(s), that as there were no objections to the draft seniority to any of the petitioners, the same was stated as finalized. It is



pertinent to note that said speaking orders are on same terms, except for the particulars of the concerned petitioner. By way of illustration, one such speaking order dated 17.11.2020 passed by respondent No.1 with respect to petitioner No.3, Y.L. Sharma, is reproduced as under: -

No. 23-7/2020-STG-II
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhavan, 20 Ashoka Road, New Delhi

Annexure -

Dated the 17th November, 2020

SPEAKING ORDER

Sub: W.P.(C) No. 1606/2020 filed by Shri Daljit Kumar & Ors Vs UOI & Ors before Hon'ble High Court, New Delhi.

In compliance of the Hon'ble High Court, New Delhi in W.P.(C) No. 1606/2020 filed by Shri Daljit Kumar & Ors Vs UOI & Ors, the claim of petitioner Shri Y.L. Sharma (Staff No. 4670) for providing all the benefits that were provided to Shri P.N. Lal and Shri Bishwanath Pradhan like time to time promotions and consequent pay and allowances fixation has been examined. As per Judgment dated 21.01.2015 & 14.12.2017 of Hon'ble Supreme Court in Civil appeal no.4389 of 2010, the consequential benefits of Pay Fixation including the pensionary benefits, if any, in this matter has to be paid w.e.f. 01.01.2018.

2. In view of above, the consequential benefits of Pay Fixation including the pensionary benefits, if any, w.e.f. 01.01.2018 in respect of Shri Y.L. Sharma, petitioner of DoT has been analysed and examined. The combined seniority in respect of SDIL(T) Grade has already been reported in compliance of the Judgment dated 21.01.2015 of Hon'ble Court in Civil appeal no.4389 of 2010 and Judgment dated 14.12.2017 by BSNL and uploaded on DoT website on 27.06.2019 and copy of the same were sent to the petitioner on 27.06.2019 (Copy enclosed). As there were no objections to the draft seniority list from any of the petitioners, the list circulated by BSNL on 4.06.2019 was treated as finalised in respect of DoT petitioners as well.

3. Further in the operative part vide order dated 14.12.2017, the Hon'ble Apex Court has observed as under:

"7. We do not consider it necessary to pass any further order on above recommendations except that 14 persons who are said to have been given promotions - 3 persons in BSNL and 11 persons in the MTNL contrary to the law laid down by this Court in (1997) 10 SCC 226 (Supra) may not be now disturbed. Their promotions and seniority may be considered personal to them without their being treated as class or a precedent for future. The judgment of this Court in (2015) 19 SCC 366 (Supra) will be treated as final between the parties on the principle of Seniority.

8. We, however, make it clear that no arrears will be payable in terms of the impugned judgment. Consequential benefits of pay fixation including the



personality attributes, if any, will be payable in terms of the impugned judgment only w.e.f. from 01.01.2018 and not for the past.

9. No further orders are necessary on the applications for implement and intervention and the same stand disposed of.

10. The appeals are disposed of in above terms....."

4. The case Shri Y.L. Sharma (Staff No 4570) has been examined in terms of the judgment dated 21.01.2015 & 14.12.2017 passed by the Hon'ble Apex Court. In the aforesaid case, following factual position is observed:

(a) That in the final Seniority list dated 04.06.2019 on the basis of Para 206 of P&T Manual Volume IV, the position of the Petitioner Shri Y.L. Sharma" has been fixed at 2529 while old seniority position was 846 (on basis of Recruitment Year).

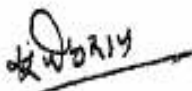
(b) As the seniority position of the petitioner has deteriorated on re fixation, no consequential benefit of pay fixation including any pensionary benefit to petitioner will be accrued in terms of the aforesaid judgment of Apex Court.

5. The matter was earlier examined in light of Contempt Petition No. 518/2018 in OA No. 1831/2018 filed by Shri Daljit Kumar & Ors. Vs Ministry of Communications & Ors. and Contempt Petition No. 518/2018 in OA No. 1833/2018 filed by Shri Vidya Prakash Gupta & Ors. The revised seniority positions vis-à-vis old seniority positions were conveyed to petitioner vide a speaking order dated 20.08.2019 (Copy enclosed)

6. Further, in response to contempt notice dated 22.07.2020 served by Advocate D K Gupta, counsel of the petitioners, it was clarified on 26.08.2020 that no further benefits are due in respect of the petitioners at present. Therefore, the matter may be treated as closed (Copy enclosed).

7. Accordingly, orders of Hon'ble High Court, New Delhi in W.P.(C) No. 1605/2020 filed by Shri Daljit Kumar & Ors Vs UOI & Ors stands complied in respect of Shri Y.L. Sharma (Staff No 4570).

8. The delay in issue of above speaking orders is not intentional and mainly due to COVID-19 lockdown situation which is highly regretted.


(Surya Prakash)
Director (Staff-II)

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10. The direction given by the learned Division Bench was for examination of the case of the petitioners for grant of benefits at par with Sh. P.N. Lal and Shri Biswananth and under due intimation to the petitioners with liberty to assail the same in accordance with law. In the aforesaid speaking orders, respondent No.1 has examined the case of the petitioners for grant of benefits on promotion and consequential pay including pensionary benefits under due intimation to them. Regarding the delay in passing the speaking orders, it has been mentioned in the order(s) itself that the same was unintentional and was on account of Covid-19 lockdown. The submission of the petitioners that they have not been given benefits at par with Shri P.N. Lal and Shri Biswananth, cannot be adjudicated in the present contempt petition. The said grievance of the petitioners constitutes a fresh cause of action to avail of the opportunity of judicial review as held by Hon'ble Supreme Court in **J.S. Parihar v. Ganpat Duggar and Others, (1996) 6 SCC 291**, wherein it was observed and held as under: -

“6. The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. **The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there**



is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act. Therefore, the Division Bench has exercised the power under Section 18 of the Rajasthan High Court Ordinance being a judgment or order of the Single Judge; the Division Bench corrected the mistake committed by the learned Single Judge. Therefore, it may not be necessary for the State to file an appeal in this Court against the judgment of the learned Single Judge when the matter was already seized of the Division Bench.”

(emphasis supplied)

11. In view of the above, this Court in the present contempt jurisdiction cannot adjudicate the grievance of the petitioners and consider the case on merits with respect to their respective speaking orders. The same can be challenged by the petitioners by initiating appropriate legal proceedings in accordance with law.
12. With the aforesaid observation, the present petition is disposed of.
13. Needless to state that the petitioners will be at liberty to challenge their respective speaking orders passed by respondent No.1 in accordance with law before the court of competent jurisdiction/appropriate forum.
14. Pending applications, if any, also stand disposed of.

AMIT SHARMA, J

JANUARY 5, 2026/bsr/ns