

(2024) 04 CAT CK 0035

In the Central Administrative Tribunal

Case No : Original Application No. 1381 Of 2018

Ram Kumar Maurya

APPELLANT

Vs

General Manager, Bharat Sanchar Nigam Limited, Hazratganj,
Lucknow & Others

RESPONDENT

Date of Decision : 19-04-2024

Acts Referred:

Citation : (2024) 04 CAT CK 0035

Hon'ble Judges : Om Prakash VII, Member (J); Mohan Pyare, Member (A)

Bench : Division Bench

Advocate : S.K. Vishwakarma, D.S. Shukla

Final Decision : Allowed

Judgement

Mohan Pyare, Member-(A)

1. Shri S.K. Vishwakarma, learned counsel for the applicant and Shri D.S. Shukla, learned counsel for the respondents are present.

2. By way of this original application the applicant has sought the following reliefs:-

"(i) Issue an order or direction in the nature of certiorari quashing the impugned order dated 18.12.2017 passed by respondent No.3.

(ii) Issue an order or direction in the nature of mandamus directing the respondents to pay correct pay scale in pursuance of G.O. dated 23.03.2010, along with arrears with interest.

(iii) Issue any suitable order or direction which this Court may deem fit and proper in the case of the applicant.

(iv) Award the cost of application to the applicant."

3. The brief facts of the case are that the applicant was initially appointed on

15.02.1980 as IVth Class Employee in the department of Doorsanchar on substantive post. In the year 2000 Bharat Sanchar Nigam Limited came into effect and the applicant attained training for the post of Phone Mechanic w.e.f. 01.05.2000 to 23.06.2000 along with similarly situated employees. After completing training the other similarly placed employees have been promoted to the post of Phone Mechanic in year 2000, but due to non availability of vacant post in Lucknow office the applicant was given post of phone mechanic in 2003 in district Pratapgarh on the basic pay scale of Rs.4720-150-6970 which was extended Rs.9020-17430 in the 6th C.P.C. The Bharat Sanchar Nigam Limited issued circular dated 23.03.2010 directing All Heads of Telecom Circles, Metro Districts and Administrative Units for implementing non-Executive Promotion Policy (NEPP) for employees in the IDA pay scales of NE-1 to NE-10 of B.S.N.L. whereby time bound IDA Scale up-gradation have been provided to those employees who are working on regular establishment of B.S.N.L. as on 01.04.2008 or after in a substantive non executive post and drawing non-executive Pay Scale of NE-1 to NE-10 will be covered by this policy, maximum 4 up-gradations will be allowed in B.S.N.L., irrespective of any up-gradation provided to such employee before formation of BSNL. The employees who have joined the above said post of Phone Mechanic in 2000 and completed 4 years of service in 2004, have got financial up-gradation Rs.10900-20400 under the scheme of N.E.P.P. whereas the said benefit was not provided to the applicant. The applicant joined phone Mechanic post in 2003 but instead of giving benefit of first time bound IDA up-gradation in 2007 after completing 4 years service he was given only second time bound IDA pay scale up-gradation Rs.10900-20400 in 2010 after completing 7 years service, resulting due to administrative fault the applicant has been deprived of one up-gradation whereas Junior to the applicant namely Om Prakash Singh has got two financial up-gradation in 2004 and 2011 and he is getting basic pay scale Rs.6550/-whereas the applicant is still getting basic pay scale Rs.5700/-. Due to arbitrary action while not providing benefit of circular dated 23.03.2010, the applicant is facing recurring loss of Rs.1050/- per month and the applicant from very beginning was raising his genuine grievance before the respondents from time to time by submitting applications dated 03.07.2013, 23.11.2015, 20.01.2016 & 24.04.2017 but till date no heed has been paid by the respondents. Applicant approached before this Tribunal by filing OA No.1061 of 2017 and vide judgment dated 07.09.2017 this Tribunal disposed of the O.A. directing the Chief Accounts Officer, Lucknow to take decision on the applicant's representation within 3 months by passing a reasoned and speaking order. In pursuance of the above order, the respondent No.3 without application of mind passed the impugned order dated 07.09.2017 stating therein that the fixation of pay was correct as decided by ??.??. Aggrieved by the above act of the respondents, the applicant filed this original application.

4. In their counter reply the respondents have submitted that after completing training the other similar employees have been promoted to the post of Phone Mechanic in the year 2000 but due to non availability of vacant post in Lucknow

where the applicant was working, the applicant was posted as a Lineman in the pay scale of Rs. 4100-125-5975. The applicant was given the post of Phone Mechanic in the year 2003 in District-Pratapgarh in the pay scale of Rs.4720-150-6970 treating the same as first up gradation promotion which was extended as Rs.9020-17430 in the 6th C.P.C. The employees who has joined the post of Phone Mechanic in the year 2000 and after completing 4 years of service in the year 2004 their scale has been revised from 4720-150-5975 to 5700-160-8100, and thereafter his pay scale has been revised to 10900-20400 in the year 2007. In the case of applicant the aforesaid benefit cannot be provided as his pay scale was lower as Lineman. The applicant has joined as Phone Mechanic on 14.10.2003 and the same was treated as the first promotion and the 2nd promotion was given in the year 2010 after completion of 7 years, the junior to the applicant namely Sri Om Prakash Singh has got two financial up-gradation due to early joining as Phone Mechanic in the year 2000 as per circular he was given first promotion in the year 2004 and second promotion in the year 2011 and due to posting of applicant in the pay scale of Lineman in the year 2000 his pay scale has become lower than the pay scale of Shri Om Prakash Singh. The applicant has been posted as Phone Mechanic in the year 2003 which has been treated as first upgradation after formation of BSNL so the second upgradation has been provided after 7 years in the year 2010 as per BSNL NEPP Circular. The calculation has been made as per circular dated 23.03.2010 and no loss has been made to the applicant. The respondents have rightly considered the entire material available on record and passed the impugned order in accordance with law. On the basis of above submissions respondents have mentioned that the above original application should be dismissed.

5. In his rejoinder affidavit the applicant has reiterated almost the same facts which have been given in the original application.

6. Heard the rival submissions of the parties and gone through the documents available on record.

7. The learned counsel for the applicant has relied upon the judgment of Ernakulum Bench of this Tribunal in OA No.91 of 2017 in which juniors to applicants in the above original application were getting higher pay due to promotion earlier than applicant. Operative portion of the judgment reads as under:-

"In the result, OAs stand allowed. The respondents are directed to step up the pay of each of the applicants from the date when and wherever, the junior to each of such applicants started drawing pay higher than each of such applicants. The amount due to such of them shall be calculated and the entire arrears shall be paid with consequential benefits within a period of three months from the date of receipt of a copy of this order. OAs stand allowed as above."

The controversy involved in the present case is squarely covered by the decision rendered in O.A. No.91 of 2017 & OA No.131 of 2017 and the similar benefit

should be extended to the applicant as he is similarly and identically situated person.

8. Accordingly, the O.A. is allowed. The impugned orders dated 18.12.2017 is quashed and set aside. The respondents are directed to correct the pay scale of the applicant in pursuance of G.O. dated 23.03.2010. The compliance of this order should be made within three months from the date of receipt of copy of this order.

All the related MAs stands disposed of.