
(2019) 03 CAT CK 0090

In the Central Administrative Tribunal

Case No : Original Application No. 793 Of 2019

Virendra Kumar, Retired Chief General Manager

APPELLANT

Vs

Union Of India Through The Secretary Department Of Public Enterprises

RESPONDENT

Date of Decision : 11-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0090

Hon'ble Judges : L. Narasimh Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Ranvir Singh, Ch. Shamshuddin Khan

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicants seem to be litigant minded, by any standard. They retired from service of the Department of Telecommunications (DoT) way back in the year 2001-02. At a subsequent stage, some proceedings were issued by the Government one after the other, in the context of absorption of some employees into the service of Bharat Sanchar Nigam Limited (BSNL), some on actual basis and some on notional basis.

2. Taking advantage of those references, the applicant started making claim that their pension must be fixed in the pay scale of `75000-100000. They filed O.A. No.1512/2013 and a batch in this behalf. A detailed and thorough discussion was undertaken in the order dated 31.08.2016 and the O.A.s were dismissed without leaving any scope for ambiguity. Thereafter the applicants filed W.P. (C) No.1701/2017 before the Hon'ble Delhi High Court. That was dismissed on 27.02.2017. However, liberty was sought to challenge certain circulars. It was naturally, left open to them, to challenge circulars, if so advised, in accordance with law. It was in this context, that the applicants filed another O.A. No.1467/2017 before this Tribunal challenging a bunch of circulars. The O.A. was

disposed of 29.08.2018 leaving it open to the applicants to submit representation with clear facts, duly referring the relevant provisions of law. A detailed representation dated 25.10.2018, which runs into ten pages, was made.

3. The BSNL passed a detailed order dated 26.11.2018 and on its part, the DoT passed order dated 21.12.2018. It was clearly mentioned that the applicants are not entitled for the benefits claimed by them.

4. In this O.A., the applicants have challenged a bunch of circulars shown as Annexures A-1 to A-7, and prayed for quashing of the same. In addition to that, a prayer is made for fixing the responsibility for not putting up BSNL's recommendations dated 14.09.2007 to 2nd PRC, and to create new revised pay scale, commensurate with the increase, as was done for ?Non-Board? and ?Board Level? officers, and for grant of interest @ 10% on the delayed payment of pension/family pension.

5. We heard Mr. Ranvir Singh, learned counsel for applicants in detail.

6. We take serious exceptions to the manner in which the applicants are wasting the time of this Tribunal. Their pension was fixed more than eighteen years back. Not a single day, they served in the BSNL. Orders were being issued by the Government from time to time, in the context of actual or notional absorption of the employees of the DoT, who were absorbed into the BSNL. As mentioned earlier, the claim of the applicants was dealt with, in detail in O.A. No.1512/2013 and batch, and relief was denied through judgment dated 31.08.2016. The operative portion of the order reads as under:-

"19. The contention is that the government has applied its mind and keeping in view several factors including the financial position, it took a view not to refer the matter to the DPE. It is contended that this is a policy issue and the Tribunal may not interfere in this. Therefore, in our view, 5 even on merits, there is no ground for interference as the government has considered this aspect at the highest level and then taken a policy decision. 20. Therefore, apart from the fact that the prayer made by the applicants is not maintainable for reasons mentioned above, this Tribunal cannot even interfere it being a matter of pay revision and policy issue, in view of the judgments of the Hon'ble Supreme Court in Ekta Shakti Foundation Vs. Govt. of NCT of Delhi, AIR 2006 SC 2609; Union of India & Another Vs. P. V. Hariharan & Anr., 1997 SCC (L&S) 838; and Union of India & Ors. Vs. Makhan Chandra Roy AIR 1997 SC 239. The OAs are, therefore, dismissed. No costs."

7. When this was challenged before the High Court, the writ petition was dismissed with the following observations:-

"6. In our opinion, the Tribunal was justified and correct in dismissing the said Original Application. It is an accepted and admitted position that none of the serving employees have been given revised pay scale of Rs.75000-100000 or even Rs.74000-2200-91600. The existing employees were given replacement

pay-scales between E0 to E9. The E9 scale of Rs.62000-80000 is the highest.

7. If we accept the case of the petitioners, they would be entitled to enhanced pension based on the scale higher than the scale being paid to the existing officers holding the same post. There is no justification and ground to accept the said prayer.

8. Learned counsel for the petitioner submits that the Tribunal has not examined and considered the alternate prayer. The petitioner in the said Original Application had not prayed for the alternative relief. The said prayer was made in MA No. 2557/2016, without challenging the vires of the Office Memorandum dated 2nd April, 2009 and Office Memorandum dated 15th March, 2011. In paragraph 8B of the said application, certain calculations were made."

8. Thereafter, the applicants filed another O.A. No.1467/2017 challenging the bunch of circulars, in terms of the observations made by the High Court in W.P. (C) No.1701/2017, leaving it open to the applicants to challenge the bunch of circulars. The said O.A. was dismissed permitting the applicants to file representation, ventilating their grievance, if any. In compliance of this, they preferred a detailed representation, which runs into ten pages. In deference to the order of the Tribunal, BSNL, on the one hand and DoT on the other, passed orders dated 26.11.2018 and 21.12.2018, respectively.

9. In case the applicants were not satisfied with the orders passed by the DoT and BSNL, they were expected to challenge those orders, and in case they were not aggrieved by the same, they were supposed to remain silent, in that behalf. The applicants have neither challenged the said orders, nor did they remain satisfied with the outcome of the representation. Once again the bunch of circulars is challenged in the present O.A., without even mentioning the contents or the purport thereof. We take serious exception to the manner in which the applicants are wasting the time of the Tribunal. But for the decent manner in which the learned counsel for applicants conducted the case, we would have imposed costs on the applicants, for the manner in which they are intruding into the precious and valuable time of the Tribunal.

10. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.