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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A.NO.060/00361/2015

Surinder Kumar & Another

Applicants

Versus

BSNL & Others

...

Respondents

*Just Copy
on 13/12/15
For
The Court
[Signature]*

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Place: Chandigarh.
Dated:

(K.K.THAKUR)
SENIOR PANEL COUNSEL
FOR RESPONDENTS NO.3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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Respondents

REPLY FOR AND ON BEHALF OF THE
RESPONDENTS NO.3 TO THE
ABOVEMENTIONED ORIGINAL
APPLICATION.

Respectfully showeth:-

I, Sharon Shefali Gupta, working as Controller of Communication Accounts in the office of Controller of Communication Accounts, Haryana Telecom Circle, Ambala Cantt. -133001, do hereby declare that I am well conversant with the facts of the case on the basis of information derived from official records, competent and authorized to file this written statement on behalf of the respondents no.3.

Respectfully showeth:-

1. That the claim of the applicants in this O.A. is for issuance of direction to the respondents No.3 to take a final decision



on the Revised Standard Pay Scales corresponding to the existing Non-Standard Pay Scales viz. E1A and E2A, as stated in BSNL's Office order dated 5.3.2009 w.e.f. 1.1.2007 etc.

2. That BSNL was incorporated under the provisions of Companies Act, from the erstwhile Department of Telecom Operations (DTO) and Department of Telecom Services (DTS) under Ministry of Telecommunications, Government of India w.e.f. 1.10.2000. And the employees of these two departments were transferred to BSNL on deemed deputation basis, on as is where is basis, until their absorption is finalized in BSNL. For the absorption of Group 'B' officers in BSNL, the following IDA Pay Scales were approved corresponding to the prevailing CDA pay scales w.e.f. 1.10.2000:

Sr.No.	CDA scales as on 01.10.2000	IDA pay scales w.e.f. 1.10.2000
1	6500-200-10500	9850-250-14600 (E1A)
2	7500-250-12000	11875-300-17275

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		(E2A)
3	8000-275-13500	13000-350-18250 (E3)
4	10000-325- 15200	14500-350-18700 (E4)
5	12000-375- 16500	16000-400-20800 (E5)
6	14300-400- 18300	17500-400-22300 (E6)

3. The IDA pay scales of E1A and E2A were approved by DPE/DOT especially for BSNL to facilitate absorption. Normally, different pay scales have different minimum and maximum, but in case of E-1A approved by the DPE/DOT in 2002, the maximum of E1 & E1A was kept same as detailed below :-

E-1 8600-250-14600	E-2 10750-300-16750
E-1A - 9850-250- 14600	E-2A 11875-300-17275

4. The following revised pay scales corresponding to old E1 and E2 were notified by DPE vide its O.M dated 26.11.2008 :

Grade	Existing	Revised
E1	8600-250-14600	16400-40500
E2	10750-300- 16750	20600-46500

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5. However, the revised pay scale corresponding to old pay scale of Rs.9850-250-14600 and Rs.11875-300-17275 were not notified by DPE. Since these old pay scales were specially approved by DPE/DOT for BSNL only at the time of absorption, the following revised IDA pay scales corresponding to these old pay scales were recommended by BSNL Board for onward approval of DPE/DOT in view of the exceptional circumstances as outlined above..

Old Pay scales	Grade	Revised pay scale approved by DPE	Revised pay scales recommended by BSNL Board
Rs.9850-250-14600	E-1A	Rs.16400-40500 (E1)	Rs.18850-40500
Rs.11875-300-17250	E-2A	Rs.20600-46500 (E2)	Rs.22800-46500

6. That it may be noted that revised E-1A and E2 pay scales recommended by BSNL Board are similar to revised E-1 and E2 pay scales except that the minimum of both the pay scales are different.

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7. That in the absence of E1A pay scale and in order to compensate the resultant pay loss, the initial pay of the officers recruited in old E1A pay scales [(recruited in 2007/2008) (internal officer promoted to JAO through limited internal Competitive Exam (LICE))] have been fixed at Rs.19020/- by granting five advance increments on the minimum of the revised E1 (E1+5) scale of Rs.16400-40500/-, with the approval of BSNL Board.
8. That further a proposal is under active consideration of the BSNL management for fixing the pay of the rest of the cadres /employees belonging to the pre-revised E1A pay scale of Rs.9850-250-14600 at the minimum of Rs.19020/- in revised E1 IDA scale (by way of granting five advance increments on the minimum of revised E1 pay scale of Rs.16400-40500/-). The proposal is based on the principle that all employees / cadres belonging to the pre-revised E1A pay scales may be brought at

8/8/18

par, in the absence of approval of the revised E1A pay scale by the Govt. i.e. DOT/DPE.

9. That it is normal that an officer who joins after cutoff date gets less salary compared to the officers who join prior to this cut-off date, e.g. the officer who joins prior to 1.1.2007, gets more salary because of fitment benefit under 2nd PRC as compared to the officers who joined after 1.1.2007 and gets fixed at minimum of corresponding pay scale.
10. That the pay of the applicant No.1 who was appointed as Junior Accounts Officer in 2004, must have drawn the benefit of 2nd PRC, and accordingly his pay may have been fixed at least 23980/- in the revised E1 scale wef 1.1.2007, which is higher than the minimum of the revised E2 pay scale i.e. Rs.20600-46500/-. Hence, the alleged pay loss is mistaken. There is absolutely no loss of pay and allowances due to fixation in the E1 pay scale. Even if, the proposed revised

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E1A pay scale would have been approved by DOT / DPE, there will be no change in pay fixation of the applicant no.1.

11. That in view of the non-approval of the revised E9A pay scale, necessary instructions have been issued for non-operation of the E9A pay scale vide BSNL OM No. 1-50/2008 PAT (BSNL) dated 29.12.2011. In relation to this OM, another letter has been issued for notifying the table for fixation of pay in the revised E0 scale in respect of the Executives in pre-revised E9A, vide letter Nos. 1-50/2008-PAT (BSNL) dated 01.10.2013.
12. That matter was examined by a Committee of Senior Officers in BSNL. Based on the recommendation of this committee, a DO letter has been written by CMD BSNL to Secretary (T), DOT on 13.12.2013 (copy enclosed as **Annexure R-1**) for taking up the issue with DPE for approval of revised E1A/E2A pay scales.

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13. That in response, the issue regarding approval of revised E1A and E2A pay (as recommended by BSNL Board) was taken up by the DoT with DPE in May, 2014. DPE vide letter No.W-08/0002/2014-DPE (WC) dated 9th July, 2014, while rejecting DoT's proposal, has stated that –

"..DPE vide OM dated 2.4.2009 has clarified that there is no justification for introducing intermediary pay scales and if there have been any aberrations, they need to be corrected. It was also clarified that every officer has to be fitted into the corresponding new scales. It has been observed that DoT itself has not agreed to the proposal of introduction of intermediary pay scales by BSNL for the reasons indicated in their communication to DPE".

14. That DPE order is totally silent on whether the officers in old E1A (appointed after



1.1.2007) have to be fitted in revised standard pay scale E1 by granting additional increment as has been done by BSNL provisionally or in revised standard pay scale E2.

15. That in a recent decision in O.A.No. 2308/2011 filed by directly recruited JTOs of 2007 & 2008 batches for the grant of equal pay with JTOs of their senior batch (i.e. of recruitment year 2005 who have been allowed fitment benefit under 2nd PRC), the Hon'ble Principal Bench of C.A.T. has upheld the pay fixation of JTOs of 2005 batch and dismissed the O.A. vide its order dated 23.4.2013. In the concluding para, the Hon'ble Court has held that "We do not feel that there is any discrimination against them".

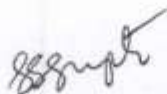
16. That it is normal that an officer who joins after a cut-off date gets less salary compared to the officers who join prior to this cut-off date, e.g., the officer who joins prior to 1.1.2007, gets more salary because

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of fitment benefit under 2nd PRC as compared to the officers who joined after 1.1.2007 and gets fixed at minimum of corresponding pay scale.

17. That thus the contention of the applicant that the arrangements in BSNL are treating ~~equally placed employees~~ unequally is improper and false. The existing employees who are in service prior to 1.1.2007 have been benefitted under 2nd PRC and as such they are not facing any loss of pay. Further, the Executives appointed after 1.1.2007 have been placed at initial pay of Rs.19020/- in the revised E1 scale of Rs.16400-40500/- in order to compensate the pay loss., Also a proposal for grant of initial pay of Rs.19020/- in the pay scale of Rs.16400-40500 (E1) for other similarly placed employees / cadre is under active consideration of the management.

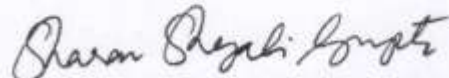
18. That the issue related to grant of E2 pay scale in replacement of pre-revised E1A pay scale has been referred to DOT for



clarification in view of a recent decision of Cabinet in the matter of pension liability of MTNL employees. The clarification is still awaited.

19. That presently, the issue of finalization of the standard pay scales is being examined by a Joint Committee under the Chairmanship of ED (NB) having its members both from the management side and the Executive Associations' side (including AIGETOA which is applicant no.2).

It is, therefore, prayed that in view of the submissions made above, there is no merit in the Original Application and the same deserves to be dismissed and may kindly be dismissed with costs.


Controller of Communication Accounts
Haryana Telecom Circle, Ambala-133001

Place:
Dated: _____

For Respondent No.3

Through:-

(K.K.THAKUR)
SENIOR PANELCOUNSEL
FOR RESPONDENT NO.3

Verification:

Verified that the contents of paras 1, 4, 6 to 12 on merits are true and correct to my knowledge on the basis of information derived from official record and those of Preliminary Objections and paras 2,3 & 5 on merits are believed to be true on legal advice. No material fact has been kept suppressed there from.

Place:**Dated:**

Sharon Deyali Gupta
Controller of Communication Accounts
Haryana Telecom Circle, Ambala-133001
For Respondent No.3