

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

O.A. No. 310/00580 of 2021

DATED THE 13th DAY OF FEBRUARY TWO THOUSAND TWENTY FOUR

PRESENT:

THE HON'BLE SHRI MANISH GARG, MEMBER(J)

THE HON'BLE SHRI VARUN SINDHU KUL KAUMUDI, MEMBER (A)

1. S. Kumar, [HRMS No.198700038]
Hindu, Age, 61 years, S/o Sri.Santhanam,
SDE Retired, BSNL, Chennai Telephones,
Residing at : Old No.10/2 New No.18/2,
Nagathamman Koil Lane, Rayapuram,
CHENNAI 600 013;
2. A. Chokkalingam [HRMS No.198407582]
Hindu, Age 56 years, S/o (Late) Sri.Arumugam,
Retired Office Superintendent, BSNL TN Circle,
Residing at: No.338, Dr.Ambedkar Nagar,
THIRUVALANGADU, Thiruvallur Dist. 631 210;
3. V. Rajalakshmi, Hindu, age 73 years,
D/o (Late) Sri.Venkatarangam
Retired Senior Accountant, BSNL TN Circle,
Residing at: 100/23, Appu Flats,
Mugappair (Padi), CHENNAI 600 050;
4. L. Elangovan [HRMS No.198300941]
Hindu, Age 58 years, S/o (Late) Sri.Lingasamy,
Retired AGM, BSNL TN Circle,
Residing at: NO.14/61, 5th Cross Ponn Nagar,
TRICHY 620 001;



5. M. Palaniappan [HRMS No.198400592]
Hindu, Age 59 years, S/o Sri.Mariappa Chettiar,
Retired Asst. General Manager, BSNL TN Circle,
Residing at: 1A Tamil Nagar,
GOBICHETTIPALAYAM 638 452;
6. R. Muthiyal [HRMS No.198600149]
Hindu, Age 63, S/o (Late) Sri.Ragava Reddi
Asst. General Manager Retired, BSNL TN Circle,
Residing at: 19/527,Sakthimalai Road,
Kothagiri, Nilgiris 643 217;
7. M. Mallika, [HRMS No.198800262]
Hindu, Age 58 years, D/o (Late) Sri.Muthumurugesan
Retired Junior Telecom Officer, BSNL TN Circle,
Residing at: 2711, Srinivasa Nagar 3rd Street,
Machuvadi, PUDUKOTTAI 622 004.
8. V. Neru [HRMS No.198800547]
Hindu, Age 56 years, S/o (Late) Sri.Vakaguru,
Retired Junior Telecom Officer, BSNL TN Circle,
Residing at: 10-7/38 Sarayu Nathi Street,
Mahatma Gandhi Nagar, MADURAI 625 014;
9. S. Thasil Ibrahim [HRMS No.197200133]
Muslim, Age 71 years,
S/o (Late) Sri.Seeni Mohammed,
Divisional Engineer Retired, BSNL TN Circle,
Residing at: 8/15/3, Thangappa Nagar,
Mariamman Koil Street, Ramanathapuram 623 501;
10. H. Krishnamorrthy, [HRMS No.197202436]
Hindu, Age 71 years, S/o (late) Sri.V.Hariharan,
Retired Senior SDE, BSNL STR, Coimbatore,
Residing At: 22, Archana Gardens, P&T Colony Road,
Kavundampalayam, COIMBATORE 641 030.

.....Applicant(s)

(Advocate: M/s. N.K. Srinivasan)

-Vs-



1. The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Harishchandra Mathur Lane,
Janpath, NEW DELHI 110 001;2. The Chief General Manager,
BSNL, 7th Floor, BSNL, ADMN Building,
16, Greams Road, Chennai- 600 006;
3. The Chief General Manager,
BSNL, Chennai Telephones,
78, Purasawalkam High Road, Chennai-600 010;
4. The Chief General Manager,
BSNL, Southern Telecom Region,
II Link Road, Ganapathy Colony, Guindy,
Chennai-600 032;
5. The Principal Controller of Communication Accounts,
Tamil Nadu Circle,
7th Floor, R K Nagar Telephone Exchange Building,
238, R K Mutt Road, CHENNAI 600 028.

....Respondent(s)

(Advocate: Mr. S. Nagarajan, R1
Mr. S. Udayakumar, R2-R5)



ORDER

(Pronounced by Hon'ble Varun Sindhu Kul Kaumudi, Member (A))

Pursuant to the notification, dated 25.01.2024, the matter was heard in detail. We have heard the learned counsels, Mr.N.K.Srinivasan for the applicant and Mr.S.Nagarajan and Mr.S.Udayakumar for the respondents, and perused the records.

2. This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

“(i) To call for the records of the Respondents leading to rejection of applicants' claim of one notional increment after completion of one full year service for the purpose of re-fixation of pension issued by Respondents vide (1) F.NO.19/2/2018-Estt(Pay-I) dated 03.02.2021; (2) Letter No. 48-2/2021-Pen(B) dated 18.02.2021 (3) Letter No. TAC/PEN/BSNL/SR/18-19 dated 31.08.2020, (4) Letter No. AST/ADMN/PENSION CORR/2020-21/28 dated 04.02.2021 and (5) Letter No. CGM/STR/STA/Misc/2020-21/48 dated 15.03.2021 respectively and the same may be pleased to set aside and quash:

ii) To direct the respondents to comply with the Judgement of the Hon'ble Supreme Court of India and other



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judicial forums since all the applicants are similarly placed and direct the Respondents to grant one notional increment (which falls next day of their retirement/superannuation) to the applicants after completion of one full year service along with admissible rate of interest with consequential benefits thereof;

iii) To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

3. The brief facts of the case, as submitted by the applicants, are as under:-

The applicants retired from Service after superannuation/VRS on 31.12.2019, 31.01.2020, 31.03.2007, 31.01.2020, 31.01.2020, 31.03.2017, 31.01.2020, 31.01.2020, 31.01.2020 and 31.01.2010 and the increments were due from 01.01.2020, 01.02.2020, 01.04.2007, 01.02.2020, 01.02.2020, 01.04.2017, 01.02.2020, 01.02.2020, 01.02.2020 and 01.02.2010, respectively. It is submitted that the annual increment is deemed to have fallen due after completion of 365/366 days, i.e., one full year of service of any individual and an increment usually represents inherently accrued portion of what an employee earns per year and, therefore, the applicants are entitled to increment and denial of such an increment is unjustified. It is further submitted that the Hon'ble High Court of Madras in W.P. No. 15732 of 2017 had granted one notional increment after completion of one full year of service for the purpose of pensionary benefits. The applicants are also similarly placed as the applicant in the referred case and,



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therefore, eligible for one notional increment on superannuation/VRS. The applicants made individual representations to the respondents seeking grant of one notional increment, which was turned down by the respondents. Challenging the same, the applicants filed the instant O.A., seeking the aforesaid relief.

4. Respondents 2 to 5 have filed reply wherein besides taking the ground of delay, and that the applicants are not similarly placed, the respondents further stated that, as per the provisions under Service Rules on the subject, the relief sought by the applicants is not admissible. Respondents further stated that the case of M. Balasubramanian, referred to by the Hon'ble High Court, in its judgment in A. Ayyamperumal case, is related to the Fundamental Rules of Tamil Nadu Government where the annual increments are regulated in four quarters, viz., 1st of January, April, July and October, whereas, for the BSNL employees, it is the first of every month of the year throughout, depending upon each individual's case. The respondents categorised the applicants into three groups to establish that they are not similar. Under Category I, they dealt with Applicant No.9. It has been stated that applicant no.9 has completed only 4 months of service between the last increment drawn and the date of retirement and not one full year of service. But on page no.7 of the O.A., increment due date for the applicant is shown as 01.02.2020. The respondents, therefore, submit that this OA is liable to be dismissed as different categories of applicants joined together and filed this O.A. Under Category-II, applicant nos. 02,04,05,07,08, after opting for the BSNL



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VRS-2019, by giving an undertaking of unconditional acceptance of all the terms and conditions of the scheme and also after accepting the ex-gratia payment already made for the service left out under the package, cannot seek any further benefits outside the terms and conditions of the scheme. On this sole ground itself, the OA is liable to be dismissed as far as the applicants under Category II are concerned as they were compensated already as per the scheme for the left out service. Under Category-III, fall applicant nos. 1, 3, 6 & 9. It is submitted that the date of increment of an employee at the time of retirement is ultimately based on the option(s) exercised by the employee in respect of FR 22(1)(a)(i) pay fixation at the time of his time bound/post based promotions during his career, otherwise their increment date would have become due on some other days. Had the applicants exercised the said option for pay fixation as on the actual date of increment, their annual increment dates would not have fallen on the next day of their retirement. It is further submitted that applicants under Category III are not similar and identical as in the case of Ayyamperumal and, hence, cannot seek the same relief by citing the judgement in Ayyamperumal case. The respondents, therefore, pray for dismissal of the O.A.

5. Applicants have filed rejoinder to the reply refuting the contentions made in the reply.

6. Heard Mr. N.K. Srinivasan, learned counsel for the applicants and the learned counsel appearing for the respondents and gone through the O.A., reply



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and rejoinder and documents annexed to the same. Both the counsels reiterated the contentions made in the respective O.A., reply and rejoinder.

7. During the course of arguments, learned counsel for the applicants produced before us a very recent decision, dated 11.04.2023, of the Hon'ble Supreme Court in Civil Appeal No. 2471 of 2023 (SLP(C) No. 6185/2020) in the case of the Director (Admn. And HR) KPTCL & Ors. vs. C.P. Mundinamani & Ors. and submitted that, after considering different decisions rendered by different Hon'ble High Courts, the Hon'ble Supreme Court rendered its decision and the issue therein is squarely applicable to the issue involved in the matter of the applicants in the present O.A. Ld. Counsel for the applicants has further drawn our attention to the operative portion of the judgement which is at Para 7 as extracted hereunder:-

“7. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. However in the facts and circumstances of the case, there shall be no order as to costs.”



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8. Learned Counsel for the applicants submits that, since the issue involved in the present O.A. is squarely covered by the decision of the Hon'ble Supreme Court (Supra), his clients would be satisfied if the O.A. is disposed of by quashing and setting aside the impugned orders and by directing the respondents to consider and dispose of the claim of the applicants in the light of the decision of the Hon'ble Supreme Court (supra) and extend the benefit of the judgement to the applicants by passing a reasoned and speaking order within a time frame fixed by the Tribunal.

9. We have gone through the decision of the Hon'ble Apex Court (Supra) produced before us by the Ld. Counsel for the applicants.

10. In view of the above, keeping the matter pending before us is not at all desirable and, accordingly, we are of the view that the ends of justice would be met if the OA is disposed of by quashing and setting aside the impugned orders (1) F.NO.19/2/2018-Estt(Pay-I) dated 03.02.2021; (2) Letter No. 48-2/2021-Pen(B) dated 18.02.2021 (3) Letter No. TAC/PEN/BSNL/SR/18-19 dated 31.08.2020, (4) Letter No. AST/ADMN/PENSION CORR/2020-21/28 dated 04.02.2021 and (5) Letter No. CGM/STR/STA/Misc/2020-21/48 dated 15.03.2021, respectively, and the respondents are directed to consider and dispose of the claim of the applicants in the light of the decision, dated 11.04.2023, of the Hon'ble Apex Court in Civil Appeal No. 2471 of 2023 (SLP(C) No. 6185/2020) in the case of the Director (Admn. And HR) KPTCL & Ors. vs. C.P. Mundinamani & Ors. and

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extend the benefit of the said judgement, if the applicants herein are similarly situated as the employees/respondents before the Hon'ble Supreme Court (Supra), by passing a reasoned and speaking order, within a period of three months from the date of receipt of a copy of the order. Ordered, accordingly.

11. With the above direction, the O.A. is disposed of. There shall be no order as to costs.

Free Copy U/R 22 of
CAT (Procedure) Rules

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S. S. S. S. S.
25/12/2024
DEPUTY REGISTRAR

