**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**CHANDIGARH BENCH AT CHANDIGARH**

O.A. No. of 2015

SURINDER KUMAR and Another

… Applicant

Versus

BHARAT SANCHAR NIGAM LIMITED and Others

… Respondents

**ADDITIONAL INDEX**

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**REJOINDER UNDER RULE 32 OF CENTRAL ADMINISTRATIVE TRIBUNAL RULES OF PRACTICE, 1993**

Respectfully Sheweth:-

I, Surinder Kumar, the applicant herein, do hereby solemnly affirm and swear to the rejoinder, on own behalf as well as on behalf of Applicant No. 2, under Rule 32 of Central Administrative Tribunal Rules of Practice, 1993 to counter the averment made by the Respondent No. 1 and 2.

I crave the leave of Hon’ble Tribunal to treat the averments made in the original application as part and parcel of the rejoinder.

**Preliminary Objections: -**

1. That as of now the Applicants in the present OA are not at all demanding particular revised standard pay scales w.e.f. 01-01-2007 in lieu of existing non-standard pay scale of E1A and E2A.
2. That the tenure of 2nd PRC is 10 years from 01-01-2007 to 31-12-2016.
3. That the grief of applicants is that respondents, even after lapse of more than 9 years since 01-01-2007, have not yet taken final decision on revised standard pay scales corresponding to the existing non-standard pay scales of E1A and E2A.
4. That the respondents, by not taking final decision on revised standard pay scales, have illegally withheld the amount due to the applicants; whereby the respondents have gained a wrongful gain and have caused a wrongful loss to the applicant.
5. That therefore the relief sought for in the present OA is confine to issuance of,
   1. For direction to Respondent No. 1 and 2 to take final decision with effect from 01-01-2007 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 No. 1-50/2008-PAT(BSNL) dated 05-03-2009;
   2. For direction to Respondent No. 3 to take final decision with effect from 01-01-2007 on the Revised Standard Pay Scales corresponding to the existing Non-standard Pay Scales *viz.* E1A and E2A, as stated in DOT’s Office Memorandum No. 61-01/2009-SU dated 27-02-2009;
   3. For direction to Respondent No. 1 and 2 to pay the arrears of pay & allowances along with 12% interest because the applicants have been suffering in terms of loss of pay and allowances for more than 9 years;
6. That the respondents, instead of giving the relief sought for in the present OA, are just beating around the bushes. It is a matter of admitted fact that on 09-07-2012 DPE has rejected the BSNL's proposal of introduction of revised non-standard pay scales corresponding to existing non-standard pay scales of E1A and E2A.
7. That the Respondent No. 1 on 02-12-2015, in reply to an RTI Application, has also stated that proposal for revised E1A and E2A has not been agreed to by the DOT/DPE. Therefore, pay of the executives of pre-revised E1A and E2A is fixed in the revised E1/E2 scales respectively.
8. That it is therefore evident that respondents are silently pushing the Revised Standard Pay Scales of E1 and E2 on applicants without,
9. Presidential Directives of Respondent No. 3 in terms of,
   1. Paragraph No. 17 of DPE’s OM dated 26-11-2008; and
   2. Paragraph No. 1 of DOT’s OM dated 27-02-2009; and
10. Notifying standard pay scales in terms of Paragraph No. 1 of BSNL's OM dated 05-03-2009.
11. That the DPE’s OM dated 02-04-2009 in Paragraph No. 2(VI) stipulates that every officer has to be fitted into the corresponding new pay scales. It is matter of fact that revised E1/E2 standard pay scales are corresponding to the existing E1/E2 standard pay scales, not to existing E1A/E2A non-standard pay scales respectively. Therefore, the averment of respondents of correcting aberration by granting 5 advance increments in revised E1/E2 standard pay scale, is wrong.
12. That the applicants are not party to the DPE’s OM dated 09-07-2014, whereby DPE rejected the proposal of BSNL on revised E1A and E2A non-standard pay scales. That as of now applicants, in their considered opinion, are not affected by said DPE’s OM dated 09-07-2014. Therefore, no question of challenging this OM arise.

**Parawise Objections: -**

The contents of the common reply statement of respondents are, denied as false *except otherwise expressly admitted herein* and, rebutted using the same paragraph numbers as contained in the original application and common reply statement as under: -

1. That the averments of Paragraph No. 1 are denied as absurd and false. That it is a matter of fact that in terms of Paragraph No. 17 of DPE’s OM dated 26-11-2008, the revised pay scales cannot be implemented without Presidential Directives to be issued by concerned Administrative Ministry/Department. That Respondent No. 3 has not yet issued Presidential Directives for implementation of Revised Standard Pay Scales corresponding to the Existing Non-standard Pay Scales of E1A and E2A in terms of Paragraph No. 1 of DOT’s OM dated 27-02-2009.
2. No Comment.
3. No Comment.
4. No Comment.
   1. No Comment.
   2. No Comment.
   3. No Comment.
   4. No Comment.
   5. No Comment.
   6. No Comment.
   7. No Comment.
   8. That the averments of Paragraph No. 4.8 are denied as misleading and false. It is a matter of fact that DOT/DPE introduced Existing E1A and E2A Non-standard Pay Scales especially for Group B executives in BSNL [comprising of Junior Telecom Officer (JTO) & equivalent cadre, and Sub Divisional Engineer (SDE) & equivalent cadre] to facilitate their absorption process from DOT to BSNL w.e.f. 01-10-2000. But, at the same time, the reason behind introduction of Existing E1A and E2A Non-standard Pay Scales also needs to be appreciated. Factually, the Existing E2 and E3 Standard Pay Scales (without assured pensionary benefits) were proposed for Group B executives in BSNL because the same pay scales were introduced for Group B executives in Mahanagar Telecom Nigam Limited (MTNL) also. Since Group B executives in BSNL demanded the assured pensionary benefits, the DOT/DPE granted them assured pensionary benefits by inserting Rule 37A in CCA Pension Rules 1972, but reduced their pay scales from Existing E2 and E3 Standard Pay Scales to Existing E1A and E2A non-standard pay scales respectively.

The executives recruited after 01-10-2000, such as applicants, were not concerned with said absorption process and they suffered the double blow of this policy in the manner that they were neither given Existing E2 and E3 Standard Pay Scales nor assured pensionary benefits under Rule 37A of CCA Pension Rules 1972. However, the applicants do not want to redress this grievance in the present OA.

Pertinently, the grant of 5 advance increments is not a substitute of presidential directive to be issued in terms of Paragraph No. 17 of DPE’s OM dated 26-11-2008 and Paragraph No. 1 of DOT’s OM dated 27-02-2009. Therefore, Said requirement of presidential directive cannot be dispensed with by granting 5 advance increments.

* 1. Same as in 4.8. above.
  2. Same as in 4.8. above.
  3. That the averments of Paragraph No. 4.11 are denied as false and far away from reality. That the applicants have been given revised E1/E2 standard pay scale, which are not equivalent (but lower) to existing E1A/E2A Non-standard Pay Scales. The Applicant No. 2 represents three types of executives viz. (i) those who were recruited before 01-01-2007 [who got 30% fitment], (ii) those who were recruited in the year 2010 [who got 5 advance increments], and (iii) those who were recruited after the year 2010 [who did not get 5 advance increments]. All the executives are suffering in terms of loss of pay in different quantum and manner. The First class of executives are not suffering presently but soon they will start suffering due to stagnation. The Second class of executives are suffering the loss of Rs. 1580 (Rs. 20600 - Rs. 19020) in basic Pay itself as compared to the standard pay scales they ought to get. The Third class of executives are suffering the loss of Rs. 4200 (Rs. 20600 - Rs. 16400) in basic Pay itself as compared to the standard pay scales they ought to get.
  4. That the averments of Paragraph No. 4.12 are irrelevant. Notwithstanding said irrelevancy, the issue of Existing E9A and E9B Non-standard Pay Scales has been settled, but issue of Existing E1A and E2A Non-standard Pay Scales has not yet been settled. That is why the present OA has been file to seek for the directions to the respondents to take final decision on revised standard pay scales corresponding to Existing E1A and E2A Non-standard Pay Scales.
  5. No Comments being matter of fact.
  6. That the averments of Paragraph No. 4.14 are denied as false. That the executives who were recruited after the year 2010, have not been given any advance increments and they are suffering the loss of Rs. 4200 (Rs. 20600 - Rs. 16400) in basic Pay itself as compared to the standard pay scales they ought to get.
  7. That the averments of Paragraph No. 4.15 are denied as false. The respondents have chosen not to append the copy of judgment in OA. No. 3208 of 2011 before Hon’ble PCAT. Factually, the matter of controversy before Hon’ble PCAT was pay fitment to those who were recruited in the year 2010. The Hon’ble PCAT never directed the respondents not to take final decision on revised standard pay scales corresponding to Existing E1A and E2A Non-standard Pay Scales.

Further, the respondents have admitted that executives are suffering in terms of loss of pay. That is why the initial pay fixation at Rs. 19020 in the revised E1 standard pay scale is under active consideration of management. Therefore, it is thus evident that executives are suffering in terms of loss of pay for more than 9 years.

* 1. Same as in 4.15. above.
  2. Same as in 4.15. above.

1. That the averments of Paragraph No. 5 are denied as false. That the respondents have not taken final decision the matter as sought for in the relief.
2. No comments.
3. No comments.
4. That the averments of Paragraph No. 8 are denied as false.
5. That the averments of Paragraph No. 9 are denied as false.
6. No Comments.
7. No Comments.
8. No Comments.

Place: Chandigarh

Dated: /01/2016

Applicant

Through

**(RAJ KUMAR SHARMA)**

Advocates

Counsel for the Applicants

**Verification**:

I, Surinder Kumar, age 34 years, s/o Sh. Om Parkash, r/o Quarters No.-2, BSNL Colony, Sector-7, Urban Estate, Kurukshetra (Haryana) – 136118, presently working as Junior Accounts Officer at Circle Telecom Training Centre Kurukshetra, do hereby verify that the contents of above mentioned paragraphs are true and correct to my personal knowledge and that I have not suppressed any material fact. The additional documents adduced herein are copy of original document.

Place: Chandigarh

Dated: /01/2016

Applicant

Through

**(RAJ KUMAR SHARMA)**

Advocates

Counsel for the Applicants