IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRAORDINARY CIVIL JURISDICTION

CM No _____ of 2024 in

W.P. (C) NO. 4985 OF 2024

IN THE MATTER OF:

UNION OF INDIA & ORS ...PETITIONER

VERSUS

RETIRED TELECOM OFFICERS
WELFAREASSOCIATION & ORS ...RESPONDENTS

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KIRTIMAN SINGH
Advocate for Respondents
Central Government Standing Counsel
Chamber No. 463, Lawyers Chambers
Block-I,Delhi High Court
Phone: 011-49071872

Date:28.05.2024
Place: New Delhi

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRAORDINARY CIVIL JURISDICTION

CM No ____ of 2024 in
W.P. (C) NO. 4985 OF 2024

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COURT FEE

KIRTIMAN SINGH
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NOTICE OF MOTION

TAKE NOTICE that the accompanying application will be listed before Court on 31.05.2024at 10.30 a.m. in the forenoon, or soon thereafter as may be convenient to the court.

KIRTIMAN SINGH
Advocate for Respondents
Central Government Standing Counsel
Chamber No. 463, Lawyers Chambers
Block-I,Delhi High Court
Phone: 011-49071872

Date:28.05.2024
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URGENT APPLICATION

The Registrar
High Court of Delhi
New Delhi

Sir,

Kindly treat the accompanying application as an urgent on under the High Court orders and Rules as urgent orders are prayed for. The same may kindly be listed on 31.05.2024

KIRTIMAN SINGH
Advocate for Respondents
Central Government Standing Counsel
Chamber No. 463, Lawyers Chambers
Block-I,Delhi High Court
Phone: 011-49071872

Date: 28.05.2024
Place: New Delhi

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRAORDINARY CIVIL JURISDICTION
CM No ____ of 2024 in
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UNION OF INDIA & ORS ...PETITIONER

VERSUS

RETIRED TELECOM OFFICERS
WELFAREASSOCIATION & ORS ...RESPONDENTS

APPLICATION UNDER SECTION 151 CPC ON BEHALF OF RESPONDENTS SEEKING STAY ON THE CONTEMPT PROCEEDINGS BEFORE THE LD. CENTRAL ADMINISTRATIVE TRIBUNAL BEARING CONTEMPT PETITION NO. 301 OF 2024 ARISING OUT OF ORDER DATED 20.09.2023 IN O.A. NO 1271/2020

MOST RESPECTFULLY SHOWETH:

1. The Applicant/Petitioner is filing the present application seeking stay on contempt proceedings before the Ld. Central Administrative Tribunal [hereinafter referred to as the "**Ld. Tribunal**"] bearing Contempt Petition No 301 of 2024 arising out of order dated 20.09.2023 [hereinafter referred to as '**Impugned Order**'] inthree connected matters i.e. O.A. No 1272 of 2020, 1271 of 2020 and 1329 of 2020.

2. The Applicant/Petitioner respectfully submits that the abovementioned Contempt Petition was first listed before the Ld. Tribunal on 29.04.2024 wherein vide

order dated 29.04.2024 the Ld. Tribunal has been pleased to issue notice in the said contempt petition and was further pleased to direct the Petitioners to file an affidavit of compliance within four weeks. The matter is now listed on 03.07.2024 before the Ld. Tribunal. A copy of the order dated 29.04.2024 is annexed herewith and marked as **Annexure A-1.**

3. It is respectfully submitted that the present petition has been filed by the Applicant/Petitioner challenging the order/judgment dated 20.09.2023 passed by the Ld. Tribunal in the three abovementioned connected Original Applications. By way of the Impugned Order 20.09.2023 the Ld. Tribunal has been pleased to allow the OA *inter alia* directing as under:

> "28. In view of the elaborate discussion above, the OA stands allowed. The competent authority amongst the respondents is directed to forthwith revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. It is clarified that the benefits of revision of pension and family pension as notified by the Central Government on the recommendations of the Pay

> Commission, shall stand extended in favour of the applicants, analogous to the revision of such pension in case of Central Government pensioners."

4. The Petitioners respectfully submits that the Impugned order dated 20.09.2023 has been challenged in detail in the Writ Petition and the contents whereof are respectfully reiterated.

5. It is further submitted that the present petition was first listed before this Hon'ble Court on 05.04.2024 wherein a request for adjournment was made by the counsel for the Petitioner and the matter was re-notified for 12.07.2024. While granting the aforesaid adjournment this Hon'ble Court was pleased to observe as under:

> "5. While adjourning the matters at the request of learned counsel for the petitioners, it is made clear that this Court has neither issued notice in the petitions nor granted any stay and therefore, the Tribunal will be free to proceed with the contempt petition, if any, preferred by the respondents, as per law."

A copy of the order dated 05.04.2024 passed in the present Writ Petition and other connected matters is annexed herewith and marked as **ANNEXURE A-2.**

6. The Applicant/Petitioner respectfully submits that the Ld. Tribunal vide the impugned judgment has erroneously observed that the permanently absorbed employees of BSNL and MTNL will be treated at par with the Central Government Employees despite the fact that after absorption in the public sector undertaking, the terms and conditions of service governing the said absorbed employees are not same as in the case of Central Government Employees.

7. It is further respectfully submitted that after the employee chose to be absorbed permanently in a PSU they cease to be an employee of the Central Government and will be governed by the Rule 37 A of Central Civil Services (Pension) Rules 1972. The relevant portion of the Rule 37 A of the Central Civil Services (Pension) Rules 1972 is reproduced herein below:

> "37A. Conditions for payment of pension on absorption consequent upon conversion of a government Department into a Central autonomous body or a Public Sector Undertaking.
>
> -
>
> ...
>
> (4) The permanent absorption of the Government servants as employees of the public sector

undertaking or autonomous body shall take effect from the date on which their options are accepted by the Government servants and they shall be deemed to have retired from Government service.

.....

(8) A permanent Government servant who has been absorbed as an employee of a Public Sector Undertaking and his family shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extra-ordinary pension), on the basis of combined service rendered by the employee in the government and in the Public Sector Undertaking in accordance with the formula for calculation of such pensionary benefits as may be in force at the time of his retirement from the Public Sector Undertaking or his death or at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.....

.....

(10) In addition to pension or family pension, as the case may be, the employee who opts for pension on the basis of combined service shall also be eligible to dearness relief as per industrial Dearness Allowance pattern. "

8. It is further submitted that clause 5 of General Terms and Conditions governing the absorption of erstwhile employees

of the Department of Telecommunication into BSNL/MTNL reads as under: -

"Payment of Pension

"5. Payment of Pension: The officers who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37 – A of CCS (Pension) Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.09.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS (Pension) Rules, in PSU in the IDA pay scales shall be taken.

DOT has already clarified that the word "formula" mentioned in clause 8 of Rule 37 –A means payment of pension as per Government Rules in force at that time. BSNL will not dismiss/ remove an absorbed officer without prior approval of the Administrative Ministry/Department."

9. The Applicant/Petitioner respectfully submits that the impugned order is contrary to the record and settled law. It is further submitted that the Ld. Tribunal failed to appreciate that the judgments of the co-ordinate benches of the Central Administrative Tribunal on the similar issues, namely:

a. O.A. No 346/2018 decided on 30.10.2019 by the Ernakulam Bench, Central Administrative Tribunal,

b. O.A. No 116-134/2018 decided on 27.11.2019 by the Bangalore Bench, Central Administrative Tribunal, and

c. O.A. No 813/2017 decided on 11.01.2019 by the Hyderabad Bench, Central Administrative Tribunal.

The relevant portion of the Order dated 30.10.2019 by the Ld. Tribunal Ernakulam Bench is reproduced herein below:

> "7. In the present case w.e.f. 01.10.2000 i.e. the date of the presidential order of absorption of the applicants in BSNL, they shall cease to be Government servants and shall be deemed to have retired from Government service. Therefore, wef 01.10.2000 the applicants are not Government servants after their absorption and shall be treated as employees of the public sector undertaking. Sub-rule (7) of Rule 37A of CCS (Pension) Rules, 1972 clearly stipulates that employees opting for permanent absorption in the public sector undertaking shall on and from the date of absorption be governed by the rules and regulations or by-laws of the public sector undertaking.
>
> ....."

10. The Applicant/Petitioner relies upon the submissions as already made in the present Writ, however, respectfully submits that brief facts relevant for adjudication are as follows:

11. It is submitted that BSNL was formed on 01.10.2000 by converting Department of Telecom Services and Department of Telecom Operations into a Public Sector Undertaking, similarly MTNL was formed on 01.04.1986 by converting Delhi and Mumbai Telephones units of Department of Telecommunication.

12. It is submitted that for the employees opted for permanent absorption in BSNL and MTNL the Government provided the provision for pension to the absorbed employees. However, salary of the absorbed employee would be independently regulated as per the norms & rules applicable forPSU. It is further submitted by the Applicant/Petitioner that the salary of PSU including BSNL and MTNL is regulated by Pay Revision Committee (PRC).

13. At the time of the absorption in the BSNL and MTNL the government provided the provision for pension to the absorbed employees whereas the salary of absorbed

employees would be independently regulated as per the norms & rules applicable forPSU. The salary of PSU employees is governed on IDA pattern and is regulated by Pay Revision Committee (PRC). This is different from Central Pay Commission(CPC) recommendations regarding pay revisions of Central Government employees.

14. In PSUs the scheme of pension to be paid by the Government is not a matter of right, however, at the time of inception of BSNL and MTNL, the pension for the absorbed employees was offered as a special dispensation so that more employees opt for absorption in BSNL and MTNL. Hence, the government employees finding better salary option along with pension opted for absorption.

15. For the absorbed employees who opted for permanent absorption in BSNL and MTNL, the Presidential Orders were issued in their favour laying down comprehensive terms and conditions of their absorption in BSNL and MTNL in accordance with Rule 37 A of CCS (Pension) Rules, 1972.

16. In terms of settled legal principles, revision in pension is directly proportional to the increase in the Pay Scale. It is submitted that in the year 2006 on implementation of the recommendation of the 6th CPC, the pay scales of the Central Government Employee were revised and consequently the pension was also revised and benefits of recommendations of 6th CPC were also extended to Central Government Pensioners. The revision of salary of employee of the Central Public Sector Enterprises (CPSEs) is governed by the Pay Revision Committee. After a year of implementation of the 6th CPC, wage revision of employees of CPSEs was implemented as per the recommendations of the 2nd Pay Revision Committee (PRC) constituted by Department of Public Enterprises (DPE) with revised pay scales effective from 01.01.2007. The benefits of 2nd PRC were also extended to IDA Pensioners of BSNL/MTNL.

17. Later, on the recommendations of the 3rd PRC on wage revision of employees of CPSEs, the DPE issued orders laying down the effective date of implementation, vide its OM No. 02/0028/2017-DPE (WC)-GL-XIII/17 dated 03.08.2017 wherein it was indicated that the revised pay

scales of the Board Level and below board level Executives and Non- Unionised Supervisors would be implemented by issue of Presidential Directives in respect of each CPSE separately by the concerned Administrative Ministry/ Department. The revised pay scales are effective from 01.01.2017. However, the recommendations of 3rd PRC on wage revision for employees in CPSEs, as contained in DPE's OM No. 02/0028/2017-DPE (WC)-GL-XIII/17 dated 03.08.2017 could not yet be extended to the employees of BSNL and MTNL as these PSUs are not fulfilling the affordability criteria as per DPE OM dated 03.08.2017 for wage revision. The Applicant/Petitioner respectfully submits that revision in pension could not be done without revision in the pay scale.

18. The Applicant/Petitioner respectfully submits that the CPC is applicable to the Government Employees not for employees of Central Public Sector Enterprises (CPSEs). It is submitted that Ld. Tribunal failed to appreciate that the Respondents were given a higher IDA pay scale as compared to their counterparts in the Government Service receiving a CDA pay scale. In this regard, the

Petitioners craves leave to refer to the chart mentioned in the writ petition.

19. The Applicant/Petitioner respectfully submits that the DoP&PW issued OM dated 04.08.2016 revising pension/family pension of government pensioners who were drawing pension/family pension as on 31.12.2015. Further, the Para 7 (a) of DoP&PW OM dated 04.08.2016 and para 12 of OM dated 12.05.2017 indicated that the Government Servants who after permanent absorption in a PSU continue to draw pension from the Government separately, the pension of such employees will be updated in terms of these orders. The above mentioned OMs are applicable to the pensioners who are drawing monthly pension from the Government after permanent absorption in PSUs on pro-rata basis in CDA pattern based on their service in Government only.

20. It is respectfully submitted that OM issued by DoP&PW dated 12.05.2017 issued after recommendations of the 7th Central Pay Commission revising the pension/family pension of pre-2016 pensioners/family pensioners are applicable to only Government pensioners/family

pensioners and not to absorbed combined service pension optees of BSNL/MTNL.

21. The Applicant/Petitioner respectfully submits that the combined service optees employees/pensioners of BSNL and MTNL had option to receive pro-rata pension in CDA pattern based on their service in the Government at the time of absorption in PSU. However, the Respondents on their own volition opted for combined service pension on IDA scale because of the assured and enhanced pension. Had they opted pro-rata pension on CDA scales, it would have already been revised on the recommendations of the Central Pay Commissions. Now they selectively are asking to revise their IDA combined service pension as per the recommendations of Central Pay Commission following the CDA pattern.

22. It is submitted that as per CCS (Pension) Rule there is no provision for the revision of pension per se and that too in case where the pay scale revision is itself not implemented in favour of BSNL employees. Apart thereof after absorption in BSNL, those employees ceased to be the Government Servant and they were deemed to have retired from the Govt.Service from the date of absorption as per

Sub Rule 4 of Rule 37-A of CCS (pension) Rules, 1972. As per sub-rule 8 of Rule 37- A of CCS (pension) Rules, 1972, these absorbed employee were eligible for pensionary benefit on the basis of the combined service render by them with the Central Government and BSNL in accordance with the formula for calculation of pension and family pension under CCS (Pension) Rule, 1972 at the time of their retirement from BSNL. Thus, the observation of the Tribunal in para 22 of the impugned order that " ..... *erstwhile employees of the Department of Telecommunication shall continue to be governed by their existing terms and conditions of the service which means that they shall continue to be treated as government servants for all intents and purposes ...* .... "is contrary to record and therefore untenable.

23. It is submitted that while passing the Impugned Order, the Ld. Tribunal failed to appreciate Rule 37 (A) of CCS Pension Rules and therefore wrongly held in para 23 of the impugned order that same terms and condition will be applied without any qualification. Thus, in effect the Ld. Tribunal abolished the concept of deputation and absorption in government service.

24. It is further submitted that the observation of the Ld. Tribunal in para 26 of the impugned order that *"We reiterate that even on their absorption in the corporate undertaking, the terms and conditions of services governing them were to remain the same as they existed when they are employees of the Department of Telecommunications. Further, these terms and conditions include pension and family pension and this has been expressly stated in the rules and several subsequent communications"* contrary to record and therefore untenable.

25. It is submitted that on earlier occasion on the recommendations of 2nd PRC, the pay scale of the BSNL were revised and in order to remove the anomaly in pension of those BSNL and MTNL pensioners who retired between 01.10.2000 and 01.01.2007, approval of Union Cabinet was sought for revision of their pension and therefore the Government of India had granted the benefit to the employees who retired between 01.10.2000 and 01.01.2007.

26. It is further submitted that the pension revision as per the recommendations of 2nd PRC was done to redress the

anomaly in pension between past and future retirees of the BSNL employees, however, the Ld. Tribunal while allowing the respondent's prayer created another set of anomalies because in respect of 3rd PRC the pay scales of the BSNL and MTNL employees have not revised yet as was in the case of 2nd PRC.

27. The Applicants / Petitioners respectfully submit that the employees of BSNL/MTNL cannot claim revision of pension even without revision of pay scale as a matter of right. Further, as they ceased to be government employees with effect from the date of permanent absorption and the permanently absorbed employees of BSNL and MTNL cannot be treated at par with Govt. employees qua the salary and pension as both governed by different rules. It is submitted that in the Impugned Judgment, the Tribunal failed to appreciate that the benefit of the recommendation of CPC cannot be extended per se to the absorbed employees of BSNL.

28. As submitted above, the respondents had opted for absorption under a Public Sector Undertaking (PSU) and therefore they shall be governed under the provisions of salary, allowances and pension governing such public

sector employees. It is submitted that Ld. Tribunal failed to observe that the Respondent's desire is to have the benefit of higher scales of PSU and analogous pensionary award of the CentralGovernment and this cannot be allowed to choose what suits them at a particular juncture as the same is violation of rule of law.

29. It is submitted that the Respondents are seeking preferential treatment to the detriment of other employees of BSNL. It is submitted that the same organization cannot create two sets of employees in terms of financial benefits.

30. It is most respectfully submitted by the Applicant/Petitioner that the Impugned Order passed by the Ld. Tribunal is having financial implications upon the Petitioners and this fact has escaped the attention of the Hon'ble Tribunal.

31. In view of the above, it is respectfully submitted that the petitioners have a good case on merits and balance of convenience is also in favour of the Petitioners. The present Application is therefore being filed seeking stay of the contempt proceedings pending before the Ld. Tribunal

32. The present Application is bonafide and an order allowing the present application would prevent miscarriage of justice.

PRAYER

In view of the submissions made herewith above, it is respectfully prayed that this Hon'ble Court may be pleased to:

i. Pass ex parte ad interim order staying the proceedings in contempt proceedings before the Ld. Central Administrative Tribunal [hereinafter referred to as the "Ld. Tribunal"] bearing Contempt Petition No 300 of 2024 arising out of Impugned order dated 20.09.2023 passed in three connected matters i.e. O.A. No 1272 of 2020, 1271 of 2020 and 1329 of 2020; and

ii. Pass any other order or orders, which this Hon'ble Court may deem fit and proper.

KIRTIMAN SINGH
Advocate for the Petitioners
Central Government Standing Counsel
Chamber No. 463, Lawyers Chambers
Block-I,Delhi High Court
Phone: 011-49071872

Date: 28.05 .2024
Place: New Delhi

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRAORDINARY CIVIL JURISDICTION

CM No_____ of 2024 in
W.P. (C) NO. 4985 OF 2024

IN THE MATTER OF:

UNION OF INDIA & ORS ...PETITIONER

VERSUS

RETIRED TELECOM OFFICERS
WELFAREASSOCIATION & ORS ...RESPONDENTS

AFFIDAVIT

I, Nikhil Srivas S/o Shri Santosh Kumar Srivas aged about 32 Years working as Joint Controller of Communication Accounts, Department of Telecommunications, Sanchar Lekha Bhawan, Prasad Nagar, New Delhi-110005 do hereby solemnly affirm and declare as under:-

NOTARY ALAKA NAYAK Advocate Reg. No.: 10669 Period 27/06/2019 to 27/06/2024 GOVT. OF INDIA

33. That I am the authorized representative of the Respondents and am fully authorized and well conversant with the facts of the case on the basis of the office record, therefore, I am competent to swear this affidavit.

34. That the accompanying application under Section 151 of the Code of Civil Procedure, 1908 has been drafted by my counsel under my instructions. I have gone through the contents of the same and the same are true and correct to my knowledge derived from the official records.

35. That the contents of the accompanying application may be read as part and parcel of this affidavit as the same are not repeated for the sake of brevity.

DEPONENT

NIKHIL SRIVAS
Jt. Controller of Communication Accounts
O/o Pr. Controller of Communication Accounts
Department of Telecommunications
Sanchar Lekha Bhawan, Prasad Nagar,
New Delhi -110005

I identified the deponent who has signed in my presence.

VERIFICATION:

Verified at New Delhi on this 28 MAY 2024 the day of _____, 2024, that the contents of the above affidavit are true and correct to my knowledge on the basis of the official records. No part of it is false and nothing material has been concealed therefrom.

NOTARY
ALAKA NAYAK
Advocate
Reg. No.: 10559
Period 27/06/2019
to 27/06/2024
GOVT. OF INDIA

CERTIFIED THAT
Shri/Smt./Km. ...
S/o, D/o, W/o ...
Identified by ...
Has ...
Delhi on ...
That the contents of ... have been read & explained to him/her which are true & correct to his/her knowledge

28 MAY 2024 NOTARY

DEPONENT

NIKHIL SRIVAS
Jt. Controller of Communication Accounts
O/o Pr. Controller of Communication Accounts
Department of Telecommunications
Sanchar Lekha Bhawan, Prasad Nagar,
New Delhi -110005

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
61/35, COPERNICUS MARG,NEW DELHI-110001

Order Sheet

Item no.: 2
C.P./301/2024 (DELHI)
[CONTEMPT PETITION]
[SENIOR CITIZEN]
In
O.A./1271/2020
RETIRAL BENEFITS
M.A./1580/2020
Court No.: 3

No of Adjournment:

Order Dated: 29/04/2024

RETIRED TELECOM OFFICERS WELFARE ASSOCIATION NEW DELHI THROUGH ITS GENERAL SECTRETARY SHYAM SUNDER NANDA
Vs
M/O COMMUNICATIONS

For Applicant(s) Advocate : Ms. Gauri Puri, Ms. Aditi Gupta, Mr. Rishabh Tehlan

For Respondent(s) Advocate : Mr. RK Sharma , Mr. SN Verma

Order of The Tribunal

1. The present Contempt Petition (C.P.) alleges willful disobedience of the order dated 20.09.2023 in the captioned O.A.
2. The specific directions given while deciding the aforesaid O.A. read as under:-

"28. In view of the elaborate discussion above, the OA stands allowed. The competent authority amongst the respondents is directed to forthwith revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. It is clarified that the benefits of revision of pension and family pension as notified by the Central Government on the recommendations of the Pay

Commission, shall stand extended in favour of the applicants, analogous to the revision of such pension in case of Central Government pensioners.

29. The directions contained herein shall be complied with within a period of ten weeks from the date of receipt of a certified copy of this order."

3. Learned counsel appearing for the petitioner submits that the period for complying with the directions contained in the said order is since long over but the respondents have not taken any steps towards compliance.

4. Issue notice. Mr. S.N. Verma and Mr. R.K. Sharma, learned counsel, who appear on advance service, accept notice .

5. Mr. R.K. Sharma, learned counsel for the respondents submits that the order of the Tribunal, which is the subject of the present C.P., has been put to challenge before the Hon'ble High Court by way of a W.P.(C) (Pg 76).

6. The order dated 05.04.2024 passed by the Hon'ble High Court in the said petition is before us and the Hon'ble High Court has adjourned the matter at the request of the learned counsel for the petitioners. However, making it clear that neither a notice has been issued nor any stay granted.

7. The Hon'ble High Court has further clarified that this Tribunal will be free to proceed with the C.P., if any, preferred by the respondents,

as per law.

8. Accordingly, we direct that an affidavit of compliance be filed within four weeks positively.

9. List on 03.07.2024.

Pratima K Gupta
Member (J)

Tarun Shridhar
Member (A)

/dd/

$~36-38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4946/2024

UNION OF INDIA THROUGH ITS SECRETARY DEPARTMENT OF TELECOMMUNICATION & ORS. ..... Petitioner

Through: Mr.Himanshu Pathak with Mr.Samman Kumar, Advs.

versus

ALL INDIA RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE WELFARE ASSOCIATION AND ORS. ..... Respondent

Through: Ms.Gauri Puri with Ms.Aditi Gupta, Mr.Rishabh Tehlan, Ms.Vishakha Gupta, Advs.

\+ W.P.(C) 4955/2024

UNION OF INDIA & ORS. ..... Petitioner

Through: Mr.Himanshu Pathak with Mr.Samman Kumar, Advs.

versus

ALL INDIA BSNL PENSIONERS WELFARE ASSOCIATION & ORS. ..... Respondent

Through: Mr.Sanjoy Ghose, Sr.Adv. with Mr.Gautam Narayan, Ms.Asmita Singh, Mr.Harshit Goel, Mr.Rohan Mandal, Mr.Sanjay Jain, Mr.K.V.Vibu Prasad, Advs for R-1.
Ms.Gauri Puri with Ms.Aditi Gupta, Mr.Rishabh Tehlan, Ms.Vishakha Gupta, Advs.

\+ W.P.(C) 4985/2024

UNION OF INDIA & ORS. ..... Petitioner

Through: Mr.Himanshu Pathak with Mr.Samman Kumar, Advs.

versus

RETIRED TELECOM OFFICERS WELFARE ASSOCIATION & ORS. ..... Respondent

Through: Ms.Gauri Puri with Ms.Aditi Gupta, Mr.Rishabh Tehlan, Ms.Vishakha Gupta, Advs.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE DR. SUDHIR KUMAR JAIN

ORDER

% 05.04.2024

CAV 165/2024 in W.P.(C) 4946/2024
CAV 166/2024 in W.P.(C) 4985/2024

1. Since, learned counsel for the respondents enter appearance, the caveat stands discharged.

CM APPL. 20275/2024 -Ex. & CM APPL. 20513/2024 -Ex. in W.P.(C) 4946/2024
CM APPL. 20292/2024 -Ex. & CM APPL. 20293/2024 -Ex. in W.P.(C) 4955/2024
CM APPL. 20393/2024 -Ex. & CM APPL. 20394/2024 -Ex. in W.P.(C) 4985/2024

2. Exemptions allowed, subject to all just exceptions.
3. The applications stand disposed of.

W.P.(C) 4946/2024 & CM APPL. 20274/2024 -Stay.
W.P.(C) 4955/2024
W.P.(C) 4985/2024 & CM APPL. 20392/2024 -Stay.

4. At the outset, learned counsel for the petitioners requests for an adjournment.
5. While adjourning the matters at the request of learned counsel for the petitioners, it is made clear that this Court has neither issued notice in the petitions nor granted any stay and, therefore, the Tribunal will be free to proceed with the contempt petition, if any, preferred by the respondents, as per law.
6. List on 12.07.2024.

REKHA PALLI, J

DR. SUDHIR KUMAR JAIN, J

APRIL 5, 2024/sr

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRAORDINARY CIVIL JURISDICTION

CM No ____ of 2024 in

W.P. (C) NO. 4985 OF 2024

IN THE MATTER OF:

UNION OF INDIA & ORS ...PETITIONER

VERSUS

RETIRED TELECOM OFFICERS WELFAREASSOCIATION & ORS ...RESPONDENTS

APPLICATION UNDER SECTION 151 CPC ON BEHALF OF RESPONDENTS SEEKING EARLY HEARING OF W.P. (C) NO 4985 OF 2024.

MOST RESPECTFULLY SHOWETH:

1. The Applicant/Petitioner is filing the present application seeking an early hearing of the present Writ Petition praying for the setting aside of the Impugned Order dated 29.04.2024 by the Ld. Central Administrative Tribunal.

2. It is submitted that the present petition was first listed before this Hon'ble Court on 05.04.2024 wherein a request for adjournment was made by the counsel for the Petitioner and the matter was re-notified for

12.07.2024. While granting the aforesaid adjournment this Hon'ble Court was pleased to observe as under:

> "5. While adjourning the matters at the request of learned counsel for the petitioners, it is made clear that this Court has neither issued notice in the petitions nor granted any stay and therefore, the Tribunal will be free to proceed with the contempt petition, if any, preferred by the respondents, as per law."

A copy of the order dated 05.04.2024 passed in the present Writ Petition and other connected matters is annexed with the accompanying application.

3. The Applicant/Petitioner respectfully submits that after the order dated 05.04.2024 passed by this Hon'ble Court in the present Writ Petition a Contempt Petition was filed and first listed before the Ld. Tribunal on 29.04.2024 wherein vide order dated 29.04.2024 the Ld. Tribunal has been pleased to issue notice in the said contempt petition and was further pleased to direct the Petitioners to file an affidavit of compliance within four weeks. The matter is now listed on 03.07.2024 before the Ld. Tribunal. A copy of the order dated 29.04.2024 is annexed with the accompanying application.

4. It is respectfully submitted that the present petition has been filed by the Applicant/Petitioner challenging the order/judgment dated 20.09.2023 passed by the Ld. Tribunal in the three abovementioned connected Original Applications. By way of the Impugned Order 20.09.2023 the Ld. Tribunal has been pleased to allow the OA *inter alia* directing as under:

> "28. In view of the elaborate discussion above, the OA stands allowed. The competent authority amongst the respondents is directed to forthwith revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. It is clarified that the benefits of revision of pension and family pension as notified by the Central Government on the recommendations of the Pay Commission, shall stand extended in favour of the applicants, analogous to the revision of such pension in case of Central Government pensioners."

5. The Petitioners respectfully submits that the Impugned order dated 20.09.2023 has been challenged in detail in

the Writ Petition and the contents whereof are respectfully reiterated.

6. The Applicant/Petitioner respectfully submits that the Ld. Tribunal vide the impugned judgment has erroneously observed that the permanently absorbed employees of BSNL and MTNL will be treated at par with the Central Government Employees despite the fact that after absorption in the public sector undertaking, the terms and conditions of service governing the said absorbed employees are not same as in the case of Central Government Employees.

7. In view of the above, it is respectfully submitted that the petitioners have a good case on merits and the balance of convenience is also in favour of the Petitioners. The present Application is therefore being filed seeking an early hearing of the present Writ Petition pending before the Ld. Tribunal.

8. That the instant application filed by the Petitioner is bonafide and balance of convenience also lies in the favor of the Petitioner herein. No prejudice would be caused to the Respondent herein if the present application is

allowed. An order allowing the present application would prevent a miscarriage of justice.

PRAYER

In view of the submissions made herewith above, it is respectfully prayed that this Hon'ble Court may be pleased to:

i. Take up the present Writ Petition and hear the same on merits on an early date convenient to this Hon'ble Court; and/or

ii. Pass any other order or orders, which this Hon'ble Court may deem fit and proper.

KIRTIMAN SINGH
Advocate for the Petitioners
Central Government Standing Counsel
Chamber No. 463, Lawyers Chambers
Block-I,Delhi High Court
Phone: 011-49071872

Date: 28 .05.2024
Place: New Delhi

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRAORDINARY CIVIL JURISDICTION

W.P. (C) NO. 4985 OF 2024

IN THE MATTER OF:

UNION OF INDIA & ORS ...PETITIONER

VERSUS

RETIRED TELECOM OFFICERS WELFAREASSOCIATION & ORS ...RESPONDENTS

AFFIDAVIT

I, Nikhil Srivas S/o Shri Santosh Kumar Srivas aged about 32 Years working as Joint Controller of Communication Accounts, Department of Telecommunications, Sanchar Lekha Bhawan, Prasad Nagar, New Delhi-110005 do hereby solemnly affirm and declare as under:-

1. That I am the authorized representative of the Respondents and am fully authorized and well conversant with the facts of the case on the basis of the office record, therefore, I am competent to swear this affidavit.

2. That the accompanying application under Section 151 of the Code of Civil Procedure, 1908 has been drafted by my counsel under my instructions. I have gone through the contents of the same and the same are true and correct to my knowledge derived from the official records.

3. That the contents of the accompanying application may be read as part and parcel of this affidavit as the same are not repeated for the sake of brevity.

DEPONENT

NIKHIL SRIVAS
Jt. Controller of Communication Accounts
O/o Pr. Controller of Communication Accounts
Department of Telecommunications
Sanchar Lekha Bhawan, Prasad Nagar;
New Delhi -110005

I Identified the deponent who has signed in my presence.

VERIFICATION:

Verified at New Delhi on this 28 MAY 2024 the day of _____, 2024, that the contents of the above affidavit are true and correct to my knowledge on the basis of the official records. No part of it is false and nothing material has been concealed therefrom.

ALKA NAYAK Advocate Reg No.: 10539 Period 27/06/2019 to 27/06/20.. NOTARY GOVT. OF INDIA

CERTIFIED THAT THE DEPONENT Shri/Smt./Km. ... S/o, W/o, D/o ... Identified by ... Has ... at Delhi on ... That the ... have been read ... to him/her are true & correct to his/her knowledge

NOTARY

28 MAY 2024

DEPONENT

NIKHIL SRIVAS
Jt. Controller of Communication Accounts
O/o Pr. Controller of Communication Accounts
Department of Telecommunications
Sanchar Lekha Bhawan, Prasad Nagar;
New Delhi -110005