CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

Pronounced on: 15.07.2026
Reserved on: 26.05.2026

CORAM: HON'BLE MR. SURESH KUMAR BATRA, MEMBER (J)

1. Original Application No.060/355/2025

1. Narinder Paul S/o Late Sh. Des Raj, aged 55 years, retired as Sub Divisional Engineer from General Manager Telecom District, BSNL Ludhiana, under Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of H. No. 12-B, Street No.1, Khanna, District Ludhiana (Punjab).
2. Rajnish Kumar S/o Late Sh. Gulzari Lal, aged 56 years, retired as Sub Divisional Engineer from General Manager Telecom District, BSNL Ludhiana, under Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of Grewal Colony, Street No.2, Jagraon, District Ludhiana (Punjab).
3. Rakesh Kumar S/o Late Sh. Mohan Lal, aged 58 years, retired as Sub Divisional Engineer from General Manager Telecom District, BSNL Ferozepur, under Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of Main Road, Vijay Nagar Colony, Kamre Wala Road, Jalalabad West, District Fazilka (Punjab), PIN-152024.
4. Kuldeep Singh S/o Late Sh. Gurcharan Singh, aged 55 years, retired as Sub Divisional Engineer from Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of H. No.34-D, Sector 30-B, Chandigarh-160030.
5. Jaspal Singh S/o Sh. Harchand Singh, aged 56 years, retired as Sub Divisional Engineer from General Manager Telecom District, BSNL Ferozepur, under Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of H. No.15, Ekta Nagar, Ferozepur City, District Ferozepur (Punjab), PIN-152002.
6. Rajesh Mittal S/o Late Sh. Puran Chand Mittal, aged 56 years, retired as Sub Divisional Engineer from General Manager Telecom District, BSNL Chandigarh, under Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of H. No.1081, Deep Complex, Hallo Majra, Chandigarh-160002.
7. Dharminder Joshi S/o Sh. Ram Sarup Joshi, aged 55 years, retired as Sub Divisional Engineer from General Manager Telecom District, BSNL Chandigarh, under Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of H. No.1012, Phase 3B-2, S.A.S. Nagar, Mohali.

(All retired Group 'B' Officers)

... **Applicants**

By Advocate: Mr. Sanjay Kaul

Versus

1. Union of India through Secretary, Department of Telecommunications, Ministry of Communications, Sanchar Bhawan, 20, Ashoka Road, New Delhi.
2. Bharat Sanchar Nigam Limited through its Chairman-cum-Managing Director, BSNL Corporate Office, Harish Chandra Mathur Lane, Janpath, New Delhi-110001.
3. Controller of Communication Accounts, Punjab Telecom Circle, Plot No.2-C, Madhya Marg, Sector 27-A, Chandigarh-160019.
4. Chief General Manager, BSNL, Punjab Telecom Circle, Plot No.2, Himalaya Marg, Sector 34-A, Chandigarh-160022.
5. General Manager Telecom District, BSNL, Bharat Nagar Chowk, Ludhiana-141008.
6. General Manager Telecom District, BSNL, Telephone Exchange Building, Sector 34-A, Chandigarh.
7. General Manager Telecom District, BSNL, Near Sher Shah Wali Chowk, Ferozepur Cantt., Ferozepur.

... .Respondents

By Advocate: Mr. Sanjay Goyal, Sr. CGSC for Respondents No. 1 and 3
Ms. Neeru Chadha, for Respondents Nos. 2, and 4 to 7

2. Original Application No. 060/356/2025

1. Rashpal Singh, son of Late Shri Piara Singh, aged 55 years, retired as Sub-Divisional Engineer from the office of the General Manager Telecom District, Bharat Sanchar Nigam Limited (BSNL), Ludhiana, under the Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of House No. 1090/9-D, Street No. 1, Bal Singh Nagar, Ludhiana, PIN-141007 (Punjab).
2. Harmandeep Singh, son of Late Shri Kanail Singh, aged 58 years, retired as Sub-Divisional Engineer from the office of the General Manager Telecom District, Bharat Sanchar Nigam Limited (BSNL), Ludhiana, under the Chief General Manager Telecom, Punjab Circle, Chandigarh, resident of House No. 1/283-T, Dashmesh Nagar, Mandi Mullanpur, District Ludhiana, PIN-141101 (Punjab).

(All retired Group 'B' Officers)

... Applicants

By Advocate: Mr. Sanjay Kaul

Versus

1. Union of India through the Secretary, Department of Telecommunications, Ministry of Communications, Sanchar Bhawan, 20, Ashoka Road, New Delhi – 110001.
2. Bharat Sanchar Nigam Limited through its Chairman-cum-Managing Director, BSNL Corporate Office, Harish Chandra Mathur Lane, Janpath, New Delhi – 110001.

3. Controller of Communication Accounts, Punjab Telecom Circle, Plot No. 2-C, Madhya Marg, Sector 27-A, Chandigarh – 160019.
4. Chief General Manager Telecom, BSNL, Punjab Telecom Circle, Plot No. 2, Himalaya Marg, Sub City Centre, Sector 34-A, Chandigarh – 160022.
5. General Manager Telecom District, BSNL, Bharat Nagar Chowk, Ludhiana – 141008.

...Respondents

By Advocate: Mr. Sanjay Goyal, Sr. CGSC for Respondents No. 1 and 3
Ms. Neeru Chadha, for Respondents Nos. 2, 4 and 5

3. Original Application No. 663/2025

Shamsher Singh, son of Shri Gurbachan Singh, aged 57 years, retired as Sub-Divisional Engineer (VAS) from the office of the General Manager Telecom District, Bharat Sanchar Nigam Limited (BSNL), Ludhiana, under the Chief General Manager Telecom, Punjab Circle, Sector 34, Chandigarh, resident of Agwarh Sidhwan, opposite Police Station, Dharamkot, District Moga, PIN-142042 (Punjab).

(Retired Group 'B' Officer)

... Applicants

By Advocate: Mr. Sanjay Kaul

Versus

1. Union of India through the Secretary, Department of Telecommunications, Ministry of Communications, Sanchar Bhawan, 20, Ashoka Road, New Delhi – 110001.
2. Bharat Sanchar Nigam Limited through its Chairman-cum-Managing Director, BSNL Corporate Office, Harish Chandra Mathur Lane, Janpath, New Delhi – 110001.
3. Controller of Communication Accounts, Punjab Telecom Circle, Plot No. 2-C, Madhya Marg, Sector 27-A, Chandigarh – 160019.
4. Chief General Manager Telecom, Bharat Sanchar Nigam Limited, Punjab Telecom Circle, Plot No. 2, Himalaya Marg, Sub City Centre, Sector 34-A, Chandigarh – 160022.
5. General Manager Telecom District, Bharat Sanchar Nigam Limited, Bharat Nagar Chowk, Ludhiana – 141008.

...Respondents

By Advocate: Mr. Sanjay Goyal, Sr. CGSC for Respondents No. 1 and 3
Ms. Neeru Chadha, for Respondnts Nos. 2, 4 & 5

ORDER

Per: SURESH KUMAR BATRA MEMBER (J):-

1. The above captioned three Original Applications have been filed, seeking identical relief on similar grounds, therefore, the same were heard together and are being disposed of by a common order, with the consent of learned counsel for both the parties. The relief claimed by way of these OAs is as under:-

(i) To quash the action of the respondents in not releasing the full amount of Deferred Gratuity to the applicants vide letter dated 01.02.2025 (Annexure A-29 Colly) and in not releasing the balance amount of Ex-Gratia under the terms and conditions of the Voluntary Retirement Scheme, 2019, on the ground that the pre-appointment training period and the gap period between the date of completion of training and the date of regular appointment, caused due to administrative delay attributable to the respondents, have not been counted towards the qualifying service of the applicants, despite the mandate contained in Rule 22(1) and Rule 22(4) of the CCS (Pension) Rules, 2021 (Annexure A-3), DoPT O.M. dated 02.10.2022 (Annexure A-24), BSNL clarifications dated 22.11.2019 and 26.11.2019 (Annexure A-20 Colly), the pay fixation orders dated 21.03.1994 (Annexure A-16) and 08.04.1994 (Annexure A-17), the condonation orders dated 02.04.2004 read with 29.03.2004 (Annexure A-18 Colly), and the admission of the applicants' claim by the respondents vide letter dated 26.02.2021 (Annexure A-22).

(ii) To direct the respondents to release the balance amount of Deferred Gratuity along with interest at the applicable GPF rate in terms of the Voluntary Retirement Scheme, 2019, and further to release the balance amount of Ex-Gratia after counting the pre-appointment training period and the gap period occasioned due to administrative delay from the date of completion of training till the date of regular appointment, along with interest at the rate of 12% per annum from February, 2025 till actual realization.

(iii) To direct the respondents to revise the PPOs of all the applicants by including the pre-appointment training period and the gap period caused due to administrative delay, in their qualifying service.

2. Since common questions of fact and law arise for consideration in these Original Applications, the pleadings, for the sake of convenience and to avoid repetition, are extracted from O.A. No. 355/2025. The applicants, all retired Group 'B' officers of Bharat Sanchar Nigam Limited, were initially appointed as Technicians in the erstwhile Department of Telecommunications pursuant to an advertisement issued in February, 1990 for recruitment against the outsider quota in different SSAs of Punjab and Chandigarh Circles. The advertisement specifically envisaged one year departmental training with payment of stipend before regular appointment (Annexure A-4). Applicant Nos.1 to 3 joined Technician Telephone Batch No.87 on 18.11.1991 at Rajpura Training Centre, whereas applicant Nos.4 to 7 joined Technician Telephone Batch No.88 on 04.05.1992. Their joining and

commencement of training were communicated vide letters dated 23.12.1991 and 20.05.1992 respectively (Annexures A-7 and A-8). Upon successful completion of 40 weeks theoretical training, applicant Nos.1 to 3 were relieved on 20.08.1992 for practical training and thereafter deputed for twelve weeks' practical training vide order dated 25.08.1992 (Annexures A-9 and A-10). Similarly, applicant Nos.4 to 7 were relieved on 05.02.1993 and deputed for 12 weeks practical training vide orders dated 05.02.1993 and 09.02.1993 (Annexures A-12 and A-13). During the training period, the applicants were entitled for stipend @ Rs. 660/- per month plus D.A.

3. According to the applicants, although they successfully completed the prescribed training, they were not immediately appointed because the respondents cited non-availability of vacancies. Consequently, applicant Nos.1 to 3 were appointed only vide order dated 11.01.1994 (Annexure A-15), whereas applicant Nos.4 to 7 were appointed vide order dated 06.12.1993 (Annexure A-14), resulting in an intervening gap between completion of training and regular appointment. Subsequently, the respondents themselves issued pay fixation orders dated 21.03.1994 and 08.04.1994 (Annexures A-16 and A-17), granting increments by treating the training period as qualifying service. Thereafter, vide orders dated 02.04.2004 read with 29.03.2004 (Annexure A-18 Colly), the competent authority also condoned the gap period between completion of training and regular appointment on account of administrative delay, on the basis of BSNL HQ letter dated 29.03.2004.

4. After the formation of BSNL, the applicants stood absorbed with effect from 01.10.2000 and became governed by Rule 37A of the CCS (Pension) Rules as inserted vide Notification dated 30.09.2000 (Annexure A-2), entitling them to pensionary benefits based on combined qualifying service.

5. The applicants opted for voluntary retirement under the BSNL Voluntary Retirement Scheme, 2019 notified on 04.11.2019 (Annexure A-19) and retired with effect from 31.01.2020. Their Pension Payment Orders were thereafter issued by the respondents (Annexure A-1 Colly). The applicants assert that although the PPOs reflected certain additional qualifying service in some cases, while calculating Ex-Gratia and Deferred Gratuity the respondents ignored the pre-appointment training period and the condoned gap period, thereby reducing their retiral benefits of gratuity and ex gratia.

6. The applicants averred that despite repeated representations (Annexure A-25 Colly), replies received from the respondents (Annexure A-26 Colly), communications addressed to the Corporate Office (Annexure A-27), and RTI proceedings (Annexure A-28 Colly), the respondents neither counted the training period nor the condoned gap period while releasing Deferred Gratuity vide letters dated 01.02.2025 (Annexure A-29 Colly). Hence, the present Original Application has been filed.

7. The applicants contended that the respondents have illegally withheld a part of the deferred gratuity and the balance ex-gratia payable under the BSNL Voluntary Retirement Scheme, 2019 by excluding the pre-appointment training period as well as the

intervening gap period between completion of training and regular appointment from the qualifying service of the applicants. It is argued that the said gap occurred solely due to administrative reasons, as the applicants were not offered regular appointment immediately after successful completion of training owing to non-availability of vacancies, despite having been selected against advertised posts. The interruption was thus entirely attributable to the respondents and not to the applicants. It is further submitted that the respondents themselves had subsequently condoned the said interruption vide orders dated 29.03.2004 and 02.04.2004, while the training period had already been recognized for service benefits by granting annual increments vide pay fixation orders dated 21.03.1994 and 08.04.1994. Having accepted the training period and condoned the interruption for all practical purposes, the respondents cannot lawfully exclude the same while calculating gratuity and ex-gratia payable under the VRS Scheme.

8. It is further contended that the action of the respondents is contrary to Rule 22(1), Rule 22(4) and Rule 28 of the Central Civil Services (Pension) Rules, 2021, which specifically provide for counting of pre-appointment training and interruption caused due to administrative reasons as qualifying service. Reliance is also placed upon the Office Memorandum dated 02.10.2022 (annexure A-24) issued by the Department of Personnel and Training reiterating the aforesaid statutory provisions. It has been submitted that Clauses 6.1(a) and 6.2(c) of the BSNL Voluntary Retirement Scheme, 2019 also contemplate calculation of ex-gratia and retirement gratuity on the basis of qualifying service. Further reliance has been placed upon the

clarifications issued by BSNL vide communications dated 22.11.2019 and 26.11.2019 (Annexure A-20 colly), wherein it has been clarified that pre-appointment training shall count towards pensionary benefits, wherever the conditions prescribed under Rule 22 are fulfilled. It is argued that the respondents have acted in complete disregard of their own policy decisions and statutory provisions. Further reliance has been placed upon the communication dated 31.01.2020 (Annexure A-21), whereby the Punjab Circle instructed all field units to process such cases in accordance with Rule 22 (1) of the CCS (Pension) Rules, 1972.

9. It is further urged that the respondents themselves had admitted the applicants' entitlement by issuing the communication dated 26.02.2021 (Annexure A-22), wherein it was proposed that the training period and gap period be taken into consideration while calculating ex-gratia and gratuity and, if necessary, the same be computed manually pending suitable modifications in the ERP system. Similar recommendations were also forwarded vide letter dated 27.04.2021 (Annexure A-23). Despite such admission, the respondents released the deferred gratuity on 01.02.2025 without counting the aforesaid period, thereby causing substantial monetary loss to the applicants. It is also submitted that in certain cases, the PPOs themselves reflect additional qualifying service, whereas the deferred gratuity actually released is inconsistent with the PPOs, demonstrating complete non-application of mind. The applicants pointed out that similarly situated employees, namely Rashpal Singh and Harmandeep Singh, were granted the benefit of counting the training period while releasing deferred gratuity (Annexure A-30 colly), whereas the applicants have been denied identical treatment, rendering the impugned action

discriminatory and violative of Articles 14 and 16 of the Constitution of India.

10. In support of the aforesaid submissions, reliance has been placed upon **Abdul Mannan v. Union of India, 2012 (7) SCT 729**, wherein the Hon'ble Bombay High Court held that the period between completion of training and regular appointment, where the delay was attributable to the employer, was liable to be counted for pensionary benefits. Reliance has also been placed upon **Shyam Pratap Singh Dhakarey v. Ministry of Defence, O.A. No. 330/01214/2014 decided on 08.02.2023**, wherein the said principle was followed while directing counting of apprenticeship/training period towards qualifying service. Learned counsel has further relied upon **J.S. Cheema v. State of Haryana, 2014 (13) RCR (Civil) 355**, to contend that where the employer wrongfully retains money legally due to an employee, the employee is entitled to interest thereon. Reliance has also been placed upon **R. Sundaram v. The Tamil Nadu State Level Scrutiny Committee & Others**, decided by the Hon'ble Supreme Court on 17.03.2023, to submit that retiral benefits are valuable statutory and constitutional rights and cannot be denied arbitrarily. It is, therefore, prayed that the impugned action be quashed and the respondents be directed to recompute the qualifying service after including the training period and the condoned gap period, release the balance deferred gratuity and ex-gratia along with consequential revision of PPOs, and pay interest on the delayed amounts.

11. The respondent Nos. 2 and 4 to 7 i.e. BSNL opposed the Original Application by filing written statement. It has been submitted that the

applicants were initially appointed under the Department of Telecommunications during the years 1993-94 and were subsequently absorbed in BSNL with effect from 01.10.2000. The dispute raised by the applicants pertains to the period when they were serving under the Department of Telecommunications, therefore, the liability, if any, rests with the Department of Telecommunications and not with BSNL. It is argued that the role of the answering respondents is merely administrative and facilitative, confined to forwarding service records and coordinating with the competent authorities of the Department of Telecommunications, who alone are responsible for sanction and disbursement of pensionary benefits and deferred gratuity. Consequently, no effective relief can be granted against the answering respondents.

12. It is further submitted that the applicants have wrongly relied upon the orders whereby the gap period between completion of training and regular appointment was condoned. The said condonation was granted exclusively for the limited purpose of enabling the applicants to fulfill the eligibility condition for promotion to the cadre of Junior Telecom Officer under the 35% quota and cannot be extended for determining qualifying service for pensionary benefits, gratuity or ex-gratia. It is urged that the grant of annual increments by counting the training period and the condonation of the intervening gap for promotional purposes do not automatically convert the said period into qualifying service under the pension rules. Reliance has been placed upon Rule 13 of the CCS (Pension) Rules, 1972 to contend that qualifying service commences only from the date an employee takes charge of a post in a substantive, officiating or temporary capacity. It

has been further submitted that Rule 22 contemplates counting of pre-appointment training only where such training is immediately followed by appointment and the interruption does not exceed the permissible joining time. Since, in the present case, the gap between completion of training and regular appointment exceeded the prescribed joining period, the essential conditions of Rule 22 are not fulfilled and, therefore, neither the training period nor the intervening gap can be reckoned as qualifying service for pensionary benefits.

13. The respondents further contended that the reliance placed by the applicants upon Rule 22 of the CCS (Pension) Rules, 2021 and the Office Memorandum dated 02.10.2022 issued by the Department of Personnel and Training is wholly misconceived, as both came into force after the applicants had already retired under the BSNL Voluntary Retirement Scheme, 2019. It is submitted that neither the statutory rules nor the executive instructions have retrospective operation, so as to alter the terms and conditions of a concluded voluntary retirement scheme. It is also urged that the communication dated 26.02.2021 relied upon by the applicants was merely an inter-departmental correspondence containing tentative recommendations and did not constitute any final decision or approval by the competent authority, so as to create an enforceable legal right in favour of the applicants.

14. The respondents further submitted that ex-gratia payable under the BSNL Voluntary Retirement Scheme, 2019 is not a statutory entitlement but a benefit governed exclusively by the terms and conditions of the Scheme, which is a complete code in itself. The applicants voluntarily opted for the Scheme, accepted all benefits

payable there under without any protest and are, therefore, bound by its terms, including Clause 8(i), which declares the Scheme to be non-negotiable. It has been pleaded that the applicants cannot seek additional benefits not contemplated under the Scheme after having accepted the voluntary retirement package. It has also been contended that the claim relating to ex-gratia is barred by delay and acquiescence, as the applicants accepted both installments of ex-gratia in the years 2019-20 and 2020-21 without any objection and have approached the Tribunal only in the year 2025.

15. Lastly, the respondents nos. 2 and 4 to 7 submitted that the Frequently Asked Questions relied upon by the applicants merely recognize counting of the pre-appointment training period subject to fulfillment of the prescribed conditions and do not envisage inclusion of any intervening gap period between completion of training and regular appointment. It has been contended that the applicants are seeking to equate, condonation of the gap period for promotional purposes with condonation for pensionary benefits, though both operate in distinct fields. The respondents, therefore, submit that the applicants have failed to establish any legal or statutory right to claim inclusion of the gap period for computation of qualifying service for gratuity or ex-gratia and, accordingly, pray for dismissal of the Original Application.

16. The Respondents Nos. 1 and 3, in their written statement, opposed the Original Application by contending that the applicants, who were former employees of BSNL, had voluntarily retired under the BSNL Voluntary Retirement Scheme, 2019 on 31.01.2020 while serving as Sub Divisional Engineers. It is submitted that their pensionary

benefits, including Death-cum-Retirement Gratuity, were processed and disbursed strictly in accordance with the CCS (Pension) Rules, 1972, which were applicable on the date of their retirement. The applicants are seeking inclusion of their pre-appointment training period as qualifying service, though such benefit is not admissible under the applicable statutory provisions. It is further contended that the Original Application is barred by limitation since the applicants had received their Pension Payment Orders in March 2020, wherein the qualifying service had been duly reflected without inclusion of the training period, yet the present proceedings have been initiated only in the year 2025 without any satisfactory explanation for the delay. Reliance is placed upon the decision of the Hon'ble Supreme Court in **State of Madhya Pradesh v. Bhailal Bhai, AIR 1964 SC 1006**, to contend that stale claims cannot be entertained in the absence of sufficient cause.

17. The respondents further submitted that the CCS (Pension) Rules, 2021, as well as the instructions issued thereunder, have no application to the present case since the applicants had already retired on 31.01.2020 under the BSNL VRS-2019 Scheme. It has been contended that the pensionary benefits of the applicants are governed exclusively by the CCS (Pension) Rules, 1972, and that statutory rules brought into force subsequently cannot be applied retrospectively to reopen settled pensionary benefits. It is also urged that the applicants cannot seek a different mode of computation merely because the later Rules are more beneficial. Reliance is placed upon the judgment of the Hon'ble Supreme Court in **D.S. Nakara v. Union of India, (1983) 1 SCC 305**, to submit that although pension is a valuable right, the

mode of computation must be governed by the applicable statutory provisions.

18. It is the specific stand of respondents No. 1 and 3 that the benefit of counting pre-appointment training period is governed by the Government of India decision issued below Rule 22 of the CCS (Pension) Rules, 1972, which permits such benefit only where the departmental training is followed immediately by regular appointment. According to the respondents, applicants No. 1 to 3 completed their training on 17.11.1992 but were appointed only on 11.01.1994, whereas applicants No. 4 to 7 completed their training on 01.05.1993 and were appointed in December 1993, leaving intervening gaps of approximately fourteen months and seven months respectively. It is contended that such substantial gaps cannot be construed as appointments made "immediately" after training and, therefore, the mandatory condition prescribed under Rule 22 of Rules, 1972 remains unfulfilled. Consequently, the training period cannot be counted towards qualifying service for pension, gratuity or other retirement benefits.

19. The respondents further contend that although Rule 22(4) contemplates regularization of interruption beyond permissible joining time, where such interruption is attributable to administrative reasons, the said provision applies only to the gap period and not to the training period itself. It is submitted that no material has been placed on record to establish that the competent authority ever regularised the intervening period by sanction of leave or extraordinary leave in accordance with the statutory rules. The burden to establish fulfillment

of the conditions prescribed under the Rules rests upon the applicants, which they have failed to discharge. It is further submitted that the administrative formalities involved in the appointment process, including verification of records, medical examination and other procedural requirements, cannot automatically be treated as administrative delay, so as to confer pensionary benefits.

20. The respondents also submit that the applicants accepted their Pension Payment Orders, gratuity and other retirement benefits in March 2020 without raising any objection and continued to receive pension accordingly. Having accepted the benefits without protest for several years, they are now estopped from challenging the computation of qualifying service. It is contended that the applicants cannot approbate and reprobate simultaneously by accepting the benefits under the scheme and thereafter seeking re-computation contrary to the applicable rules. It is further stated that the pension has been computed uniformly in respect of all similarly situated employees whose training was not immediately followed by appointment and, therefore, there is neither arbitrariness nor discrimination. Acceptance of the applicants' claim, according to the respondents, would have wide financial implications and may give rise to numerous similar claims across the country.

21. Lastly, respondents No. 1 and 3 submit that they have merely processed and disbursed pensionary benefits on the basis of the qualifying service certified by the concerned administrative authorities, namely respondents No. 2 and 4 to 7 i.e. BSNL, who are the custodians of the service records and competent to determine qualifying service. It

is pointed out that the pension sanctioning and disbursing authority has no independent role in determining whether the training period or any intervening gap should be counted towards qualifying service, and has acted strictly on the pension papers forwarded by the concerned offices. It is therefore prayed that, the applicants having failed to establish any violation of the CCS (Pension) Rules, 1972 or any legal infirmity in the computation of their pensionary benefits, the Original Application deserves to be dismissed with costs.

22. The applicants, in their rejoinder to reply of respondents no. 2, 4 and 7, controvert the stand taken by the respondents and submit that BSNL cannot evade its responsibility by shifting the burden upon the Department of Telecommunications, as BSNL alone was responsible for verification of the entire service record, computation of qualifying service, Ex-gratia and gratuity, and forwarding the verified pension papers to DoT for disbursal. The applicants further submit that they had been diligently pursuing their claim through representations and RTI applications, and the authorities consistently informed them that the matter was under consideration at the Corporate Office. They, therefore, contend that the respondents cannot raise the plea of limitation, as the cause of action finally arose only when deferred gratuity was released on 01.02.2025 without extending the claimed benefits, placing reliance upon **Union of India v. Shantiranjan Sarkar**, 2009 (2) SCT 44. The applicants also rely upon the BSNL FAQs issued in November 2019 and the DoPT Office Memorandum dated 02.10.2022 to contend that where the interruption between training and appointment is attributable to administrative reasons and stands regularized, the training period along with the regularized gap

period ought to be counted as qualifying service. They further allege discrepancies in the computation of deferred gratuity, contend that the respondents have failed to specifically deny several grounds raised in the Original Application, and assert that such averments are deemed to have been admitted in view of Rule 12(2) of the CAT (Procedure) Rules, 1987 and the law laid down by the Hon'ble Apex Court in **Asha v. B.D. Sharma University of Health Sciences on 10.07.2012 (Civil Appeal No. 5055 of 2012)**.

23. On the similar lines, the applicants filed a separate rejoinder to the reply filed by the respondents nos. 1 and 3, reiterating their claim.

24. I have gone through the pleadings, perused the material available on record and considered the rival submissions of learned counsel for the parties.

25. The issue for adjudication herein is as to whether the pre-appointment training period and the gap period w.e.f. the date of completion of training and date of regular appointment can be counted towards qualifying service of the applicant for the purpose of calculation of gratuity and ex gratia payment.

26. The undisputed facts are that the applicants, who were working on the different posts in BSNL, opted for VRS under BSNL VRS Scheme, 2019 w.e.f. 31.01.2020. The applicants were getting monthly pension under erstwhile CCS (Pension) Rules 1972, which has been amended vide CCS (Pension) Rules 2021, on 20.12.21 in supersession of CCS (Pension) Rules, 1972.

27. The grievance of the applicants is that the training period from 18.11.1991 to 17.11.1992 and gap of period of more than one year between completion of training and regular appointment qua applicants no. 1, 2 and 3 has not been counted by the respondents for the purpose of calculation and payment of gratuity and ex gratia amount. Similarly, the training period from 04.05.1992 to 01.05.1993 and gap of more than seven months period between the training and regular appointment has not been counted by the respondents, qua applicants no. 4 to 7.

28. The respondents nos. 1 and 3 have filed separate reply wherein they have taken a preliminary objection that the claim of the applicants is time barred as they have retired from service w.e.f. 31.01.2020, therefore, the cause of action arose in January, 2020, but the applicants have filed instant O.A in the year 2025. The objection taken by the respondents is not legally sustainable as the applicants have made several representations for redressal of their grievances and as per the scheme of VRS the applicants got the withheld gratuity amount in February 2025. Therefore, the limitation would commence from the date of receipt of withheld gratuity, without counting of the period, in February, 2025. The other objections taken by the Respondents nos. 1 and 3 (DoT) are more or less same as have been taken by the Respondents nos. 2 and 4 to 7 (BSNL).

29. Though the respondent no. 2 to 4 have taken a preliminary objection that the claim of applicants is with regard to their services under the Department of Telecom, during the period of 1993 and 1994, lies in the domain of DoT, therefore, no relief can be claimed against

the answering respondents (BSNL). Their role is purely administrative and facilitative in nature, to process and verify the service records of applicant to be forwarded to DoT. The respondent no. 2 and 4 to 7 have taken primary objection that the applicants have opted for voluntary retirement under the VRS Scheme, 2019 therefore, as per the terms and conditions of the Scheme, they cannot claim counting of period as a matter of right. The quantum and eligibility for ex gratia and deferred gratuity is to be governed by the Scheme only.

30. In order to examine the said rival contentions, I find from the material placed on record i.e. Annexure A-20, that in order to provide the clarity about the provisions of VRS Scheme 2019 and to satisfy several queries raised from various offices, the respondent no. 2 i.e. BSNL Corporate Office, issued Frequent Asked Question (FAQ) Part 2 dated 22.11.2019. The said FAQ part 2 was circulated amongst eligible officers prior to exercise of option of VRS under scheme. To the question at Sr. No. 2 of the FAQs Part 2, it is answered that pre appointment training is counted as qualifying period of pension as per the Government decision (1) under Rule 22 of CCS (Pension) Rules 1972. Thereafter on 26.11.2019, in partial modification of earlier FAQ Part 2, another FAQ Part-2 (Modified) was issued, wherein it was answered at sr. No. 2 that the period of pre appointment training is to be counted towards qualifying service for pensionary benefits including ex gratia and gratuity as per the provisions of para (3)(k) of BSNL VRS Scheme 2019. However, the pre appointment training is counted as qualifying period for pension in respect of only BSNL absorbed officials, who fulfill the condition as stipulated in GoI decision (1) under Rule 22 of CCS (Pension) Rules 1972. There is no dispute that the applicants

are absorbed officials of BSNL. For the sake of convenience, Rule 22 is reproduced as under: -

22. Counting of periods spent on training

The Government may, by order, decide whether the time spent by a Government servant under training immediately before appointment to service under that Government shall count as qualifying service.

GOVERNMENT OF INDIA'S DECISIONS

(1). Pre-appointment training period counts as qualifying service -The Staff Side of the National Council (JCM) had suggested that the service rendered by an employee during the training period before his regular appointment to the grade may be treated as qualifying service for pension.

2. The request made by the Staff Side of the National Council (JCM) has been examined and it has now been decided that in respect of Groups "C' and 'D' employees, who are required to undergo departmental training relating to jobs before they are put on regular employment, training period may be treated as qualifying service for pension, if the training is followed immediately by an appointment. This benefit will be admissible to all Groups 'C' and 'D' employees even if the officers concerned are not given the scale of pay of the post but only a nominal allowance.

3. The Ministry of Finance, etc., are requested to bring the above decision to the notice of all officers working under them including those in the attached and subordinate offices for their guidance.

4. These orders come into force with effect from 22nd December, 1983

5. Benefit of these orders will be available to all those employees who retired on or after 22nd December, 1983.

6. No restriction is imposed on the admissibility of the above benefit to the employees who were recruited in 'C' and 'D' posts but retired from Groups 'A' and 'B' posts.

(2) Treatment of the interruption between training and regular appointment.-Reference Decision (1) above, some of the Circles, etc., have raised a doubt about treating the period of interruption between training period and regular appointment which is caused due to journey from training place to the posting place or the non-availability of post, etc. The position has been examined in consultation with the Department of Personnel and Administrative Reforms and clarified as follows:-

It is mentioned that the Decision (1) above is effective from the date of issue, i.e., 22-12-1983. Thus, the benefits of this order can be given to an officer who is in service on that day and retires thereafter.

As regards treating the interruption period in between training period and regular appointment, it is stated that the training should be followed immediately by an appointment which means that there should not be any interruption. Even, if any interruption falls between the training period and regular appointment that should not exceed the joining time admissible under the relevant rules for the purpose of benefit to be given under Decision (1) above.

In view of the position stated, it is requested that this provision may be brought to the notice of all concerned subordinate units including P & T Training Centres.

(3) ***Condonation of administrative delay in issuing posting order after training, for counting training period for pension-*** *1. Rule 22 of CCS (Pension) Rules, 1972 and Government of India's Instructions issued on the subject from time to time provide that a period of training can be counted as qualifying service for the purpose of pensionary benefits if the training is immediately followed by appointment. Even, if any*

interruption falls between the training period and regular appointment that should not exceed the joining time admissible under the relevant rules.

2. But instances have come to notice where there has been administrative delay in giving appointment letters, etc., after the training period is over and the appointment takes more time than the joining time admissible under the relevant rules.

3. The question as to how the intervening period in such type of cases can be treated if it exceeds the joining time admissible and the delay on the part of the Government in giving appointment letters and as to whether that intervening period can be condoned, was referred to Department of Pension and Pensioners' Welfare who have advised that in cases where the delay is purely administrative, they have no objection to condoning the said period.

4. They have further advised that effort should be made to eliminate the administrative delays particularly where it is known in advance that the trainees have to be given final appointment letters, etc.

31. From the reading of the aforesaid, it is evident that the plea taken by the respondents falls flat in view of the answers given by the respondent no. 2 vide FAQ, which has a backing of relevant rule 22 of Rules 1972. Therefore, the objection of respondents is found to be contrary to the rule position also. The sub rule 3(3) of Rule 22 of 1972 rules stipulates that in the case of delay on the part of Government in giving appointment letter, the Department of Pensions and Pensioners' Welfare have no objection to condone the said period.

32. To oppose the claim of applicants, the answering respondents have also placed reliance on the DoP&T OM dated 02.10.2022 (Annexure A-24) stating that the said memorandum is prospective in

nature, therefore, the same cannot be applied retrospectively to claim the benefit by the applicants. From the perusal of DoP&T OM dated 02.10.2022 (Annexure A-24), issued for the purpose of counting of period spent on training as qualifying service for pension and gratuity under the CCS (Pension) Rules 2021, it is evident that this OM has been issued in supersession of CCS (Pension) Rules 1972. Moreover the OM dated 02.10.2022 was issued pursuant to the notification dated 20.12.2021 (Annexure A-3) whereby the Central Civil Services (Pension) Rules 2021 were notified. As per Rule 2 thereof, these Rules have been made applicable to the Government servant appointed on or before 31.12.2003 including civilian Government servants in Defence Services. The explanation to the Rule 2 stipulates that these Rules shall also apply to the Government servant, who was put on induction training on or before 31.12.2003 followed by appointment on regular basis after 31.12.2003. The proviso to the 1st explanation to Rule 2 also provides that where the completion of induction training was essential condition for appointment on regular basis to the post the Government servant was eligible for a salary or a stipend during the training period and the period of training was eligible for being counted as qualifying service under the provisions of CCS (pension) Rules 1972. Therefore, the said provision makes it clear that the claim of applicant for counting of period for pensionary benefits shall be governed by these rules also. As per Rule 22 of the CCS (Pension) Rules, 2021, in the case of a government servant, who was required to undergo a departmental training before regular appointment to a Group C post and was in receipt of pay in a scale of pay or a stipend or a nominal allowance during such training, the period of such training shall count as qualifying service. In the case of other employees, the Government may, by order, decide whether the time spent by a Government servant under training immediately before appointment to service under that government shall be counted as qualifying service. The Rule of 22 of the CCS (Pension) Rules, 2021 is extracted hereunder for reference:-

> *22. **Counting of periods spent on training**.- (1) In the case of a Government servant who was required to undergo a departmental training before regular appointment to a Group C post and was in receipt of pay in a scale of pay or a stipend or a nominal allowance during such training, the period of such training shall count as qualifying service.*
>
> *(2) In cases not covered under sub-rule (1), the Government may, by order, decide whether the time spent by a Government servant under training immediately before appointment to service under that Government shall be counted as qualifying service.*
>
> *(3) Where time spent by a Government servant under training immediately before appointment to service under that Government is counted as qualifying service, interruption due to the training and regular appointment being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be counted as qualifying service.*
>
> *(4) Where the period of interruption is in excess of joining time due to administrative reasons, such period of interruption in excess of joining time shall be regularised by grant of leave of the kind due or, if no such leave is due, by grant of extraordinary leave by the Head of Department and the period of interruption regularised by grant of extraordinary leave shall be counted as qualifying service.*

33. There is no dispute that the applicants were appointed in the year 1994 i.e. prior to 31.12.2003, therefore, the contention of the respondents that OM dated 02.10.2022 will not be applicable retrospectively is misunderstood. From the reading of CCS (Pension)

Rules 2021, it is explicit clear that the applicants are entitled to get the benefit of counting of period spent on training for the purpose of gratuity and ex gratia.

34. A perusal of the records also displayed that the respondents themselves have counted the period of one year while calculating the gratuity amount in respect of one Mr. Rashpal Singh, therefore, the applicants are also entitled to get same treatment on the principle of parity. The denial of same benefit to the applicant is in violation of Article 14 of the Constitution of India.

35. The contention of the respondents that FAQ specifically recognize the counting of pre appointment training and do not contain any provision for exclusion or inclusion of gap period as qualifying service is misplaced as specific Rule 20 of CCS (Pension) Rules 1972 has been referred to in answering the question of counting of training period towards payment of ex gratia and pensionary benefits. The recognition of FAQ has not been disputed by the respondents in their reply. The contention of the respondents that the applicants cannot claim additional benefit after opting the VRS, 1999, is misconstrued as the right to gratuity and ex gratia was part of benefits under the VRS, 1999, which has been considered and paid by the respondents to the applicant. The question herein is, qua claim for the period which has not been counted in calculating the period.

36. The respondents have also taken a plea that after successful completion of 40 weeks of theoretical and 12 weeks of practical training, the applicants were relieved due to non availability of post of Technician Grade. To corroborate this stand, the respondents have

placed on record a copy of letter dated 30.10.1991 (Annexure R-1) whereby one of the applicants Rajnish Kumar was called for training for a period of 09 months, wherein it was stipulated that after successful completion of training he will be appointed as Technician, if there is vacancy, otherwise he will have to wait till vacancies are available.

37. The said plea is not sustainable as the respondents have issued the advertisement for the post of Technician on 20.02.1990 (Annexure A-4) wherein the district wise vacancies of Technician against outsider quota was mentioned, which indicates that the necessary exercise of ascertainment of vacancies of Technician was carried out prior to the publication of vacancies through advertisement and the applicants applied against the vacancies published in the advertisement. Therefore, the respondents cannot take a plea that after completion of training period, the applicants have to wait for the vacancy. The eventuality that the persons have been sent for training after selection, but without there being vacancies is beyond understanding. Therefore, the delay on the part of the respondents in offering appointment letter cannot be allowed to be detrimental to the pensionary right of applicants.

38. The claim of applicants also finds support from the communication dated 26.02.2021 of the respondent no. 4 addressed to the BSNL Corporate Office New Delhi, in respect of counting of training period as qualifying service with regard to VRS, 2019, wherein it was emphasized that the gap period beyond 15 days has already been condoned by the competent authority due to administrative delay in appointment after training.

39. It was also proposed in that communication, that at the time of making necessary entries for qualifying service in ERP, it was found that there is no provision in ERP to enter the delay for gap period for more than 15 days. In order to sort out the controversy, it was suggested that either to make a provision in the ERP for gap period, which was restricted only for 15 days or ex gratia and other benefits may be added manually, while demanding funds from the DoT. Since the decision to add condonation of delay beyond 15 days period in ERP had to take time, therefore permission was sought to execute T-code in ERP and simultaneously the ex gratia of gap period and gratuity may be calculated manually. It was also observed that if the gap period is not counted in calculating the ex gratia/gratuity of the VRS optees i.e. applicants even after condonation of delay, by competent authority, it may lead to the court cases and accordingly liability will be shifted to the BSNL. Such deliberations, by way of inter se communications amongst the respondents, shows that the grievance of the applicants could have been redressed by the respondent no. 2 by taking appropriate decision in accordance with rules, whereas the respondents themselves have counted training period while granting annual increments to the applicants. I find no reason as to how the same period cannot be counted for the purpose for gratuity/ex gratia. It is apt to mention that such correspondence, having suggestions of redressal measures, was done after the voluntary retirement of the applicants, which suggest that there is no delay in raising claim by way of instant O.A. as the issue was under consideration.

40. In view of the discussion in the foregoing paras, the inaction of the respondents in not releasing full amount of gratuity is held to be

illegal. The respondents are directed to release the balance amount of Deferred gratuity and ex Gratia payment, after counting the period of pre-appointment training and gap period, as per terms and conditions of Voluntary Retirement Scheme, 2019. The needful be done within a period of three months from the date of receipt of a copy of this order. The OAs stand allowed. No order as to costs.

Copy of this order be placed in files of connected OAs.

(SURESH KUMAR BATRA)
MEMBER (J)

Dated: 15.07.2026

'mw'

Digitally signed by MAMTA WADHWA