Union of India Vs The Registrar

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Court : Chennai

Decided On : Apr-30-2026

Judge : Honourable Mr Justice P. Velmurugan,Honourable Mrs.Justice K. Govindarajan Thilakavadi

Appeal No. : WP/4507/2023

Appellant : Union of India

Respondent : The Registrar

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16-04-2026 DATE OF DECISION : 30-04-2026

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN AND THE HONOURABLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI WP No.4507 of 2023 AND WMP No.4522 of 2023

1. Union of India Ministry of Communications Department of Telecommunications Rep.by its Secretary Sanchar Bhavan, 20, Ashoka Road, New Delhi - 110 001

2. Principal Controller of Communication Accounts Tamil Nadu, R.K. Nagar, Telephone Exchange 7th Floor 239, R.K.Mutt Road, Chennai - 600 028

3. The Chairman-cum-Managing Director Bharat Sanchar Nigam Limited M.S.Mathur Lane, Janpath New Delhi - 110 001

4. The Chief General Manager BSNL, Tamil Nadu Circle Greams Road, Chennai Petitioners Vs

1. The Registrar Central Administrative Tribunal Madras Bench, High Court Building Chennai - 104

2. All India BSNL Pensioners Welfare Association (Regd. No.T.1833/09) Rep. by its Circle Secretary, Tamil Nadu Circle 1A, Amirtham Avenue, Bharani Street Bharathi Nagar, Velacherry, Chennai-600 042

3. R.Delliraj (Died)

4. M.K.Atchayakumar S/o.M.Krishnan No.9, Dr.Ambedkar Nagar, New Avadi Road Kilpauk, Chennai - 600 010

5. Smt.D.Vijaya W/o. Late Delliraj No.45 A, Malliyam Narasimha Nagar Poonamallee, Chennai - 600 056

6. Shri.D.Suresh Babu S/o. Late Delliraj No.45 A, Malliyam Narasimha Nagar Poonamallee, Chennai - 600 056

7. Shri D.Balaji S/o.Late Delliraj No.45 A, Malliyam Narasimha Nagar Poonamallee, Chennai - 600 056

8. Shri D.Narayanan

S/o. Late Delliraj No.45 A, Malliyam Narasimha Nagar Poonamallee, Chennai - 600 056 (R5 to R8 impleaded as LRs of deceased R3 vide order of Court dated 01.12.2025 in WMP.22356/2025 in WP.4507/2023)

Respondents Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the Honble Tribunal in its impugned order dated 17.02.2022 in O.A.No.2018 of 2017 passed by the 1st Respondent, Honble Central Administrative Tribunal, Chennai Bench and quash the same.

For Petitioners: Mr.M.Karthikeyan For Respondents: Mr.V.Govardhanan for M/s Row & Reddy for R2, R4 to R8 R1-Tribunal

ORDER

P.Velmurugan J. The instant writ petition has been filed by the Department of Telecommunications represented by its Secretary and his subordinates challenging the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.2018 of 2017 dated 17.02.2022, in and by which the Tribunal quashed the orders dated 07.03.2017 and 08.12.2017 passed by the 1 st and 2nd petitioners and allowed the original application filed by the retired BSNL employees.

2. The facts of the case are as follows:-

(a) The 2nd respondent is a registered Association and the employees who

retired from Bharat Sanchar Nigam Limited (BSNL) are the members of the said Association. The members of the Association had been initially working in the Post and Telegraph Department, which later became the Department of Telecommunications and then BSNL. The 3rd and 4th respondents, being the members of the Association, worked in BSNL and retired on 30.11.2009 and 31.12.2007 respectively. Since the employees were not able to get promotion

due to stagnation and got retired, a scheme called One Time Bound Promotion (OTBP) was introduced by an order dated 17.12.1983 with effect from 30.11.1983. Under the scheme, an employee who completed

16 years of service and who had not got promotion, will be moved to the next higher scale on non- functional basis to Grade II. Thereafter, the Department of Telecommunication issued the order dated 16.10.1990 and by that Biennial Cadre Review and Grade IV promotion scheme was introduced with effect from 20.10.1990. As per the scheme, on completion of 26 years of service, the employee will be promoted from Grade II to Grade III. Out of the persons promoted to Grade III, 10% of them will be promoted to Grade IV based on cadre seniority.

(b) In spite of the aforesaid schemes, many were stagnating in Grade III

scale, because only 10% of Grade III could get Grade IV promotion. On the same date i.e., 16.10.1990, the Department of Telecom introduced new restructured cadres both for operative and technical cadres in order to handle computerized jobs and new technologies, as a consequence of which, Telephone Operator cadre became Telecom Operating Assistant (Phone), Telecom Clerk became TOA (Genl), Telegraphist became TOA (Telegraph) and Telegraph Clerk became TOA (Telegraph Genl), as per DoT letter No.27-4/87-TE-1 dated 11.07.1991. However, the OTBP as well as BCR benefit was continued to be granted to such employees despite this restructuring, as OTBP/BCR officials, if they so desire, can qualify and move into restructured cadres as per DoT letter

No.19-4/93-TE-II dated 20.05.1993. The officials who are absorbed in the restructured cadres will have the option to draw the OTBP scale of the previous cadre if it is advantageous to them; that all the OTBP/BCR officials who opt for the restructured cadre may be granted one advance increment on their formal appointment/joining the new post in the restructured cadres after completing the formalities such as passing the prescribed examination undergoing training etc., as prescribed in the Recruitment Rules, as per DoT Letter No.19-4/93-TE-11 dated 12.10.1993.

(c) The 3rd petitioner/BSNL was formed on 01.10.2000. The Government

of India issued a gazette notification on 30.09.2000 introducing Rule 37A in the CCS (Pension) Rules, 1972 ensuring that the responsibility of paying pension and family pension in respect of the employees lies with the Government of India by taking into account the combined service (both the service rendered with Department of Telecommunication and BSNL). Based on that statutory assurance by amending the Rule, options were called from employees for absorption in BSNL. It was assured that the existing promotional policy will continue till a new scheme is introduced by the BSNL.

(d) After formation of the BSNL, there was demand for time bound

promotion to Grade IV. The BSNL, after deliberations in the 2 nd National Council held on 28.05.2003, issued the order dated 18.11.2003. By this, the existing scheme of Grade IV promotion for the 10% of the Grade III was retained on the basis of basic grade seniority. For the persons who do not get that promotion, they were given one extra increment in the Grade III one year prior to retirement, on the following terms and conditions:-

(i) This will be applicable only to those cadre, which are covered under OTBP/BCR schemes and only those officials who have been absorbed in BSNL.

(ii) The officials should have earned at least one increment in BCR Grade III i.e., he/she must have completed at least one year regular qualifying service in BCR Grade III.

(iii) This benefit is being given in appreciation of the long years of

good service rendered by an official and hence claim of this benefit on any other ground will not be entertained. The fitness of the official for getting the benefit of one extra increment will be judged by a Screening Committee headed by appointing authority. The screening is to be held in advance so that benefit is extended from the due date.

(iv) In case any official, who had been given an extra increment

under this scheme, subsequently becomes eligible and promoted to Grade IV due to any reason, such official would have to exercise option at the time of promotion either for retention of the extra increment or for Grade IV promotion. If the official opts for Grade IV then he would be promoted to Grade IV and the amount already paid to the official on account of extra increment would have to be refunded or to be adjusted accordingly.

(v) In the case of officials who have preferred representation or

filed cases in any court of law, claiming for Grade IV promotion on any ground, the benefit of this scheme will not be extended to such officials till the finalization of representation/court case.

(vi) The Scheme of extra increment will be effective from

01.06.2003. Hence, the officials retiring after 01.06.2003 will get the financial benefit from that date only. This extra increment will be counted for the pensionary and other retirement benefit purposes.

(e) The 3rd petitioner forwarded the aforesaid proposal to the 1 st petitioner,

who in turn granted approval to the counting of one extra increment granted to Grade III staff of the BSNL one year prior to the retirement towards pension and pensionary benefits as a special case as this issue had been part of wage settlement in the case of Grade III employees who have been absorbed in BSNL in accordance with the option exercised by them.

(f) The 3rd petitioner by order dated 23.03.2010 issued the new Time Bound Promotion Policy in respect of non-executive employees. As per the

order it will apply to non executive employees (absorbed or BSNL recruited)

who are working in regular establishment of the 3rd petitioner as on 01.04.2008 or after in a substantive non-executive post and drawing non-executive pay. Thus, this policy does not apply to the personnel who retired before 01.04.2008. As per para 5.1 of policy, an individual non-executive employee may opt to remain out of the purview of the scheme to continue in the erstwhile time bound promotion scheme. Para 5.2 of the scheme also makes it clear that the cases settled prior to the issue of the order need not be reopened unless the employee himself opt to the non-executive promotion policy.

(g) In the meanwhile, there had been a wage agreement entered between

the 3rd petitioner Management and the representative Union of the non-executive employees of the BSNL. Based on the same, the 3rd petitioner issued the order dated 07.05.2010, wherein Para 3.5 stated that the extra increment granted to non-executives who were unable to get BCR 10% promotion one year prior to the retirement, in terms of BSNL order dated 18.11.2003, before 01.01.2007, will be added to the pre-revised basic pay for calculation of the revised pay. In case of extra increment falling on or after 01.01.2007, the increment will be granted in the revised pay scale at the rate of 3% of the revised basic pay.

(h) It was further pleaded that in Kerala Circle, Controller of

Communication Accounts, Kerala did not take into account the extra increment given one year prior to retirement for the purpose of pension and pensionary benefits on the plea that before grant of extra increment, they have reached the maximum of Grade III scale. In such circumstances, All India BSNL Pensioners Welfare Association, Kerala Circle and some of the employees filed O.A.No.91 of 2011 before the

Central Administrative Tribunal, Ernakulam Bench. The said O.A was finally decreed by the judgment dated 15.03.2012. The Tribunal directed that the pension and pensionary benefit should be granted by taking

into account one extra increment given one year prior to retirement. The order

of the Tribunal has been confirmed by the High Court, Kerala in OP (CAT) No. 4133 of 2012 on 03.07.2015. By communication dated 24.05.2016, the 1 st petitioner granted approval to the Controller of Communication Accounts to honour the above cited verdicts.

(i) While so, now the 1st petitioner has issued the impugned order dated

07.03.2017 and the same has been addressed to the 2 nd petitioner stating that the extra increment granted to the non executives had been withdrawn from 23.03.2010 and on that basis the 2nd petitioner is all set to withdraw the increment already given to the employees and which has been taken into account for the purpose of pension and pensionary benefit. Consequently, it will not only result in reduction of pension but also result in huge recovery. The 2 nd petitioner further sent letter to the Senior Accounts Officer of the 3 rd petitioner stating that the decision to withdraw the extra increment has been taken up with the Directorate and the payment of arrears and recovery of over payment will be taken up on the basis of the clarification received from the Directorate and called upon to send the revised proposal with calculation sheet and sanction by withdrawing the extra increment. Thus, the petitioners are all set to withdraw the extra increment granted to the members of the Association and also effect recovery from the pension on the basis, as if excess payment had been made The Association sent a letter on 07.06.2017 to the 2 nd petitioner stating that the pension sanctioned with due authority cannot be reduced or recovered, quoting Supreme Court order dated 18.12.2014 in the case of State of Punjab & Ors Vs Rafiq Masih in CA No.11527 of 2014, for which there was no reply.

(j) Therefore, the Association and its members filed O.A.No.1269 of 2017

before the Tribunal and the Tribunal by its order dated 08.07.2017 disposed of the application directing the petitioners to consider the representation made by the members and pass a reasoned and speaking order and till such time it was also ordered that there would be no reduction in pension as well as recovery as contemplated in the order dated 07.03.2017. Accordingly, a speaking order was passed by the 2nd petitioner on 09.10.2017 informing that no recovery of the excess payment has been ordered and that no authorization had been issued effecting reduction in pension and recovery with reference to the extra increment issued referred to in the representation. However, it was informed that the subject matter is under detailed examination in consultation with the Department of Telecommunication and a decision will be taken soon as per the rules and directions of the DoT keeping in view of the judgments relevant to the subject matter.

(k) However, contrary to the above mentioned speaking order, the 2 nd

petitioner has taken a decision to reduce the pension excluding the extra increment already granted and reckoned for pension when revision of pension took place with effect from 01.01.2007 in accordance with the DoT OM dated 15.03.2011. The decision is being implemented even without waiting for clarification from DoT Headquarters. Further, the 2nd petitioner is now granting the actual benefit of 78.2%, IDA merger with effect from 01.01.2017 in

contravention of DoT order dated 18.07.2016, which clearly states the actual benefit would be given from 10.06.2013. Also arrears for the above 4-years are being withheld to adjust the so-called excess payment of pension from the following date of retirement to 09.06.2013. Though the 2nd petitioner by letter dated 20.11.2017 has sought for a clarification from the 1st petitioner, he has taken an ad hoc decision which he is not authorized or empowered to do so. Such decision is also contrary to the speaking order issued to the members on 09.10.2017 pursuant to the order of the Tribunal. Consequently, the Sr. Accounts Officer (Pension), O/o Principal Controller of Communication Accounts, Tamilnadu has sent letter vide No.DOT/CCA/TV/PEN REV/dated 08.12.2017 to all the Sr.Accts Officer (Pension) of 20 SSAs in Tamilnadu and Chennai Telephones asking them to submit the revised proposal by withdrawing the extra increment granted prior to retirement. Accordingly, few SSAs have submitted their revised proposal and few pensioners got the reduction in pension. For example, one Shri C.Murugan SSS, BSNL Vellore SSA, who retired on

pension is reduced from Rs.13,870/- to Rs.13,465/-. Many SSAs have not yet submitted their revised proposal but are likely to do so shortly. Therefore, the OA was filed seeking to quash the orders dated 07.03.2017 and 08.12.2017 issued by the 1st and 2nd petitioners and to consequently direct the petitioners to pay pension including extra increment already granted to the

pensioners/members and continue to pay the pension as determined earlier.

3. A reply was filed by the petitioners 1 & 2 stating that the BSNL

Corporate Office had conveyed its decision in letter No.27-8/2003-C PE-11 (1) dated 18.11.2003 for the grant of the benefit of one extra increment to BCR Grade III staff of BSNL covered under OTBP/BCR Scheme one year prior to their retirement. Counting of such extra increment granted to BCR Grade-Ill staff for their pension and pensionary benefits was approved as a special case by the DoT HQ New Delhi in OM No. 40-12/2004-Pen (T) dated 27.07.2009. Accordingly, the extra increment was to be allowed only to the officials of the pre-restructured cadre covered under OTBP/BCR scheme and such benefit was not extended to those officials who have opted for restructured cadre. The benefit of extra increment was not extended to the officials in the restructured cadre in lieu of higher pay scale as per DOT HQ New Delhi letter No. 1-38/MPP/98 dated 20.04.1999. The BSNL Corporate Office vide its letter dated 29.11.2013 has categorically stated that OTBP/BCR Schemes are applicable to the officials working in pre-restructured cadre only and there is no OTBP/BCR Scheme in restructured cadre. Accordingly, the officials who have opted for restructured cadre are not eligible for the benefit of one extra increment. The officials in the restructured cadre have been given higher pay scale and the benefit of extra increment was not extended to them as per DoT

HQ, New Delhi letter No.1-38/MPP/98 dated 20.04.1999. It was also stated that the revision of pension with 78.2% IDA fitment merger was processed based on the directions given by CoT HQ, New Delhi in letter dated 07.03.2017 with consultation of BSNL Corporate office. The issue raised in Kerala Circle is for grant of one extra increment to the officials in pre-restructured cadre and were at the maximum of the pay scales. The present case is for revision of pension of officials in restructured cadre with extra increment. It was further reiterated that all the concessions given by BSNL on or after 01.10.2000 are withdrawn. While correcting the undue grant of extra increment when cases are processed for 78.2% IDA fitment merger with effect from 10.08.2013, the apprehension raised that pension will be reduced is baseless and is not correct. The pensioner will not get any reduction in pension. Accordingly, there is no case of violation of Rule 70 of CCS (Pension) Rules, 1972 herein. Further, no recovery of over payment up to 09.06.2013 is contemplated. Since the remaining 687 employees are from restructured cadre, they are not eligible for grant of extra increment in terms of BSNL Corporate Office letter dated 29.11.2013.

4. After hearing the learned counsel for the parties and after considering

the various judgments, the Tribunal quashed the orders and allowed the application in favour of the retired employees. Aggrieved thereby, the present writ petition has been filed.

5. During the pendency of the matter, since the 3 rd respondent died, his legal representatives have been brought on record as respondents 5 to 8 in this writ petition.

6. Heard the learned counsel appearing for the petitioners and the learned counsel for the respondents.

7. The only issue to be decided in this writ petition is whether the 3 rd & 4th

respondents/retired employees of BSNL are entitled to the benefit of one extra increment even after they have opted for the higher pay under the restructured cadre. As rightly contended by the learned counsel for the petitioners, the extra increment was to be allowed only to the officials of the pre-restructured cadre covered under the OTBP/BCR scheme and such benefit was not extended to those officials who have opted for the restructured cadre in lieu of higher pay scale granted to them. However, the Tribunal has relied upon the decision of the Honble Supreme Court in the case of Sushil Kumar Singhal v. Pramukh Sachiv Irrigation Department and others, (2014) 16 SCC 444 as well as the Tribunal

order of the Chandigarh Bench in the case of Jiwar Singh and another v. Union

of India and others made in O.A.No.79 of 2017 dated 24.01.2018 and allowed the claim of the 3rd and 4th respondents, wherein the facts are distinguishable. When the 3rd and 4th respondents had already opted for the restructured cadre

and were given higher pay scale, they cannot claim the benefit of one extra increment that has been extended to the officials in the pre-restructured cadre covered under the OTBP/BCR scheme and the observation made by the Tribunal that there is no mention in the condition that those who had opted to the restructured cadre are not entitled to the benefit, is wholly unsustainable. Moreover, the 3rd & 4th respondents had also retired from service on 30.11.2009 and 31.12.2007 respectively. Therefore, the order of the Tribunal is set aside and the writ petition stands allowed. Consequently, the connected WMP is closed. No costs.

(P.VELMURUGAN J.) (K.GOVINDARAJAN THILAKAVADI J.) 30-04-2026 Index:Yes/No

Speaking/Non-speaking order

Internet:Yes Neutral Citation:Yes/No ss To 1.The Registrar Central Administrative Tribunal Madras Bench, High Court Building Chennai 600 104

2. The Secretary to Union of India Ministry of Communications Department of Telecommunications Sanchar Bhavan, 20, Ashoka Road, New Delhi - 110 001

3. The Principal Controller of Communication Accounts Tamil Nadu, R.K. Nagar, Telephone Exchange 7th Floor 239, R.K.Mutt Road, Chennai - 600 028

4. The Chairman-cum-Managing Director Bharat Sanchar Nigam Limited M.S.Mathur Lane, Janpath New Delhi - 110 001

5. The Chief General Manager BSNL, Tamil Nadu Circle Greams Road, Chennai 600 006 P.VELMURUGAN J. AND K.GOVINDARAJAN THILAKAVADI J. ss

Order in

30-04-2026