

CENTRAL ADMINISTRATIVE TRIBUNAL**CHENNAI BENCH****OA/310/01049 1050 1051 1080 1081 1148 1149 AND 1513/2024****Dated this the 28th day of November, Two Thousand Twenty Five****CORAM :****HON'BLE MR M. SWAMINATHAN, JUDICIAL MEMBER**

R. Santhanakrishnan, TT (Retired),
PPO No.602020012205175
HR No.199200793,
W2, 41, Zamin Thoppu Road,
Bodi, Bodinayakanur,
Theni

.. Applicant in OA 1049/2024

R. Balaguru, TT (Retired),
PPO No.602020012203699
HR No.199200796,
3/461, Meena Vilakku,
B Anaikarai Patti (post)
Bodinayakanur, Theni

.. Applicant in OA 1050/2024

R. Harikrishnan, TT (Retired),
PPO No.602020012207419
HR No.199201740,
W2, 41, Zamin Thoppu Road,
Bodi, Bodinayakanur,
Theni

.. Applicant in OA 1051/2024

G. Rajendran, TT (Retired),
PPO No.602020012203259,
HR No.199200320,
385/1, Mayon Nagar Madurai Road,
Thirumangalam,
Madurai

.. Applicant in OA .1080/2024

D. Gnanasekaran, TT (Retired),
PPO No.602020012204142,
HR No.199300319,
D/No. M2, 291, Vanavil Street,
TNHB Colony, Koodalpudur,
Anaiyur, Madurai

.. Applicant in OA1081/2024

R. Chandrasekar. TT (Retired),
PPO No.602020012205745,
HR No.199300766,
3B Vaniar 1st lane, Nethaji Road,
Madurai

.. Applicant in OA 1148/2024

S. Jothinathan, TT (Retired),
PPO No.602020012207775,
HR No.199300108,
Plot No.13, NP Nagar,
Kosakulam, Anaiyur Post
Madurai

.. Applicant in OA 1149/2024

K. Balasubramanian, TT (Retired),
PPO No.602024041212560.
HR No.199401766,
3-7-11, Opp to Canara Bank,
Main Road, Kodai Road,
Dindigul

.. Applicant in OA1513/2024

**By Advocate M/s. A. Balaji, S. Anbazhagan, J. Vivek,
: S. Saravanakumar & S. Viljoen Ajit**

Vs.

1.Union of India
rep by its The secretary, DOT,
Sanchar Bhawan,
20, Asoka Road, New Delhi.

2. The principal controller of Communication Accounts,
Department of Telecommunications,
O/o PCCA, Tamil Nadu Circle,
1st Floor, TNT Complex, 60, Ethiraj Salai,
Chennai.

3. The Chief General Manager,
BSNL, Tamil Nadu Circle,
7th Floor, ADMN Building,
16, Greams Road,
Chennai.

4. The General Manager,
BSNL,
Madurai.

5. The Accounts Officer (Pension)
O/o PGM, BSNL,
Madurai

.. Respondents

By Advocate Mr. Su Srinivasan, SCGSC
Mr. K. Rajendran, SCGSC
Mr. M. Kishore Kumar, SPC
Mr. G. Dhamodaran
Mr. R.S. Krishnaswamy

ORDER

(Pronounced by Hon'ble Mr. M. Swaminathan, Judicial Member)

An identical relief is prayed for in all these Original Applications, which is founded on similar facts and circumstances, these applications were heard together and are being disposed of by this common order.

2. The applicants are seeking the following relief:

“to call for the records relating to the impugned orders passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to fix the pension on the basis of the Original Last Pay Drawn to the petitioners by verifying the emoluments only 23 months prior to date of their retirement as per the statutory rules and pass further or any other order as deemed fit in the circumstances of the case and thus render justice.”

3. Brief facts of the case, as submitted by the applicants are as follows:

The Applicants submit that they were appointed between 1992 and 1994 in the Department of Telecom (DoT) on a regular basis. They were initially placed as Linemen and subsequently promoted as Phone Mechanics in the Department of Telecom, continuing in these posts until the formation of Bharat Sanchar Nigam Limited (BSNL). Upon the

formation of BSNL on 01.10.2000, all the Applicants opted to join BSNL.

Thereafter, they were appointed as Telecom Technicians in the office of the Sub-Divisional Engineer, BSNL, at various locations. During their service, the Applicants worked to the utmost satisfaction of the department and had unblemished records. All the Applicants, except the Applicant in OA No.1513/2024, opted for the VRS-2019 scheme introduced by the Government and retired on 31.01.2020. The Applicant in OA No.1513/2024 superannuated on 30.04.2024. Each of the Applicants has rendered more than 28 years of service. At the time of retirement, the Applicants were drawing a basic pay of Rs.22,390, and the Applicant in OA No.1513/2024 was drawing Rs.24,580. As per statutory rules, pension is calculated at 50% of the last pay drawn. Accordingly, their pension was fixed, and they received the same for five months post-retirement. Subsequently, however, the Respondents reduced the pension without assigning any reason. No notice was issued to the Applicants, nor were they afforded an opportunity of being heard. Aggrieved by the action, the Applicants submitted a grievance to the 2nd Respondent, which was rejected. Hence, the present OAs have been filed seeking appropriate relief.

4. The principal contention advanced by learned counsel for the

applicants is whether the pay fixation carried out by the competent

authority more than two decades ago can now be subjected to verification by the Accounts Officer at the time of the applicants' retirement. He further invited our attention to Rule 59(b)(v) of the CCS (Pension) Rules, 1972, Para 7.3.2 of Chapter 7 of the Civil Accounts Manual (CAM) issued by the Controller General of Accounts, New Delhi (Department of Expenditure, Ministry of Finance) on 01.10.2013, and Rule 63(c) of the CCS (Pension) Rules, 2021. These provisions collectively stipulate that the pension-sanctioning authority may verify emoluments only for the period of 24 months immediately preceding the date of retirement and not for any earlier period. Consequently, it is contended that an executive order cannot override statutory provisions, and therefore, the impugned orders are liable to be set aside.

5. He further submitted that the applicants' pay was reduced arbitrarily and without any justification. No notice was issued to the applicants prior to the reduction, nor were they afforded an opportunity of being heard before their pensionary benefits were adversely affected. These aspects were completely overlooked by the second respondent while issuing the impugned orders. Hence, the proceedings of the second respondent suffer from gross violation of the principles of natural justice and are liable to be quashed on this ground alone.

6. In support of his contentions, the learned counsel relied on the following judgments and prayed for the relief sought in the OAs:

(i) Judgment of the Hon'ble Madras High Court in WP No.28687/2022, dated 15.11.2022

(ii) Judgment of CAT, Chennai Bench in OA No.1725/2018, order dated 29.08.2024.

(iii) Judgment of Hon'ble Madras High Court in WP No.12679/2025 & WMP No.14281/2025, dated 09.04.2025, confirming the order in OA No.1725/2018.

7. Per contra, learned counsel for the respondents vehemently opposed the submissions made on behalf of the applicants. He submitted that even in the Original Applications, the applicants did not dispute the correctness of the last pay drawn or the pension authorised. Their sole contention is that the Pension Authorising Authority could not have verified their emoluments for any period beyond two years prior to retirement. This argument, he maintained, is untenable, as no such mandatory restriction exists under the Fundamental Rules. On the contrary, it is evident that the applicants were not entitled to the pay they continued to draw from the date of their promotion as Phone Mechanic until their retirement under the BSNL Voluntary Retirement Scheme, 2019, since such fixation was contrary to the applicable Fundamental

Rules.

8. He further distinguished between temporary engagement and ad-hoc appointment. A temporary engagement under FR 35, he explained, is merely a local or personal arrangement not involving appointment to a sanctioned post. It is intended to meet short-term administrative requirements and does not confer any service rights, seniority, or promotional benefits. In contrast, an ad-hoc or officiating appointment is a formal appointment against a sanctioned post, made with the approval of the competent authority, and attracts pay fixation under FR 22(I)(a)(1). In the present case, according to learned counsel, the applicants' placement as Lineman was only a temporary personal engagement and not an ad-hoc or officiating appointment against a sanctioned vacancy. Hence, they did not hold the Lineman post in any capacity that would entitle them to the benefits of FR 22(I)(a)(1).

9. The learned counsel further contended that FR 22(I)(a)(1) applies only where an employee is promoted or appointed to a sanctioned post carrying higher responsibilities. Since the applicants' earlier placement as Lineman was merely a temporary, personal upgradation, it could not be taken into account for pay fixation under FR 22(I)(a)(1). Consequently, upon the applicants' regular promotion as Phone Mechanic on

03.06.1999, their pay was required to be fixed with reference to their

substantive post of Regular Mazdoor and not on the basis of the temporary Lineman scale. For all practical purposes, the applicants' temporary placement as Lineman ought to have been ignored.

10. He also invited our attention to Rule 59(b)(v) of the CCS (Pension) Rules, 1972, and argued that the said provision is procedural and directory, not prohibitory. Its purpose, he submitted, is to ensure timely verification before retirement, and it does not prevent the competent authority from revising or correcting emoluments after retirement if any irregularity or error in pay fixation is subsequently detected. The two-month period prescribed therein is intended to avoid administrative delay and cannot be construed as a restriction on lawful rectification.

11. In conclusion, he submitted that the applicants' placement as Lineman was purely temporary and personal, and therefore could not be treated as a promotion under FR 22(I)(a)(1). Accordingly, the applicants' pay on promotion as Phone Mechanic had to be fixed with reference to their substantive post of Regular Mazdoor. The Pr. CCA, Tamil Nadu, he argued, correctly rectified the erroneous pay fixation, duly verified the emoluments in accordance with Rule 59(b)(v) of the CCS (Pension) Rules,

and regulated the last drawn pay for proper pension computation. The

correction was administrative and remedial in nature, and no retrospective recovery was effected.

12. The learned counsel by referring to the Hon'ble Apex Court judgment, dated 13.12.2007 in the case of Union of India Vs Narendra Singh, in Civil appeal No.5865/2007 (2008 (2) SCC 750 and the judgment dated 17.08.2012 in the case of Chandi Prasad Uniyal & others Vs State of Uttarakhand & others, in Civil appeal No.5899/2012, reported in (2012 (8) SCC 417) contended that the applicants are not entitled for the relief and prayed for dismissal of the Original Applications

13. Heard the submissions made by the learned counsel for the parties at length, perused the pleadings and the materials placed on record. I have also considered the case laws referred to by the respective parties.

14. The main issue that arises for consideration before this Tribunal is whether the action of the respondents in rectifying the mistake earlier made is justified under the Rules or not?

15. Admitted position under Rule 70 of the CCS (Pension) Rules, 1972

is that pension once authorized on final assessment, cannot be reduced to

the disadvantage of the pensioner. Rule 70 reads as under:

"70. Revision of pension after authorization (1) Subject to the provisions of Rules 8 and 9 pension once authorized after final assessment shall not be revised to the disadvantage of the Government servant, unless such revision becomes necessary on account of detection of a clerical error subsequently:

Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by the Head of Office without the concurrence of the Department of Personnel and Administrative Reforms if the clerical error is detected after a period of two years from the date of authorization of pension.

[(1-A) The question whether the revision has become necessary on account of a clerical error or not shall be decided by the administrative Ministry or Department.] (2) For the purpose of sub-rule (1), the retired Government servant concerned shall be served with a notice by the Head of Office requiring him to refund the excess payment of pension within a period of two months from the date of receipt of notice by him. (3) In case the Government servant fails to comply with the notice, the Head of Office shall, by order in writing, direct that such excess payment, shall be adjusted in instalments by short payments of pension in future, in one or more instalments, as the Head of Office may direct."

16. The said rule mandates that once pension has been authorised, any revision thereof requires the concurrence of the Department of Personnel and Administrative Reforms, and for this purpose, the concerned Government servant must be issued a notice. In the present case, the applicants voluntarily retired under the BSNL VRS Scheme on

13.01.2020.

17. If the administrative Ministry was of the view that revision of the applicants' basic pension was necessary, it ought to have referred the matter to the competent Ministry before authorising the pension. It could not have taken such a decision *suo motu*. The rules also require issuance of a show-cause notice prior to effecting any recovery, a requirement that the respondents failed to comply with. Accordingly, the action of the respondents in revising the applicants' basic pension is not in accordance with the governing rules.

18. With regard to the respondents' contention that the applicants had furnished an undertaking to refund any excess or wrongful pension payment credited to their bank accounts, it is pertinent to note that this undertaking was furnished at the time of opting for VRS solely for facilitating the release of retiral dues. No such option or consent was obtained from the applicants at the time of the alleged erroneous pay fixation. Therefore, where the applicants have not committed any misrepresentation, any excess amount paid cannot be recovered, in light of the law laid down by the Hon'ble Apex Court in *Rafiq Masih* 's case.

19. This Tribunal notes that an identical issue was decided on

28.08.2025 by the Jabalpur Bench of this Tribunal in OA No.444 of 2020

in the case of *Ram Autar vs. Bharat Sanchar Nigam Limited*, and connected matters. A similar issue was also examined by this Tribunal in OA No. 1404/2019, which was subsequently affirmed by the Hon'ble Madras High Court in W.P. No. 24687/2022, order dated 15.11.2022. An identical issue again arose before this Tribunal in OA No. 1725/2018, which was decided in favour of the applicant therein vide order dated 29.08.2024 in which one of us (M. Swaminathan JM) was a party to the decision and the said order was upheld by the Hon'ble High Court vide its judgment, dated 09.04.2025 in W.P. No. 12679/2025. The relevant portion of the judgment is extracted below:

“4. In a very recent decision of the Hon'ble Supreme Court in the case of Jagdish Prasad Singh Vs. State of Bihar and Others reported in 2024 SCC OnLine SC 1909, it was held that any step of reduction in the pay scale and recovery from a Government employee would tantamount to a punitive action because the same has drastic as well as evil consequences. In the said decision, the Hon'ble Supreme Court had also taken note of the fact that the employee therein had superannuated 8 years prior to the punitive action of revision of pay scale and recovery and held that permitting the department to proceed with their intended course of action, would be grossly illegal and arbitrary.

5. In the instant case also, the petitioners herein seek for revising the first respondent's pay with effect from 01.10.2000, which is more than eighteen years and sought for recovering the excess payment. The facts relating to the case in O.A.No.1404 of 2019,

which was confirmed by this Court, as well as the Hon'ble Supreme Court, are similar to the facts of the

present case, which aspect has been appreciated by the Tribunal and final orders are passed. The petitioners are not in a position to differentiate the facts of these two cases. As such, the order of the Tribunal does not require interference.

6. In the light of the above observations, the Writ Petition stands dismissed. Consequently, the petitioners are directed to comply with the order of the Tribunal passed in O.A.1725 of 2018, dated 29.08.2024, within a period of one month from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.”

20. The details of the pay last drawn and the last pay fixed arbitrarily by the respondents for pension are tabulated below:

S. No	OA Nos	Date of joining	Last Pay Drawn	Last Pay for Pension
1	1049	1992	22,390	21,820
2	1050	1992	22,390	21,820
3	1051	1992	22,390	21,820
4	1080	1992	22,390	21,820
5	1081	1992	22,390	21,820
6	1148	1992	22,390	21,820
7	1149	1992	22,390	21,820
8	1513	1994	24,580	23,910

21. From the above, it is evident that the basic pay drawn by the applicants at the time of opting for VRS is shown in Column No. 4, and, as per the statutory rules, pension is to be calculated at 50% of the last

pay drawn. However, in the Pension Payment Orders, the basic pay of the applicants has been fixed at a lower amount (as reflected in Column No. 5) than their actual last pay drawn, without assigning any reasons and without issuing any notice to them.

22. In view of the above, the impugned orders in all these applications are hereby quashed and set aside. The respondents are directed to re-fix the basic pension of the applicants on the basis of the original last pay drawn, as indicated in Column No. 4 of the aforementioned tabular statement, and to extend all consequential benefits. The respondents shall complete this exercise within a period of three months from the date of receipt of a copy of this order.

23. In the result, all these Original Applications are allowed on the above terms. No order as to costs.

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(M. SWAMINATHAN)
MEMBER(J)
28. 11.2025

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