

Court Case
Most Immediate

No.38-01/2016-Pen(I)/PL.
Government of India
Ministry of Communications
Department of Telecommunications

516, Sanchar Bhawan
20, Ashoka Road
New Delhi - 110 001.

Dated the 20th August, 2019.

To

The Pr. Controller of Communication Accounts
Department of Telecommunications
Delhi Region
DoT Building
Prasad Nagar
New Delh - 110 005.

Subject : CP No.100/404/2018 filed by Asha Devi before CAT (PB), New Delhi for non-compliance of its order dated 08.09.2017 in OA No.1490/2015.

SLP(C) Dy.No.16592/2019 filed by UOI in the Supreme Court against the judgment and order dated 16.11.2018 of Hon'ble Delhi High Court in WP(C) No.9070/2018 in the matter of UOI & Anr. Vs. Asha Devi has been dismissed by the Supreme Court, vide judgment dated 02.07.2019, while keeping the question of law open. The case is under reference to DoP&PW/Additional Solicitor General of India through DoLA for their comments/legal advice on the case, as SLP Nos.5849-60/2018 in the matter of UOI Vs. K Prema Kumari & Ors. are still pending adjudication before the Hon'ble Supreme Court and these SLPs are on similar issue pertaining to the employees of VSNL, now TATA Communications Limited, who had opted for pro-rata pension with less than 10 years of Government service. Decision on the case of Asha Devi would be taken on receipt of comments/legal advice of DoP&PW/Additional Solicitor General of India.

2. The Hon'ble Tribunal may accordingly be apprised of the above position, in consultation with the Government Counsel, on the next date of hearing of CP No.100/404/2018.

(Sanjay Agrawal)
Director(Estt-II)
Tel.No.:011-2303 6484

ITEM NO.20

COURT NO.8

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No.16592/2019

(Arising out of impugned final judgment and order dated 16-11-2018 in WP(C) No.9070/2018 passed by the High Court Of Delhi At New Delhi)

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

ASHA DEVI

Respondent(s)

(FOR ADMISSION and I.R.; and, IA No.84006/2019-CONDONATION OF DELAY IN FILING)

Date : 02-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Ms. Swarupama Chaturvedi, Adv.
Mr. Mohit D. Ram, Adv.
Mr. Gurmeet Singh Makker, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

In the peculiar facts and circumstances of the case, we do not see any reason to interfere in the matter. The special leave petition is, accordingly, dismissed. The questions of law are however kept open.

Pending application(s), if any, shall stand disposed of.

Signature Not Verified

Digitally signed by
MUKESH NASA
Date: 2019.07.06
12:37:47 IST
Reason:

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

S-5 * IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 9070/2018 & CM Nos.34921/2018, 34924-25/2018

UNION OF INDIA AND ANR. Petitioners

Through: Mr.Ruchir Mishra, Mr.Mukesh Kumar
Tiwari and Mr.Abhishek Rana, Advocates

versus

SMT ASHA DEVI Respondent

Through: None

**CORAM: HON'BLE MR. JUSTICE VIPIN
SANGHI HON'BLE MR. JUSTICE A. K.
CHAWLA**

ORDER % 16.11.2018

1. The petitioner has preferred the present writ petition to assail the order dated 8th September, 2017 passed by the Central Administrative Tribunal in OA No.1490/2015. The Tribunal has allowed the said original application of the respondent granting her liberty to exercise fresh option on behalf of her deceased husband and directed the petitioners to take action on that option as per the rules.
2. The background in which the aforesaid direction came to be issued is that the respondent's late husband had joined the Department of Telecommunication (DoT) on regular basis on 1st January, 1992 as a regular

(H)

mazdoor. After he had rendered service of about 7 years with the DoT, he was deemed to have retired on 31st October, 1998 and was brought on the rolls of Mahanagar Telephone Nigam Ltd. (MTNL) on 1st November, 1998.

W.P.(C) 9070/2018 page 1 of 3

The respondent's husband died in harness on 5th July, 2012 while serving with the MTNL. He left behind six dependant family members. The respondent was not granted any pension on the premise that he had not rendered qualifying service either in the DoT or in the MTNL. For this purpose, the petitioner sought to place reliance on an option taken from the respondent's husband at the time of his absorption in the MTNL.

Purportedly two options were given to the respondent's husband namely: (i) Pro-rata pensionary benefits; and (ii) Pensionary benefits as per Government Rules on the basis of combined services rendered in Government and MTNL.

3. The petitioner claimed that the respondent's husband had opted for pro-rata pensionary benefits and consequently his service with the DoT was not counted at the time of determination of his pensionary benefits in the MTNL. However, the respondent's husband was denied pro-rata pensionary benefits on the premise that he had not rendered qualifying service of 10 years. The Tribunal has found the action of the petitioner in calling for the option from the respondent's husband to be farcical.

4. In our view, rightly so. When the respondent's husband had not even rendered 10 years' service with the Government, there was no purpose in asking him to make an option. Really speaking, he had no option and his services with the Government (DoT) had to be counted for purpose of determination of his pensionary benefits with the MTNL. The stand taken by the petitioner is most iniquitous and deserves condemnation.

5. The Tribunal has required the petitioner to go through the formality of again asking for a fresh option from the respondent. In our view, there is no

W.P.(C)9070/2018 page 2 of 3

need for the same. For that procedure to be adopted, the same exercise of any option is futile. The only option available is that the service rendered by the respondent's husband with the Government (DoT) has to be counted for determination of pensionary benefits that are admissible from the MTNL.

6. While dismissing this petition, we therefore direct that without awaiting for any further option, the petitioner should count the service rendered by the respondent's husband with the DoT for computing his other benefits with the MTNL.

7. Petition and the applications are disposed of in abovesaid terms.

VIPIN SANGHI, J.

①

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

No. Director(Estt-II)/MTNL Absorption/Corrigendum/Delhi/2144

Dated 09/12/2019

CORRIGENDUM


In partial modification of this office order no. Director(Estt-II)/MTNL Absorption/Delhi/11685 dated 06/06/01 which is in accordance to the approval of Secretary (Telecom) GoI, MoC, DoT conveyed vide Dir(Estt-II) letter no. 38-01/2016-Pen(T) dated 11/11/19 and the fresh pension option dated 05/10/17 as exercised by Ms. Asha Devi on behalf of her husband Late Sh. Chandi Prasad Bamrara, Regular Mazdoor (MZ-20110), the Para 3 & 4 may be read as

3. Pension/Gratuity :- Sh. CHANDI PRASAD BAMRARA has exercised an Option A.
- √(i) to retain the pensionary benefits available to him/her under the Govt. rules (Option-A).
- or,
- (ii) to receive prorata retirement benefits for the service rendered under the Central Govt. and to be governed by the rules of PSU w.e.f. 01.11.98 (Option-B).
- √4. As he/she has opted in favour of sub-clause (i) of clause (3) above, he/she will be eligible to receive the pensionary benefits available under the govt. at the time of his/her retirement/death from MTNL in accordance with the Central Govt. rules in force at that time. If he/she resigns from service of the MTNL his/her resignation will be treated as resignation from Central Govt. Service entailing forfeiture of past service including that under the govt. and consequent loss of pensionary benefits for the combined service. Immediately on absorption, he/she will not be entitled to receive any retirement benefits i.e. Pension/Gratuity/Leave Encashment etc.
- or,
4. 4.1 As he/she has opted in favour of (ii) of clause (3), he/she will draw prorata pension and retirement gratuity for the service rendered under the Government as provided in para 4.3 to 4.5 below. He/She will not be entitled to commute any part of pension either at the time of permanent absorption or any time thereafter.

Instead of

3. Pension/Gratuity :- Sh. CHANDI PRASAD BAMRARA has exercised an Option B.
- (i) to retain the pensionary benefits available to him/her under the Govt. rules (Option-A).
- or,
- √(ii) to receive prorata retirement benefits for the service rendered under the Central Govt. and to be governed by the rules of PSU w.e.f. 01.11.98 (Option-B).
4. As he/she has opted in favour of sub-clause (i) of clause (3) above, he/she will be eligible to receive the pensionary benefits available under the govt. at the time of his/her retirement/death from MTNL in accordance with the Central Govt. rules in force at that time. If he/she resigns from service of the MTNL his/her resignation will be treated as resignation from Central Govt. Service entailing forfeiture of past service including that under the govt. and consequent loss of pensionary benefits for the combined service. Immediately on absorption, he/she will not be entitled to receive any retirement benefits i.e. Pension/Gratuity/Leave Encashment etc.
- or,
- √4. 4.1 As he/she has opted in favour of (ii) of clause (3), he/she will draw prorata pension and retirement gratuity for the service rendered under the Government as provided in para 4.3 to 4.5 below. He/She will not be entitled to commute any part of pension either at the time of permanent absorption or any time thereafter.

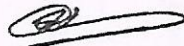
Other terms & conditions will remain unchanged.


(Himanshu Kumar)
Director (Estt) DoT

To
Chairman and Managing Director, MTNL, New Delhi.

Copy to :-

- (i) Executive Director, MTNL, Delhi.
- (ii) ADG (SNG), DOT, New Delhi.
- (iii) Chief Accounts Officer, DOT Cell, NTR, New Delhi for info and n/action.
- (iv) AO (P&A) concern / AO (Pension), MTNL Delhi.
- (v) AGM (A) Hq for necessary action.
- (vi) Official concerned.


(Himanshu Kumar)
Director (Estt) DoT

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

No. Director(Estt-II)/MTNL Absorption Corrigendum/Delhi 2144

Dated 6th 12 2019

CORRIGENDUM


In partial modification of this office order no. Director(Estt.-II) MTNL Absorption Delhi 11685 dated 06/06/01 which is in accordance to the approval of Secretary (Telecom) GoI, MoC, DoT conveyed vide Dir(Estt-II) letter no. 38-01/2016-Pent(I) dated 11/11/19 and the fresh pension option dated 05/10/17 as exercised by Ms. Asha Devi on behalf of her husband Late Sh. Chandi Prasad Bamrara, Regular Mazdoor (MZ-20110), the Para 3 & 4 may be read as

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or,
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Instead of

3. Pension/Gratuity :- Sh. CHANDI PRASAD BAMRARA has exercised an Option B.
(i) to retain the pensionary benefits available to him/her under the Govt. rules (Option-A).
or,
√(ii) to receive prorata retirement benefits for the service rendered under the Central Govt. and to be governed by the rules of PSU w.e.f. 01/11/98 (Option-B)
4. As he/she has opted in favour of sub-clause (i) of clause (3) above, he/she will be eligible to receive the pensionary benefits available under the govt. at the time of his/her retirement/death from MTNL in accordance with the Central Govt. rules in force at that time. If he/she resigns from service of the MTNL his/her resignation will be treated as resignation from Central Govt. Service entailing forfeiture of past service including that under the govt. and consequent loss of pensionary benefits for the combined service. Immediately on absorption, he/she will not be entitled to receive any retirement benefits i.e. Pension/Gratuity/Leave Encashment etc.
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Other terms & conditions will remain unchanged.



(Himanshu Kumar)
Director (Estt) DoT

To

Chairman and Managing Director, MTNL, New Delhi.

Copy to :-

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- (ii) ADG (SNG), DOT, New Delhi.
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