

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R. RAMAN

&

THE HONOURABLE MR. JUSTICE P.S. GOPINATHAN

MONDAY, THE 11TH JANUARY 2010 / 21TH POUSHA 1931

WP(C) No. 3651 of 2009(1)

OA 296/2003 of CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

PETITIONER(S):

1. MARIAMMA JOHN,
AGED 60 YEARS, W/O. E JOHN MATHEW, DEPUTY GENERAL
MANAGER (P&A) (RETIRED), BSNL, KOTTAYAM, RESIDING AT
"KODARATHIL", MUTTAMBALAM P.O., KOTTAYAM.
2. T.M. SANTHAMMA,
AGED 59 YEARS, W/O. R. RADHAKRISHNAN, DEPUTY GENERAL
MANAGER (P&A), BSNL, KOTTAYAM, RESIDING AT
"AMINACHERAYIL", VELOOR, KOTTAYAM.
3. SUNNY PHILIPS,
AGED 64 YEARS, S/O. C. PHILIPS, DIVISIONAL ENGINEER
(VEHICULES) (RETIRED), O/O. THE POST, BSNL, KOTTAYAM,
RESIDING AT "PANACHIPARAMBL BLISS",
KOTTAYAM 686 004.

BY ADV. SRI M.A. SHAFIK

RESPONDENT(S):

1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY, DEPARTMENT OF
TELECOMMUNICATIONS/CHAIRMAN, TELECOM COMMISSION,
MINISTRY OF COMMUNICATIONS, SANCHAR BHAVAN,
NEW DELHI.
 2. THE CHAIRMAN CUM MANAGING DIRECTOR,
BHARAT SANCHAR NIGAM LTD.,
SANCHAR BHAVAN, NEW DELHI.
 3. THE CHIEF GENERAL MANAGER TELECOM,
BSNL, KERALA CIRCLE, THIRUVANANTHAPURAM.
- ADV. SRIMATHEWS K. PHILIP, SC, BSNL FOR R1 TO R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11/01/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.R.RAMAN & P.S.GOPINATHAN, JJ.

=====

WP(C).No.30551 of 2009-S.

=====

Dated this the 11th day of January, 2010.

J U D G M E N T

Raman, J.

Ext.P4 order in OA.No.298/2003 is under challenge. Petitioners herein are applicants 2, 9 and 10 in the said OA.No.298/2003 filed before the Central Administrative Tribunal. The grievance raised in the OA was against withdrawal of certain norms conferred on the petitioners as per orders of the Tribunal in OA.Nos.603 and 605 of 1988. The Tribunal, by the impugned order, however, rejected the claim and hence this writ petition.

2. It is brought to our notice that as against Ext.P4, some of the applicants before the Tribunal had already challenged Ext.P4 before this Court. Ext.P5 is the judgment in WP(C)No.3807/2005 filed by one T.N.Peethambaran, who is the first petitioner in OA.No.298/2003. A Division Bench of this Court in 7th November, 2008 allowed the writ petition after referring to the decision of the Apex Court in **Union**

of India v. Madras Telephone SC & ST Social Welfare Assn. [(2006)8 SCC 662]. It was observed in para.5 as follows:

"We agree with the submissions of the learned counsel for the petitioner that this case is covered by the above quoted decision of the Apex Court. Accordingly, Annexures-A1 and A7 to Ext.P1 OA to the extent they affect the writ petitioner are quashed. The benefits he got as per the order of the CAT in Annexure-A2 is restored. Consequential benefits, if any, payable to the writ petitioner shall be released to him within four months from the date of receipt of a copy of this judgment."

3. It is stated that the very same order passed by the CAT has been set aside by this Court in the aforesaid writ petition. In the circumstances as stated above, this writ petition is also liable to be allowed. However, it is pointed out by the learned Standing Counsel appearing for the BSNL that Ext.P5 against which a Special Leave Petition is pending before the Supreme Court. But as of now, we are bound by the decision of the co-ordinate bench as referred to above. Following the dictum laid down as mentioned above, we set aside the order as against the petitioners and

direct the same benefits to be extended to the petitioners as was conferred in Ext.P5 to the petitioners therein. It shall be done within a period of four months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

P.R.RAMAN, JUDGE .

P.S.GOPINATHAN, JUDGE.