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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7672/2019

ALL INDIA TELECOM EXECUTIVE AND ENGINEERS
ASSOCIATION AND ORS. Petitioners

Through Mr. Sanjoy Ghose, Adv. with
Mr. Rhishabh Jetley, Ms. Urvi Mohan and
Mr. Babu Ram, Advs.

versus

BHARAT SANCHAR NIGAM LTD. AND ANR. Respondents
Through Mrs. Bharathi Raju, CGSC for R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% **18.07.2019**

C.M. No. 31879/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 7672/2019 & CM Nos.31876-78/2019

The submission of Mr. Ghosh, learned counsel for the petitioner, is that the challenge to the impugned order, passed by the Tribunal dated 23.04.2013 in OA No.3208/2011, has been made by way of abundant caution and in view of the fact that the said decision has been relied upon by the Committee constituted by the respondents to examine the issue relating to the demands of pay parity for the executives recruited after 01.01.2007 by observing as follows:

“4.2.1 The Committee was informed that the JTOs of 2007 & 2008 batch filed OA No.3208/2011 in the hon’ble CAT Principal bench, New Delhi where it was alleged that these employees have been discriminated against as they have not been allowed 30% fitment benefit under 2nd PRC as compared to other existing employees of BSNL specially JTOs of 2005 batch who have also joined after 01.01.2007. Hon’ble CAT Principal Bench, New Delhi while dismissing the OA vide order dated 23.4.2013 observed that “as far as the applicants are concerned, admittedly they are of subsequent batches. The appointees of 2005 batch are senior to them. In our considered opinion they cannot claim any stepping up of pay on grounds that their seniors were being paid higher. We also do not feel that there is any discrimination against them as they cannot compare themselves with the seniors. Merely, because some of the seniors joined after 01.01.2007 or even along with 2007 and 2008 batches do not make any difference to their seniority as 2005 batch appointees will always remain senior to the appointees of the subsequent batches. We do not feel that the principle of equal pay for equal work is attracted in this case nor are the apex court ruling cited by the applicants will be relevant. The applicants would certainly have had grievance if any junior to them had been paid a higher pay but this is not the case.”

Mr. Ghosh submits that the perusal of the impugned order would show that the only basis on which the said Original Application had been rejected was that the petitioners, who belong to the year 2007 batch, could not claim parity with those recruited in the year 2005. He submits that the issue about fitment had not been taken into consideration by the Tribunal while passing the impugned order. The Tribunal had not considered the decision of the Supreme Court in the case of *P. Savita & Ors. v. Union of*

India, Ministry of Defence (Department of Defence Production), New Delhi & Ors., 1985 (Supp.) SCC 94.

Considering the fact that the writ petition has been preferred with delay of nearly 2224 days, we are not inclined to entertain the challenge to the impugned order. It shall be open to the petitioner to raise its pleas before the Tribunal as to whether or not the impugned decision has correctly been relied upon by the Committee constituted by the respondents as aforesaid.

The petition stands disposed of.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 18, 2019

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