



महानगर टेलीफोन निगम लिमिटेड
(भारत सरकार का उद्यम)
MAHANAGAR TELEPHONE NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)

No.MTNL/CO/GM(HR)/VRS-2019/KW-II/ 38
Dated: 12/07/2021.

OFFICE ORDER

Subject: **Release of Pensionary Benefits to VRS-2019 Optees**
Reference:- **Tribunal Order for CAT OA 764/2020**

I am directed to convey the decision of 345th meeting of Board of Directors of MTNL held on 29.06.2021 regarding Item No 14: Guidance on MTNL VRS-2019 Scheme- Clause 7(ii), taking in account above referred Tribunal Order, is as under:- :

"All cases where no misconduct is on the part of employees, the retirement dues shall be settled in stricter sense these cannot be interpreted as judicial proceedings especially when the employees has approached the court for settlement of his/her grievances. In cases if in any case the recovery is ascertained and approved by the concerned authority, only in such cases amount equal to recovery shall be made/amount be withheld and balance retirement dues shall be released.

The Board desired that all pending cases shall be settled expeditiously in view of the above."

In view of the above Units are requested to take necessary action in the matter. All such pending cases may be settled within 15 days and compliance report may be submitted for appraisal of management.

This issues with the approval of CMD.


Shama Kaushik
DGM(HR)

Encl:

1. Minutes of 345th meeting of Board of Directors(Item No 14.)
2. Tribunal Order for CAT OA 764/2020

Copy to:

- 1.ED Delhi/Mumbai.
- 2.GM(Admn) Delhi/Mumbai.
- 3.GM(Fin),CO/Delhi/Mumbai.
4. CS MTNL
- 5.Under Secretary(STP), DoT.
- 6.Majority Unions Delhi/Mumbai.
- 7.Office Copy.

MAHANAGAR TELEPHONE NIGAM LIMITED
(A Govt. of India Enterprise)

EXTRACT OF THE MINUTES OF 345TH MEETING OF THE BOARD OF DIRECTORS OF MAHANAGAR TELEPHONE NIGAM LIMITED HELD ON TUESDAY, 29TH JUNE, 2021 AT 11.30 AM IN THE CONFERENCE ROOM AT 5TH FLOOR, MAHANAGAR DOORSANCHAR SADAN, 9 CGO COMPLEX, LODHI ROAD, NEW DELHI-110003.

ITEM NO. 14 GUIDANCE ON MTNL VRS-2019 SCHEME – CLAUSE NO. 7.2

The background of the case was apprised to the Board. The Board deliberated the matter and observed that CMD is competent to approve the case and this matter should not have come to the Board. The Board reiterated the views of the CMD vide Note No. 24 of the notesheets annexed to the agenda note which is reproduced below:-

“In para 3 of the order, Hon’ble tribunal observed that it can not be held that the OA in the tribunal or a similar matter between two parties would be such nature as to support and justify withholding of terminal benefits of an employee who has opted for VRS drawn by the department. Moreover there is nothing on record to show that the judicial proceeding is of such nature as to subject the applicant to some recovery.

In the cases where no misconduct is on the part of employee, holding the retirement dues only on the ground that he has initiated any judicial case against MTNL do not appear correct as model employer.

All cases where no misconduct is on the part of employees, the retirement dues shall be settled in stricter sense these can not be interpreted as judicial proceedings especially when the employees has approached the court for settlement of his/her grievances. In cases if in any case the recovery is ascertained and approved by the concerned authority, only in such cases amount equal to recovery shall be made/amount be withheld and balance retirement dues shall be released.”

The Board desired that all pending cases shall be settled expeditiously in view of the above.

CERTIFIED TO BE TRUE COPY



(S.R.SAYAL)
COMPANY SECRETARY

**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No.764/2020
M.A. No.956/2020**

This the 12th day of May, 2021

(Through video conferencing)

Hon'ble Mr. Tarun Shridhar, Member (A)

1. Ganga Prasad, S/o. Late Sh. Shri Ram
R/o. G-3709, Ram Park Extension, Loni
Ghaziabad,
Aged About 55 years,
Group 'D',
Designation : Work Assistant
2. Ram Rattan, S/o. Late Sh. Badri
R/o. C-3, Tara Enclave, Khora Colony,
U.P.
Aged About 55 years,
Group 'D',
Designation : Work Assistant
3. Raghu Nath, S/o. Late Sh. Sukh Nandan
R/o. C-5/20, Unche Par,
Mandawali Delhi-110 092.
Aged About 57 years,
Group 'C',
Designation : Phone Mechanic
4. Shitla Prasad, S/o. Late Sh. Jagan Nath
R/o. RL-807, Adarsh Nagar, Som Bazar Khora
Colony, U.P.
Aged About 59 years,
Group 'C',
Designation : Phone Mechanic
5. Sunita Singh, W/o. Sh. Karamvir Singh
R/o. F-121-A, Gali No. 7, Pandav Nagar,
New Delhi 110091
Aged About 56 years,



Group 'C',
Designation : SR.SS

6. Siya Ram, S/o. Late Sh. Antu Ram
R/o. H. No. 71, Gali No. 6, Akbar Pur,
Behram Pur, Ghaziabad, U.P.
Aged About 54 years,
Group 'D',
Designation : Work Assistant
 7. Hemant Kumar Jha, S/o. Late Sh. Radha Kant Jha
R/o. 11/839, Shankar Vihar, Khora Colony,
Ghaziabad,
Aged About 59 years,
Group 'C',
Designation : Phone Mechanic
 8. Sharju,
R/o. H. No. 317, Khichri Pur Village,
Delhi -110091
Aged About 58 years,
Group 'D',
Designation : Work Assistant
 9. Ram Shakal, S/o. Late Sh. Ram Sufar
R/o. B-44, Dharam Vihar, Khora Colony,
Ghaziabad, U.P.
Aged About 56 years,
Group 'D',
Designation : Work Assistant
-Applicants

(By Advocate : Shri P. S. Sharma for Shri Anuj Chauhan)

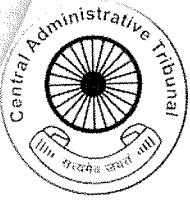
Versus

Mahanagar Telephone Nigam Ltd.,
Through its Chairman,
Khurshid Lal Bhawan,
New Delhi - 110 050.

...Respondent

(By Advocate : Ms. Vandana Bhatia)

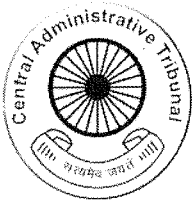
ORDER (ORAL)



The applicants are agitating non-payment of their retiral dues such as gratuity, ex-gratia and terminal benefits etc. The applicants were all employees of Mahanagar Telephone Nigam Limited (MTNL) who opted to seek retirement benefits pursuant to Voluntary Retirement Scheme (VRS) introduced by the organization. The scheme states that the payment of ex-gratia and gratuity shall be paid to the employees opting for retirement only on the conclusion of departmental/judicial proceedings, if any. The learned counsel for the applicants submits that as on date there is no judicial or departmental proceedings or any proceedings which can be termed as an impediment for release of gratuity and ex-gratia pending against the applicants. He further adds that there is no recovery also to be made from the applicants. He draws attention to office memorandum dated 31.01.2020 signed by Dy. General Manager which on the one hand says there is no disciplinary/vigilance case pending/contemplated against the official but in the next sentence goes on to say that departmental/judicial proceeding is pending. This further obscures the issue.

2. Learned counsel for the respondent submits that perhaps only some case of civil nature including the present and another OA are pending but in my view, this will certainly be not termed as judicial proceeding in respect of the applicants which should be a bar for release of ex-gratia gratuity and any other dues in accordance with the scheme.

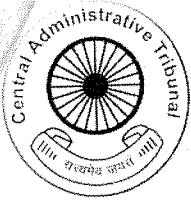
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3. It is not in doubt that the applicants had sought voluntary retirement only on the basis of the scheme introduced by the respondent-organisation. Hence, on the assurance that subsequent to opting for the retirement they would be paid all the financial benefits that would have accrued to them. However, on this specious plea that some judicial proceeding in the nature of present and similar OA is being contested between the parties, it is a very illogical to withhold the terminal benefits of the applicants. Learned counsel for the respondent draws support from the judgment of Hon'ble Allahabad High Court in the case of **Shiv Gopal & Ors. Vs. State of U.P. & Ors.** wherein the Hon'ble Allahabad High Court had held that judicial proceedings includes civil cases. She also relied on a judgment of the Hon'ble Apex Court in **Govinda Menon Vs. UOI.** Now, while appreciating the context of this judgment it cannot be held that the OA in the Tribunal or even a similar matter between two parties would be of such nature as to support and justify withholding of terminal benefits of an employee who has opted for voluntary retirement pursuant to a scheme drawn by the department. Moreover, there is nothing on record to show that the judicial proceeding is of such nature as to subject the applicants to some recovery.

4. In view of the above, this OA is disposed of with a direction to the respondent to take a decision on the sanction of release of gratuity and ex-gartia and other admissible terminal benefits if there is no other legal embargo for the same. Needless to say

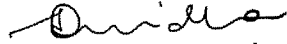
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that the authority sanctioning the retiral and other benefits shall exercise due financial diligence and take a decision strictly in accordance with the guidelines and provisions of the voluntary retirement scheme. However, the authority will not take shelter behind clause 7 and this pending OA and other similar OAs which have no bearing on this case shall not be an excuse to deny the legitimate retiral financial claims.

5. The respondents shall take a final decision in the matter within a period of six weeks from the date of receipt of this order. The said decision should be intimated by the respondents through email and other means to the applicant.

6. Pending MA(s) if any, shall also stand disposed of accordingly. There shall be no order as to costs.


(Tarun Shridhar)
Member (A)

Mbt/Ankit