

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI

Original Application No.328 of 2015

Date of Order: This the Day of November, 2017.

HON'BLE MOHD HALEEM KHAN, ADMINISTRATIVE MEMBER
HON'BLE SHRI S.N.TERDAL, JUDICIAL MEMBER

... Applicant

-Versus-

1. Union of India, represented
by the Secretary to the Government of India,
Ministry of Communication and Information Technology
Department of Telecommunication,
Sanchar Bhawan, 20, Ashoka Road
New Delhi-110001.
2. The Chief General Manager, BSNL
Assam Circle, Guwahati,
Dist-Kamrup(M), Assam-781001
3. Sankar Das, JTO
Office of the GMTD, Silchar
Dist-Cachar, Assam-788001
4. Mrs.Saswati Sen, JTO
Office of the GMTD
Silchar, Dist-Cachar, Assam-788001
5. Suraj Bhattacharjee, JTO
Office of the GMTD,BSNL Bhawan
Silchar, Dist-Cachar, Assam-788001

6. Bimal Barman, JTO
Office of the CGMT,BSNL Bhawan
Panbazar, Dist-Kamrup(M)
Assam-781001
7. Ranjit Kr. Das, JAO
Office of the GMTD,BSNL Bhawan
Panbazar, Dist-Kamrup(M)
Assam
8. Paban Ch.Mahanta,JAO(Plan)
Office of the CGMT, BSNL, Tezpur
Dist-Sonitpur, Assam-784001
9. Kamal Ch.Barman, JTO
Office of the CGMT, BSNL Bhawan
Panbazar, Dist-Kamrup (M)
Assam-781001
10. Mritunjay Kundu, JAO
Office of the GMTD,BSNL,
Dist-Bongaigaon, Assam-783380
11. Indreswar Gogoi, JTO
Office of the GMTD, BSNL, Tezpur
Dist-Sonitpur, Assam-784001
12. Arun Ch.Gayan, JTO
Office of the GMTD,BSNL, Nagaon
Dist-Nagaon, Assam-782001
13. Arun Kr.Puzari, STOA(G)
Office of the CGMT, BSNL Bhawan
Panbazar, Dist-Kamrup (M)
Assam-781001
14. Bipul Kr. Deb Roy, JTO
Office of the GMTD, BSNL,
Nagaon ,Dist-Nagaon,
Assam-781001

15. Binu Bhuyan, JTO
Office of the DGM, NOW, CFA
Telephone Exchange, Panbazar,
Dist-Kamrup(M), Assam-781001
16. Anupam Chakraborty, JTO
Office of the GMDT, Bongaigaon,
Dist-Bongaigaon, Assam-783380
17. Asima Devi, JTO
Office of the GMTD, BSNL, Silchar
Dist-Cachar, Assam-78801
18. Soneswar Boro, JTO
GM, Kamrup, Panbazar,
Dist-Kamrup, Assam-781001
19. Sumitra Boro, JTO(Plg)
Office of the GM, Kamrup, Panbazar
Dist-Kamrup,(M), Assam-781001
20. Gautam Das, JTO(Legal)
Office of the CGMT, BSNL Bhawan
Panbazar, Dist-Kamrup(M)
Assam-781001
21. Anisur Rahman Khan, JTO(Gr)
Office of the GMTD, BSNL, Dist-Nagaon,
Assam-782001
22. Jyotish Baishya, ADT
Office of the CGMT, BSNL Bhawan
Assam Telecom Circle, Panbazar
Dist-Kamrup (M), Assam-781001
23. Aizuddin Ahmed, JTO (CMTS),
Telephone Exchange, Nayapara,
Dist-Goalpara, Assam-783101
24. Bikash Baran Dey, JTO
Office of the CGMT, BSNL Bhawan

Assam Telecom Circle, Panbazar
Dist-Kamrup (MO, Assam-781001

By Advocate Mr.B.C.Pathak, BSNL

ORDER (O R A L)

Per Hon'ble Mr.S.N.Terdal, Member(A):

This O.A. has been filed by the Applicants under Section 19 of the Administrative Tribunal Act, 1985 praying for following reliefs:-

“ (i) A direction to set aside and quash the impugned order dated 13.08.2015 passed by the BSNL authority

(ii) A direction to set aside and quash the reversion order No.STES-5/JTO/Promotion/Reversion/4 dated 19-07-2013 whereby the applicants were reverted from the post of JTOs to the Sr.TOA.

(iii) A direction to the official respondent to grant benefit of Circular dated 10.3.2003 to the applicants.

(iv) A direction to the BSNL authority to accommodate the applicants against existing vacant post of JTOs(E2) in the Assam Telecom Circle.”

2. Heard Mr.S.Haque, learned counsel for the Applicant and Mr.B.C.Pathak, learned counsel on behalf of the Respondents (BSNL), perused the pleadings and the documents produced by both sides.

3. The relevant facts of the case are as follows:-

The Applicants were initially appointed as Group 'C' employees during the years 1980 to 1993, in the erstwhile Department of telecommunication and after formation of BSNL in the year 2000, they were posted in BSNL. Under 15% quota, reserved for Group 'C' employees as departmental candidates in the recruitment to the post of Junior Telecom Officers, a Departmental Competitive Examination was held on 15.4.1999 and 16.5.1999 for filling up of 44 vacant posts. The Applicants appeared in the said examination but could not secure the required minimum qualifying percentage of marks of 40%. The private Respondents also could not secure the said 40% of marks in the said examination. But however, the private Respondents secured 30% of marks in the said examination. In the said examination only 33

candidates had secured 40% of marks. As such, 11 posts of Jr.Telecom Officer remained vacant. In the year 2000, another Departmental Competitive Examination with respect to the said 15% quota was held fixing the minimum qualifying percentage of marks as 40%. Though the examination was scheduled on 17.06.2000 and 18.6.2000 but was on administrative reasons actually held on 14.7.2001 and 15.7.2001. In the said examination, Applicants appeared but again could not secure the qualifying marks of 40% and only 8 other candidates secured the said 40% marks against the total vacancies of 34 in that year. As the large number of vacancies remained unfilled and because of acute shortage of JTOs, the official Respondents decided to relax the percentage of qualifying marks from 40% to 30% by circular dated 10.3.2003. The said circular dated 10.3.2003 was later on clarified and held by the official Respondents to the effect that it would be applicable to the candidates who appeared for the said examination in the year 2001. Consequently, the Applicants were selected

for promotion to the post of JTOs on various dates in 2004 and posted in different places in Assam Telecom Circle.

4. The Private Respondents, who had not appeared in the said examination held in the year 2001, but who had appeared in the said examination held in the year 1999, approached Hon'ble Gauhati High Court by filing Writ Petitions No. 7423/2003, W.P.(C) No. 7222/2003 and W.P.(C) No.8583/2003 for quashing the Select List of the Applicants and seeking direction that the said relaxation of 40% to 30% is applicable to the said examination held in the year 1999. In the said Writ Petitions the Applicants were arrayed as private Respondents. But however, the Applicants did not appear and contest in the said Writ Petitions, ultimately, the Hon'ble High Court placed the Applicants as *ex parte* and by judgment and order dated 15.5.2007 directed the official Respondents to give benefit of the circular dated 10.3.2003, regarding the relaxation of qualifying marks from 40% to 30% only to those candidates who appeared in the said examination held in the year 1999. The official Respondents

filed appeal against the order dated 15.5.2007 by filing Writ Appeal No.353 of 2007. The said appeal was dismissed by the Hon'ble Gauhati High Court by its order dated 23.6.2011. The official Respondents filed SLP bearing No.20682-20683 of 2012 before the Hon'ble Supreme Court against the appellate order dated 23.6.2011 which was also dismissed by the Hon'ble Supreme Court vide its order dated 08.02.2013. Consequently, in compliance with the order passed by the Hon'ble Gauhati High Court dated 15.5.2007, the Applicants were reverted and the Private Respondents were promoted by the official Respondents. The Applicants having been reverted after serving for about 9 years in the post of JTOs, had filed an Original Application No.301 of 2013 before this Tribunal being aggrieved by the same. This Tribunal, vide its order dated 27.03.2015 passed in O.A.No.301/2013 directed the official Respondents to consider the claim of the Applicants. By the impugned order dated 13.8.2015, the Official Respondents however rejected the claim of the Applicants in view of the judgment of the Hon'ble Gauhati High Court which has attained

finality by the dismissal of the SLP by the Hon'ble Supreme Court.

5. The Applicants did not contest the case of the Private Respondents though they were arrayed as Private Respondents in the above mentioned Writ Petitions filed by the Private Respondents and remained *exparte*. The Hon'ble Gauhati High Court had categorically held that the relaxation is applicable only to those who had appeared in 1999 in the said Departmental Competitive Examination. The Official Respondents have complied with the judgment and order of the Hon'ble Gauhati High Court which has attained finality by the dismissal of the SLP of the official Respondents. In the circumstances, the Applicants are not entitled for the relief sought for in this O.A.

6. In the result, the O.A. is dismissed. However, it is open to the official Respondents to consider accommodating the Applicants against vacant posts of JTOs if any, in the Assam Telecom Circle, in view of the fact

that they have already served as JTOs for about 9 years. No order as to costs.

(S.N.TERDAL)
JUDICIAL MEMBER

(MOHD HALEEM KHAN)
ADMINISTRATIVE MEMBER

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