

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00295/2021

Wednesday, this the 16th day of July, 2021

CORAM:

Hon'ble Mr. P. Madhavan, Judicial Member
Hon'ble Mr. K.V. Eapen, Administrative Member

1. Mary Sophia T.T D/o. T.A. Thomas
 Aged about 46 years
 Sub Divisional Engineer(OP)
 O/o GMT, Bharat Sanchar Nigam Limited
 Alapuzha- 688001
 Residing at Arackal House, Arthunkal, Cherthala
 Alapuzha – 688530.
2. Sindhu. S. D/o P.S. Subramaniam
 Aged about 47 years
 Sub Divisional Engineer O/o SDE,
 BSNL, Pallipad- 690512, Alapuzha
 R/o. Souparnika, Mannarasala
 Haripad, Alapuzha.
3. Jose Aloysius S/o Aloysius
 Aged about 55 years
 Sub Divisional Engineer(Vig)
 O/o GMT BSNL
 Vellayittambalam, Kollam
 R/o. 24, Sree Nagar, Kadappakada
 Kollam- 691008 **Applicant**

(By Advocate : (Mr. S. Sadasivan)

V e r s u s

1. Bharat Sanchar Nigam Ltd.
 Through Chairman cum Managing Director
 Corporate Office, Bharat Sanchar Bhavan,
 Janpath, New Delhi-110001.
2. Director(HR),
 Bharat Sanchar Nigam Ltd.
 Corporate Office,
 3rd Floor Bharat Sanchar Bhawan,
 Janpath, New Delhi-110001.

3. Chief General Manager,
 Bharat Sanchar Nigam Ltd.
 Kerala Telecom Circle,
 PMG Jn, BSNL Bhavan
 Thiruvananthapuram- 695033. **Respondents**

[By Advocates : Mr. T.C. Krishna]

This application having been heard on 16.07.2021 through video conferencing, the Tribunal on the same day delivered the following:

O R D E R (Oral)

Hon'ble Mr. P. Madhavan, Judicial Member –

The applicants are Subdivisional Engineers(Telecom) in BSNL. The present application is made against the provisional seniority list of Sub Divisional Engineers (T) circulated by the Respondent No.1 vide BSNL Corporate office File No. BSNL CO-PERS/13(12)/1/2020-PERS1 dated 10-8-2020 at New Delhi. The issue involved in this original application is relating to the determination of inter-se-seniority between two group of promotees promoted by two different methods viz. Seniority-cum-fitness for 67% of posts and Limited Departmental Examination for 33% of posts and promoted at two different point of time, in terms of the provisions of the Sub Divisional Engineer Recruitment Rules 2002. Hence the applicant filed this OA seeking the following reliefs:

“(i) This Hon'ble Tribunal be pleased to quash and set aside the impugned Provisional Seniority List No.9 published by the respondents vide File No. BSNL CO-PERS/13(21)/1/2020-PERS1 on 10.08.2020(Annexure A7).

(ii) This Hon'ble Tribunal be pleased to pass appropriate orders directing the respondents to recast the impugned seniority list of SDE (T) who got promoted vide promotion orders dated 15-5-2009 and 30-3-2011, by including the names of the Applicants and similarly placed persons and placing all SDEs promoted in the later year 2013 under competitive

examination quota as enblock below to all the SDEs promoted in the earlier years 2009 and 2011 under seniority quota, in conformity with the law laid down by the Hon'ble CAT Bombay Bench in T.A. No.06 of 2009 confirmed by the Hon'ble Supreme Court in Special Leave Petition (C)No.35756 of 2012, Civil Appeal No.7830 of 2014 dated 12.08.2014 and further confirmed in Civil Appeal No.14967 of 2017 dated 02.04.2019; and respondents be directed to circulate both provisional Seniority & final seniority lists.

(iii) This Hon'ble Tribunla be further pleased to declare that any further seniority list similar to the impugned list, if published during the pendency of the Original Application, would be illegal and bad in law and also liable to be re-casted as per the prayer clause (b).

(iv) Pass such other or further order(s) as this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case."

1. When the matter came up for consideration today, learned counsel for the respondents submitted that they have no objection in considering the objections of the applicants if they have given the representations in a proper manner before the last date sought in Annexure A7 notification.
2. The counsel for the applicants submits that the applicants have given their representations through proper channel and they wish to have disposal of the said representation and the objections raised by him within a time frame. According to him, even though many representations have been given earlier, no reply is provided so far.
3. **In view of the above submission and since the seniority list has not been finalized, we deem it appropriate to direct the respondent to consider the representation filed by the applicants in Annexure A17 and pass a speaking order within a period of 6 months.**

4. The Original Application is disposed of as above at the admission stage itself. No costs.

(K.V. EAPEN)
ADMINISTRATIVE MEMBER

(P. MADHAVAN)
JUDICIAL MEMBER

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Original Application No. 180/00295/2021

APPLICANT'S ANNEXURES

Annexure A1 – A copy of Sub Divisional Engineer Recruitment Rules 2002 notified vide letter No. 20-24/2001-Pers-II dated 28.2.2002 issued by Respondent No.1.

Annexure A2 – A copy of Sub Divisional Engineer Recruitment Rules 2002(Amendment) vide letter No. 20-1/2001-Pers-II dated 30-7-2007 issued by Respondent No.1.

Annexure A3 – A copy of the promotion order of SDE (T) vide promotion order No. 2-15/2009-Pers-II dated 15-5-2009 against the 67% seniority-cum-fitness quota issued by Respondent No.1.

Annexure A4 – A copy of the promotion order of SDE(T) vide promotion order No,2-15/2009-Pers-II/Pt.I dated 16-11-2009 against the 67% seniority-cum-fitness quota issued by Respondent No.1.

Annexure A5 – A copy of the promotion order of SDE(T) vide promotion order No,2-15/2011-Pers-II dated 30-03-2011 against the 67% seniority-cum-fitness quota issued by Respondent No.1 for the vacancy year 2007-08.

Annexure A6 – A copy of the promotion order of SDE(T) vide promotion order No,2-16/LDCE/2012-Pers-II dated 2-7-2013 against the 33% Limited Departmental Examination quota seniority-cum-fitness quota issued by Respondent No.1 for the vacancy year 2006-07 to 2009-10.

Annexure A7 – File No.BSNLCO-PERS/13(21)/1/2020-PERS1 dated 10-08-2020 issued by Respondent No.1.

Annexure A8 – A copy of the Hon'ble Supreme Court Order dated 12-8-2014 in Civil Appeal No 7830/2014 in the case of BSNL Vs. S.K. Dubey & Ors.

Annexure A9 – A copy of the Hon'ble Supreme Court Order dated 12-8-2014 in SLP (C)No. 35756/2012 in the case of BSNL Vs. S. Sadasivan & Ors.

Annexure A10 – A copy of the judgment and order dated 25-8-2009 passed by Hon'ble Chandigarh Bench in T.A No. 84-HR-2009.

Annexure A11 – A copy of the judgment and order dated 25-11-2010 passed by Hon'ble Bombay Bench in T.A. No. 06/2009.

Annexure A12 – A copy of the judgment and order dated 2.6.2011 passed by Hon'ble Bombay High Court in W.P No. 3725/2011.

Annexure A13 – A copy of the Hon'ble Supreme Court Order dated 2-4-2019 in Civil appeal No 14967/2017 in the case of Vinod Verma Vs. BSNL & Ors.

Annexure A14 – A copy of DOPT O.M. Dated 10-4-1989.

Annexure A15 – An extract of copy of Department Of Personnel & A.R. O.M. No. 1/9/74 Estt. (SCT) dated 29-4-1975.

Annexure A16 – A copy of Sub Divisional Engineer Recruitment Rules 2002 amended vide letter No. 20-24/2001-Pers-II dated 8-5-2018 issued by Respondent No.1 w.e.f. 28-8-2015.

Annexure A17(Colly) – The copies of the Representation dated 18-8-2020 submitted by the Applicant No. 1&2 and a copy of representation dated 20-8-2020 submitted by the Applicant No. 3.

RESPONDENTS' ANNEXURES

Nil

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