

6
U

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 260/00931/2016
this the 23rd day of December, 2016

CORAM
HON'BLE SHRI R.C.MISRA, MEMBER(A)

1-Manoranjan Das aged 48 years S/o Late Sh. Gopal Charan Das, JTO (Civil), BSNL, Civil Sub Division-II, CTO Compound, Cantonment Road, Cuttack.

2-Pradyumna Kumar Nayak aged 49 years S/o Late Sh. Murlidhar, JTO (Civil), BSNL Civil Sub Division, II Floor, Telephone Exchange Building, Near Kali Padia, Keonjhar- 759001.

3-Pradipta Chandra Pusti aged 48 years, S/o Late Shri Hrudananda Pusti, JTO, BSNL Civil Sub Division III, P&T Colony, Vani Vihar, Bhubaneswar.

4-Arup Kumar Taldi aged 48 years S/o Shri Atul Kumar, JTO (Civil), BSNL, Civil Sub Division-I, CTO Compound, Cantonment Road, Cuttack.

5-Rabindra Kumar Beura aged 43 years S/o Sh. Alekh Chandra JTO (Civil), BSNL, Civil Sub Division, C/o GMTD, BSNL, Fakir Mohan, Golei, Balasore - 756 001.

6-Baikuntha Nath Satapathy aged 43 years S/o Sh. Prafulla Chandra, JTO (Civil), BSNL, Civil Sub Division, Microwave Building, II Floor, Brahma Nagar, 1st Lane, Berhampur, Ganjam.

7-Satyajit Taria aged 50 years S/o Late Sh. Bhismadev, JTO (Civil), BSNL, Civil Sub Division, 5th Floor, DTO Building, Kacheri Road, Sambalpur - 768 001.

8-Baba Prasad Pattanaik, aged 48 years S/o Late Sh. Raghunath, JTO (Civil), BSNL, Civil Sub Division II, Door Sanchar Bhawan, IVth Floor, Sahid Nagar, Bhubaneswar-22, District Khurda.

9-Narottam Patra aged 50 years S/o Late Sh. Nabin Patra, JTO (Civil), BSNL, Civil Sub Division, Door Sanchar Bhawan, 3rd Floor, Bhawanipatna, District Kalahandi.

10-Deepak Kumar Senapati aged 48 years S/o Sh. Prasanta Kumar Senapati, JTO (Civil), C/o the SDE (Civil)-I, BSNL, Civil Sub Division, Unit 4, Bhubaneswar, District Khurda. ... Applicants

By the Advocate :Shri R.K.Rout
-VERSUS-

1-Union of India represented through Secretary, Communication Ministry, AT: Kashimeri Gate, New Delhi.



2-Principal General Manager (Building Works), BSNL Corporate Office, AT: Telegraph Office Building, Kashmeri Gate, Delhi-6.

3-Director (HRD), Bharat Sanchar Nigam Limited, AT:Bharat Sanchar Bhawan, Harischandra Mathur Lane, Janpath, New Delhi-1.

4-Assistant Director General(Personal-II), Personal-II Section, Bharat Sanchar Nigam Limited, AT: Bharat Sanchar Bhawan, Harischandra Mathur Lane, Janpath, New Delhi - 110001.

5-Assistant General Manager (Recruitment), Bharat Sanchar Nigam Limited, AT:Eastern Court, II Floor, Room No. 222, Janpath, New Delhi - 110001.

6-AGM(CW-BD), Office of - P.G.M.(BW), Bharat Sanchar Nigam Limited, AT:BSNL Corporate Office, Telegraph Office Building, Kashmeri Gate, New Delhi - 110006.

7-Chief Engineer(Civil),BSNL, Civil (Zone), Odisha. AT:Door Sanchar Bhawan,Sahid Nagar,Bhubaneswar,District Khurda. **..Respondents**

By the Advocate : Shri K.C.Kanungo

O R D E R (ORAL)

R.C.MISRA, MEMBER(A) :

There are ten number of applicants who have approached this Tribunal. However, learned counsel for applicants has submitted that he confined his O.A. only with regard to applicant No. 1. The prayer made by Sh. Rout during the course of arguments, is accepted and accordingly, the M.A. No. 803 of 2016 filed for joint prosecution is disposed of as infructuous. The M.A. 803/2016 stands disposed of accordingly.

2. The learned counsel has submitted that applicant is working as JTO (Civil) in the BSNL, Civil Sub Division-II, CTO Compound, Cantonment Road, Cuttack. He has approached this Tribunal making a prayer that a direction may be issued to respondent No. 5 to issue corrected post based roster showing 719 posts of Sub Divisional Engineer [SDE], (Civil), available for promotion against 67% quota by means of seniority-cum-fitness and 354 posts against 33% quota for promotion through Limited Departmental Competitive Examination (LDCE). He has further prayed that the examination Notification as at Annex.A/8 may be quashed and respondent No. 2 may be directed to dispose of the

representation of the applicant under Annex.A/7 in a specific time period bound.

3. Dwelling upon the grievance ^{submitted} ~~prayed~~ by the applicant in this OA, the counsel for applicant has submitted that applicant's grievance relates to his promotion from the post of JTO (Civil) to the post of SDE (Civil) in the BSNL. As per the amended Recruitment Rules of the BSNL, 67% of the posts of SDE (C) were to be filled up by way of promotion on the basis of seniority-cum-fitness and remaining 33% of the posts through LDCE. The cadre strength in the grade of SDE (Civil) stands at 1073 and the same was to be filled up through promotion by two modes i.e. 67% quota of 1073 posts numbering 719 by way of SCP seniority-cum-fitness and LDCE quota of 33% out of 1073 numbering at 354. It is alleged by the applicant that in violation of this stipulation, respondent No. 5 issued a Notification dated 9.9.2015 showing updated post based roster in the grade of SDE (Civil) as on 31.3.2015 against 67% quota at 597 as against 719 and also declaring number of posts in the cadre of SDE (C) through LDCE as 476 as against 354. Thereby, respondent No. 5 has arbitrarily reduced the quota of promotion through seniority-cum-fitness and enhanced number of posts under LDCE quota in violation of the rules framed by the Board of Management of the BSNL. In the meantime, respondent No. 5 has called for the ACR / APAR from 164 JTOs for consideration of their eligibility for promotion to the cadre of SDE (C) cadre under seniority-cum-fitness quota of 67%. The applicant along with others, who are similarly placed, had approached this Tribunal by filing OA No. 954/2015 but, the Tribunal allowed the applicants to withdraw the aforesaid O.A. with liberty to approach the Tribunal afresh after making a representation to the authorities. The applicant in this O.A. made a representation to the respondent No. 2



narrating the detailed facts and further requesting the authorities to make necessary rectification in the category in the LDCE and take steps for promotion of JTO's who are direct recruits to the post of SDE (C) under seniority-cum-fitness category. This representation dated 10.02.2016, as annexed at Annex.A/7, is said to be pending with the concerned authority and it is alleged that no decision in the matter has been conveyed.

4. As provided under the Central Administrative Tribunal's Act, the Tribunal, in normal circumstances, shall not admit an OA unless departmental remedy in the matter has been already exhausted. In the present case, as submitted by applicant, a representation has been filed to the Principal General Manager (Building Works), BSNL, Delhi i.e., respondent No. 2, a copy of which is enclosed at Annex. A/7 of the O.A., and the respondent No. 2 is required to consider this representation which is pending before him and arrive at a decision which should be communicated to the applicant.

Therefore, without going into the merits of this matter, I direct the respondent No. 2 to dispose of the pending representation, if it is pending at his level, with a detailed and speaking order to be communicated to applicant within a period of 60 (sixty) days from the date of receipt of a copy of this order. The O.A. is thus disposed of at the stage of admission, with no order as

to costs. Copy of the order along with paperbook be sent to Respondent No-2 and respondent No-5, for which the applicant's counsel may submit postal requisites on 26/12/2016

 [R.C. Misra]
Member (A)