



- “(a) By an appropriate writ order or direction, the respondents may kindly be directed to comply according to the order dated 07.03.2009 and accordingly issue the training letter to the applicant.*
- (b) By an appropriate writ order or direction, the respondents may be directed to allow the applicant to go through the training period and thereafter after completion of the training period the respondents may kindly be directed to give appointment to the applicant to post of TTA as a regularly selected candidate in pursuance of the advertisement dated 06.10.2008 (Annexure-A/2) from the date when the other similarly selected candidates were given appointment.*
- (c) Any other appropriate relief which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.*
- (d) Application of the applicant may kindly be allowed with costs.”*

2. The short facts of the case, as averred by the applicant, are that the respondents department issued an advertisement on 06.10.2008 for the post of Telecom Technical Assistant (TTA) and the applicant applied for the same and after facing the due selection process, he qualified in the examination. Thereafter, the respondent department issued the final select list on 11.01.2009 and in the select list for SSA Sirohi in which 10 candidates were selected out of which first 7 candidates were declared as qualified and selected and rest of three candidates were qualified but were kept in waiting list. It has been averred that the applicant stood at Sl. No.10 with Roll No.2460 and was the third candidate in waiting list for SSA Sirohi. It has been further averred that the total number of general category candidates were two, in OBC category total number of qualified candidates were 5 out of which two were in waiting list along with the applicant and in SC category three candidates were qualified out of which one is in waiting list. It has been further averred that for SSA Sirohi total number of posts were 11 out of which for general category candidates the seats were 7 in number, for OBC 2 seats, for SC 2 seats, for ST 0 seats, for disabled candidates 1 seat and for Ex-army man 2 seats were there. It

has been further averred that the respondent department vide letter dated 07.03.2009 informed the applicant that he has been selected in open competitive examination for direct recruitment and he was also asked to submit the original documents and in pursuance to that, the applicant submitted all the requisite documents with other formalities. But till date the applicant has not got any call letter or any kind of communication from the respondent department and therefore, the applicant made a representation to the respondent authorities but the respondent authorities did not pay any heed of the same. Thus, the applicant has filed this OA for the relief mentioned in para No.1.

3 By way of reply, the respondent department averred that the applicant was placed in the waiting list under OBC category and he was called upon to complete the formalities along with other selected candidates just in order to cut short the processing time in case selected candidates do not join and since the selected candidates joined the training, therefore, no occasion arose to switch over to the waiting list. It has been further averred that after joining the duties by the selected candidates, no vacancy was there and the applicant has no right to claim appointment on the post of TTA under OBC category merely on the ground that he was placed at Serial No.2 in the waiting list. It has been further averred that the selected candidates for OBC category namely Shri Pawan Kumawat and Rajveer Singh who stood higher in the merit, joined the duties and no contingency arose to operate waiting list. It has been

further averred that though the applicant qualified the test but he is not entitled to get the appointment in view of his merit position.

4. Heard counsel for the applicant. None present on behalf of the respondents but as the matter pertains to the year 2010 therefore looking to the old pendency we are deciding this case on merit after perusing the pleading of the parties and the documents submitted by them.

5. Earlier on dated 05.05.2011, it has been ordered by this Tribunal that in similar cases i.e. OA No.168/2009 and 169/2009, which were allowed by this Tribunal, a review (Writ Petition No.1948/2010 BSNL vs. Gajendra Thakkan & Ors) is pending before the Hon'ble High Court and in which the Hon'ble High Court had stayed the operation of the order of this Tribunal and therefore, the registry was directed to take up this matter after High Court has disposed of the said writ petition one way or other. Then, thereafter, the matter was listed by the order of this Tribunal on 23.04.2014 and on that day it was ordered to list this case on 20.05.2014 and the registry was directed to procure the latest position of the case pending before the Hon'ble High Court. Accordingly, the registry of this Tribunal procure the status report of the case pending before the Hon'ble High Court and as per the status report the matter is pending for early hearing. We have also called the files of the earlier OAs bearing No.168/2009 & 169/2009, which was decided by the common order dated 11.02.2010 by this Tribunal and perused the facts of that cases in comparison to the present case. In both these OAs bearing No.168/2009 & 169/2009 the applicants were of the general category and therefore

looking to the number of posts advertised and the fact that applicants were at serial No.6 & 7 in the waiting list, these OAs were allowed whereas in the present OA the applicant belongs to the OBC category. Further, although the applicant in his OA has not referred his rank or position in the written test but the list submitted at Annexure-A/3 it reveals that the applicant, Mahaveer Singh, belongs to the OBC category and he has been shown as qualified but in the waiting list. The applicant himself has not averred in his OA that what rank he has got in the written examination but he averred that he stood at serial No.3 in the waiting list. But the respondent department by way of reply has denied this fact and averred that total 2 vacancies were available to the 5 OBC candidates and in which first person of the OBC candidate qualified in general merit therefore he was adjusted against unreserved seat of general category and remaining four OBC candidates who qualified the examination were placed in the merit list as per marks obtained by them. Two candidates namely Pawan Kumawat and Rajveer Singh obtained higher marks, therefore, they were placed higher in the merit and were selected against two vacancies of OBC category and Sunil Kumar and the present applicant Mahaveer Singh were placed at serial No.1 & 2 respectively in the waiting list of OBC category candidates. Therefore the applicant is not entitled to get appointment out of the selection list. It has been further averred in the reply that keeping a candidate in the waiting list does not confer vested right in his favour and it is operative only for the contingency if the selected candidates does not join. It has further averred that a letter has been issued by the respondent department to the applicant

for submitting his original documents only to verify the same and to cut short the processing time and if any contingency arose in case of the selected candidate not joining the post, and only then his name would be considered for appointment, but such a situation did not arise.

6. We have considered the rival contention of counsel for the applicant as well as the submissions made in the reply. In the application although the applicant averred that he stood at serial No.3 but he has not filed any documents in his claim and as per the reply filed by the respondent department the applicant was not in the merit list and even in the waiting list for OBC he stood at serial No.2 and the vacancies were filled up by selected candidates higher in merit than him. Accordingly, no case for appointment is made out in favour of the applicant. Therefore, the application lacks merits and the same is dismissed with no order as to costs.



(MEENAKSHI HOOJA)  
Administrative Member



(JUSTICE K.C.JOSHI)  
Judicial Member

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Jewell  
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