

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 106 of 2010

Friday, this the 9th day of December, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

1. K.G. Ashok Kumar, S/o. K.P. Gopalan Nair,
Aged 40 years, Junior Telecom Officer (Officiating),
Telephone Exchange, Kattapana, Idukki Dist.
2. Jagannath T., S/o. G. Thankappan Nair,
aged 42 years, JTO (Officiating), O/o. SDE External,
The Bharat Sanchar Nigam Limited, Kumarapuram, Trivandrum.
3. Baiju Mon D, S/o. Damodaran K., aged 39 yrs.,
Junior Telecom Office (Officiating), Telephone
Bhavan, IInd Floor, Bharat Sanchar Nigam Limited, Alappuzha.
4. C.M. Thomas, S/o. C.M. Mani, aged 40 yrs., JTO (Officiating),
Arangam Telephone Exchange, Alakode P.O.,
Kannur. **Applicants**

(By Advocate – Mr. V. Sajith Kumar)

V e r s u s

1. The Bharat Sanchar Nigam Limited, represented by its
Chairman & Managing Director, New Delhi.
2. The Chief General Manager, Bharat Sanchar Nigam
Limited, Trivandrum. **Respondents**

(By Advocate – Mr. Pradeep Krishna)

This application having been heard on 09.12.2011, the Tribunal on the same day delivered the following:

ORDER


By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

Applicants four in number are now working as Junior Telecom



Officers (Officiating) [hereinafter referred to as JTO(O)] in the Bharat Sanchar Nigam Limited (hereinafter referred to as BSNL) at various centers. They are not Engineering Graduate but only possessing a Diploma in Mechanical Engineering. As per the new Recruitment Rules of 2001 Diploma in Mechanical Engineering is not sufficient qualification for promotion to the post of JTO. However, before new Recruitment Rules based on a screening test applicants were enabled to work in the higher post of JTO (Officiating) but were not made permanent. According to them, if vacancies for the year 1996 to 2000 i.e. prior to the amendment in the rule in 2001 are identified they can be accommodated in those vacancies. At any rate, according to them, since they have more than 20 years of service in the Department and more than 5 years of service as JTO (Officiating) at least as a one time measure they should be given relaxation in the matter of qualification so as to participate in the Limited Departmental Test for promotion to the post of JTO.

2. The respondents would contend that earlier vacancies to fill up by direct recruitment were diverted to be filled up through promotion as a result applicants were all promoted on officiating basis as JTO. But based on the Punjab and Haryana High Court decision the practice of diverting the direct recruitment quota to be filled up by promotion has been stopped. As a result, there are no vacancies for JTO (Officiating) to be regularized during the period from 1996 to 2000. In view of the amendment made out to the new recruitment rules, the applicants are not qualified to participate in the Limited Departmental Examination for the post of JTO. Though a



representation is received by the higher authorities from the applicants they are pending consideration.

3. We have heard the learned counsel for the parties.

4. Admittedly, the applicants were all appointed as JTO(O) based on screening test conducted earlier which practice was hitherto stopped and now Limited Departmental Examination is held for promotion to the post of JTO. Further as per qualification prescribed in the year 2001 applicants are not qualified for consideration for promotion to the post of JTO. We feel that the position of the applicants who had been continuing for a long number of years as JTO (Officiating) requires a sympathetic consideration in the hands of the executive. Though they were considered for promotion in the earlier years it is only by virtue of amendment made in the rules that they became disqualified for consideration to the post of JTO by participating in the Departmental Examination held for the purpose. It is also to be noticed that any employee comes to an establishment with hope of some promotion while working. According to the applicants they have no promotional avenues and they will have to retire at the entry level. This causes undue hardship and even it may stem into an ^{ele}ment of arbitrariness. Therefore, it is only appropriate that those JTOs who are now officiating can be considered for necessary relaxation in the matter of qualification so as to enable them to appear in the Departmental Examination so that their grievance could stand redressed. This is a matter to be considered by the executive when a proper representation is made by the applicants. Annexure A-4 is the representation made by the applicants. Therefore, a

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decision may be taken on Annexure A-4 at the higher level so as to render justice to the parties. During the pendency of this O.A by virtue of an interim order the applicants were permitted to continue in the present post. In the light of the direction as we have given above it is only appropriate that the applicants may be allowed to continue in the present post till a decision is taken on the representation of the applicants in accordance with law and in accordance with what is stated above.

5. Let the representation be disposed of as expeditiously as possible at any rate within a period of four months. O.A is disposed of as above. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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