CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA Nos. 23/02, 48/02, 137/02, 328/02, 354/02, 563/02, 640/02, 685/02, 698/02, 150/02, 225/03, 210/04 & 211/04

This, the 11th Day of April, 2005

C O R A M :

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

O.A.No.23/2002

C.S.Joy, S/o Xavier, Chakkanat House,
Chullickal, Cochin-5,
working as Senior Telecom Operating Assistant
(Phones), Ernakulam.

(By Mr.P.K.Ravi Sankar, Advocate) Applicant

Vs.

1. Chief General Manager, Maintenance,
Southern Telecom Region, Bharat Sanchar
Nigam Ltd, 39 Rajaji Salai, Chennai.

2. Deputy General Manager, Maintenance
Southern Telecom Sub Region, Ernakulam, Cochin.

3. Union of India, rep.by its Secretary,
Ministry of Communications, New Delhi.

4. Secretary, Department of Telecommu-
nications, New Delhi. Respondents.

(By Mrs I Sheela Devi, Advocate)

O.A.No.48/2002

M.L.Jose, S/o M.E.Louis, Muttath House
Peramangalam, Trichur.
working as Telecom Operating Assistant Grade II,
O/o General Manager, Telecom District, Trichur.

Applicant.

(By Mr.K.S.Bahuleyan, Advocate)

Vs.

1. Union of India, rep.by Director General,
Department of Telecommunications,
Ministry of Communications, New Delhi.

2. The General Manager, Telecom District, Trichur.

3. Chief General Manager, Bharat Sanchar Nigam Ltd,
Kerala Circle, Trivandrum.

4. Chairman, Bharat Sanchar Nigam Ltd, New Delhi.

5. K.Unnikrishnan, Senior Telecom Operating Assistant(G)
O/o General Manager, Telecom District, Trichur.

6. P.S.Sudheer, Senior Telecom Operating Assistant(G)
O/o General Manager, Telecom District, Trichur.

7. M.M.Puspalatha, Senior Telecom Operating Assistant(G)
O/o General Manager, Telecom District, Trichur.

8. K.V.Baijulal, Senior Telecom Operating Assistant (G)
O/o General Manager, Telecom District, Trichur.

9. K.G.Santhakumary, Senior Telecom Operating Assistant(G)
O/o General Manager, Telecom District, Trichur.

Respondents.

(By Mrs.I.Sheela Devi, Advocate, R1 to R4)

O.A.No.137/2002

1. Percy D'Cruz, S/o Harold D'Cruz,
Chief Telegraph Master (Retired), R/o
House No.3, Bazar, Near St.Antony's Church, Kannur.

2. V.Saradha Menon, W/o late Balakrishna Menon
Chief Section Supervisor(retired) R/o
Sarang, Kathiroor P.O, Thalassery.

Applicants

(By Mr.M.R.Rajendran Nair, Advocate)

Vs.

1. The General Manager, Telecommunication District,
BSNL, Kannur.

2. The Chief General Manager, Kerala Circle, Trivandrum

3. Bharat Sanchar Nigam Ltd, represented by the Chief
General Manager, BSNL, Trivandrum.

4. Union of India represented by its Secretary,
Ministry of Communications, New Delhi.

(By Mr.N.Nagaresh, Advocate)

Respondents.

O.A.No.328/2002

M.Showkath, Sub Inspector (Operative)S/o
Mutharu Rawther, R/o Thungamtharayil
Puthen Veedu, Chalakode, Punalur.

(By Mr Vishnu S Chempazhanthiyil, Advocate)

Applicant

Vs.

1. Sub Divisional Officer, Telegraphs, Punalur.

2. Divisional Engineer, Telecom, Punalur.

3. Chief General Manager, Telecom, BSNL,
Kerala Telecom Circle, Thiruvananthapuram.

4. Union of India, rep.by its Secretary
Ministry of Communications, New Delhi.

(By Mr.Dinesh R.Shenoy, Advocate)

Respondents.

O.A.No.354/2002

K.Govindan Nair, S/o K.Kuttan Nair, Regular Mazdoor
Departmental Canteen, Central Telephone Exchange, Trichur
R/o Panickaparambil House, Kanimangalam Panamukku P.O,
Nedupuzha, Trichur Distt.

(By Mr.T.C.Govindaswamy, Advocate)

Applicant

Vs.

1. Union of India rep.by the Secretary to the
Govt of India, Ministry of Communications
Department of Telecommunications, New Delhi.

2. The Chief General Manager Telecommunications
Bharat Sanchar Nigam Ltd, Kerala Circle, Trivandrum.

3. The General Manager, Telecommunications
Bharat Sanchar Nigam Ltd, Trichur.

4. The Director General, Bharat Sanchar Nigam Ltd,
Dak Bhavan, Sansad Marg, New Delhi.

(By Mr:N.Nagaresh, Advocate)

Respondents

O.A No.563/2002

P.K.Subramanian, S/o Kuttan, Telecom Mechanic
O/o Sub Divisional Engineer, Telecom Mala, Trissur
R/o Parambikkadan House, V.R.Puram, PO Chalakkudy.
(By Mr.M.R.Rajendran Nair, Advocate)

Applicant

Vs.

1. The General Manager, Telecom District, BSNL Thrissur

2. The Divisional Engineer, Telecom, BSNL,
Kodungallur, Thrissur.

3. Union of India rep. by the Secretary to the
Govt of India, Ministry of Communications, New Delhi.

4. BSNL, represented by Chief General Manager, BSNL, Trivandrum.

(By Mrs.I.Sheela Devi, Advocate)

Respondents.

O.A No.640/2002

1. P.Babu, S/o Lakshmanan, Sr.T.O.A(P), Telephone Exchange, Kaniyapuram, Trivandrum R/o Kochuthayil Veedu, Vakkom P.O, Trivandrum.

2. E.Thankappan, S/o Enose, Sr.T.O.A(P) O/o D.G.M(TR), Pattom, Trivandrum R/o Sivasadanam, KJannottukonam, Kochulloor, Trivandrum

3. K.Baburajan, S/o Kochukunju, Sr.T.O.A(G) O/o SDOT, Kollam, R/o Sanika Bhavan, Thekkevila P.O, Kollam.

4. N.Sathyan, S/o Nanu, Sr.T.O.A(P), Kollam R/o Vaisakh, Prumpuzha P.O, Kollam. (By Mr.P.P.Jnanasekharan, Advocate)

Applicants

Vs.

1. Union of India rep.by Secretary, Ministry of Communication, New Delhi.

2. The Chairman & Managing Director Telecommunications, Bharat Sanchar Nigam Ltd, New Delhi.

3. The Chief General Manager Telecommunications Bharat Sanchar Nigam Ltd, Kerala Circle, Thiruvananthapuram.

(By Mr.C.Rajendran, Advocate)

Respondents

O.A No.685/2002

Mereena A Paul, W/o A.V.Paul, Stenographer O/o Chief General Manager, Telecom BSNL, Trichur.

(By Mr.G.D.Panicker, Advocate)

Applicant

Vs.

1. Union of India rep.by Secretary, Ministry of Communications, Sanchar Bhavan, New Delhi.

2. The Chairman & Managing Diretor, BSNL, New Delhi.

3. Chief General Manager, Telecommunication BSNL, Thiruvananthapuram

4. Principal General Manager
Telecom, BSNL, Thiruvananthapuram.

(By Mr.N.Nagaresh, Advocate)

Respondents.

O.A No.698/2002

Sreedevi Achuthan, W/o Achuthan
Stenographer, O/o the Divisional Engineer Phones
External Maintenance (Central) Telecom (BSNL)
Vikas Building, Calicut.

(By Mr.G.D.Panicker, Advocate)

Applicant.

Vs.

1. Union of India, rep.by Secretary, Ministry
of Communications, Sanchar Bhavan, New Delhi.

2. The Chairman & Managing Diretor, BSNL, New Delhi.

3. Chief General Manager, Telecommunication,
BSNL, Thiruvananthapuram.

4. Principal General Manager
Telecom, BSNL, Calicut.

(By Mr.T.C.Krishna, Advocate)

Redspondents.

O.A.No.150/2002

M.P.Shamsudin, Mayampekkada House, Androth
Island, Union Territory of Lakshadweep,
Working as Part-time Sweeper, Department of
Telecommunications (Sattilite), Minicoy.

(By Mr.P.V.Baby, Advocate)

Applicant

Vs

1. Deputy General Manager, Southern Telecom
Sub Region (BSNL), O/o the DGM Mtce 4th
Floor, Geo Tower, Ernakulam.

2. The Divisional Engineer, Satelite Communications
(BSNL), Mtce, Muvattupuzha.

3. The Sub Divisional Engineer, Satelite
Communications (BSNL), Minicoy

4. Union of India, rep.by Secretary, Department
of Telecommunications (BSNL), Sanchar Bhavan, New Delhi.

(By Mr.C.Rajendran, Advocate)

Respondents.

O.A.No.225/2003

1. National Union of BSNL Workers Regd.No.48977
D-9, Telegraph Place, Bangla Sahib Marg, New Delhi
rep.by its Kerala Circle Secretary K.K.Gopakumar
S/o late Kuttan Nair KK, R/o Prema Lakshmy
BTS Road, Edapally, Cochin.

2. C.C.Gopi, S/o Chennan, Senior TAO(G)
Commercial Section, Office PGMT, Cochin.
R/o Chathamvelil House, BMC PO, Thrikkakkara, Cochin.

3. Anil Kumar, S/o Devadas, Telephone Operator
Senior TOA(P), Telephone Exchange, Boat Jetty,
Ernakulam, R/o 575 Panampilly Nagar, Cochin.

(By Mr.K.P.Dandapani, Advocate)

Applicants

Vs.

1. Bharat Sanchar Nigam Ltd, SEA Branch,
Corporate Office, 312 Sanchar Bhavan,
20, Ashoka Road, New Delhi,represented
by its Managing Director.

2. The Assistant Director General, BSNL
SEA Branch, Corporate Office, 312
Sanchar Bhavan, 20, Ashoka Road, New Delhi.

3. The Chief General Manager, Telecom, BSNL,
Kerala Telecom, Thiruvananthapuram.

4. The Principal General Manager, BSNL
Ernakulam, Kochi.

(By Mr.C.Rajendran, Advocate)

Respondents

O.A.No.210/2004

1. C.Velayudhan, S/o Theyyathira, Chalil House,
Koduvally, Kozhikode.

2. K.P.Velayudhan, S/o Mayyon, Chambattamel House
Manipuram P.O, Koduvally, Kozhikode.

(By Mr.N.Anil Kumar, Advocate)

Applicants

Vs.

1. The Chairman / Managing Director
BSNL, Sanchar Bhavan, New Delhi.

2. The Chief General Manager
Telecom Kerala Circle, BSNL, Trivandrum.

3. The General Manager, Telecom, BSNL
Kozhikode.

(By Mr.N.Nagaresh, Advocate)

Respondents

O.A No.211/2004

1. K.Shaji, S/o Mothoran, Puthukkudikunnel House
Manipuram PO, Koduvally, Kozhikode.

2. P.Mohammed, S/o Moideen, Parakkara Veedu
Chembutharavayal, Cottanad P.O,
Meppady, Kozhikode.

(By Mr.N.Anil Kumar, Advocate)

Applicants.

Vs.

1. The Chairman/Managing Director BSNL,
Sanchar Bhavan, New Delhi.

2. The Chief General Manager, Telecom,
Kerala Circle, BSNL, Trivandrum.

3. The General Manager, Telecom, BSNL
Kozhikode.

(By Mr.N.Nagaresh, Advocate)

Respondents

.....11th The applications having been heard and the Tribunal on April, 2005, delivered the following:

O R D E R

HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

The issue of jurisdiction of the Central Administrative Tribunal (CAT) in the matters of adjudication relating to the Bharat Sanchar Niagam Ltd (BSNL), has over the years, been handled by the Courts (including the Tribunals) with a great degree of circumspection as the Courts recognise the autonomous juristic entity of the BSNL while recognising that the rights of a government employee transferred to this autonomous body corporate would stand relegated if the exact status of the employee at the point of material time is not determined. A catena of rulings, each relating to an aspect, are governing the field. We would not go into all these as no useful purpose would be served by merely recounting the principles applied for adjudicating individual cases. We would rather rely on the Full

Bench decision of the Central Administrative Tribunal Jaipur (O.A No.401 to 408 of 2002, decided on 24.3.2004) to arrive at a point of convergence and proceed from these into the issue of jurisdiction by applying the principle of exclusion. By the principle of exclusion we mean the principle by which one set of cases are excluded from the scope of jurisdiction of the Tribunal thereby leaving the rest in the jurisdiction by necessity or by default of pleadings. The Full Bench held (supra) that in cases in which the employees had been absorbed permanently with the BSNL, the Central Administrative Tribunal has no jurisdiction to adjudicate upon their service matters till a notification under sub section (2) to Section 14 is issued. Thus, those of the applicants who have been permanently absorbed would stand excluded from the scope of jurisdiction by this decision. Yet others excluded would be those who were directly recruited, appointed and absorbed by/in BSNL (OA 1116-CH-2002 and OA 1128-CH-2992, Chandigarh Bench of CAT, judgment delivered on 5.5.2003). Those that are not specifically excluded, as above, but whose status continues to remain independent, atleast in the eyes of the employees (BSNL), are those who were not absorbed into the BSNL and those in whose cases the causes of action arose prior to transfer or absorption. The crucial indicator according to us is the application and not the applicant. In other words, if the applicant is an erstwhile Government servant who was transferred to BSNL on deemed deputation, and was later absorbed into BSNL, he would not be able to attract the jurisdiction of CAT against BSNL on the strength of his present status which is expressly

excluded unless the cause of action relates to the pre-absorption period when all rules and regulations including CCS(CCA) Rules applicable to Government servant, were also applicable to him.

2. The Jaipur Full Bench of the Tribunal was seized of the matter we raise none, but while recognising the importance of the issues involved, but it refused to answer the questions as the questions were not raised during the course of submissions. While refusing to answer the questions, the Bench had clarified to the Members of the Bar that these and related questions can be gone into whenever these arise.

3. The questions have arisen none before us. The Members of the Bar representing their parties have not only raised the issues at length, they have over days keenly contested each other's views, hoping in the end to find a clear set of answers from us. Looking at the vexatious questions raised repeatedly and dragged on over years in a grey zone between what is excluded and what is included, it is time none that the questions are none answered. The Jaipur Full Bench had very judiciously avoided the questions for lack of pleading. That default has none been remedied and further we are called upon by necessity to adjudicate the matter.

4. So, what are these issues or questions we hinted at in the opening paragraph, and which the Jaipur Full Bench judiciously avoided? Instead of formulating the issues/questions afresh, we think it would be wise to use the formulations which have been extracted in para 13 of the Jaipur Full Bench decision (supra).

"(i) Whether the Tribunal has jurisdiction on all service matters in respect of service matters of Central Government employees who are on deemed deputation to BSNL or only in respect of cause of action relating to their parent department e.g. disciplinary proceedings, retiral benefits, promotions, in their department etc and not for the cause of action wholly arisen from BSNL e.g. transfer, promotion, etc. by BSNL.

(ii) Whether the Tribunal has jurisdiction on the service matter in respect of service matters of Central Government employees, the cause of action for which related to a period prior to the absorption of such employees in BSNL."

5. Our answers, we hope, would supplement the decision of the Jaipur Full Bench and set at rest the controversies relating to the questions of jurisdiction of this Tribunal relating to BSNL.

6. Heard.

7. Much of what we think would depend on the status of BSNL as an entity. More precisely, is it an instrumentality of the Government of India or is it a separate body corporate outside the control of that Government? We have examined the Memorandum of Association and the Articles of Association on the basis of which the BSNL came to be incorporated. The BSNL, though a Limited Company incorporated under Companies Act, 1956, a distinct juristic person, come into being pursuant to an agreement entered into with the Union of India to acquire or to take over the management, control and operation and maintenance of communications net work, manufacturing, research and development and other formalities being undertaken by the Department of Telecom Services and the Department of Telecom Operations of the Government of India with the assets and liabilities including the contractual liens and obligations on such terms and conditions as set out in the Agreement. In para

6 of the Memorandum of Understanding (MOU) lays down that the Administrative Department of the Government of India for BSNL would be the Department of Telecommunications. More significantly, the Memorandum of Association and the Articles of Association make it absolutely clear that BSNL is a corporate body completely under the control of the Government of India. In the interpretation clause (xvi) of the Articles of Association the expression 'Government' means 'Central Government' which in clause (xxiv), the expression President means the President of India. The President has virtually all powers as the BSNL has to function subject to the directions of the President and in certain matters it cannot proceed unless prior approval of the President is obtained. Articles 111, 129, 144 of the Articles of Association bear proof of this. Further, Article 145 vests in the President power to issue directives. The President may, from time to time, issue such directives or instruction as may be considered necessary in regard to the conduct of business and affairs of the Government and in the like manner may vary and annul any such direction or instruction. Article 146 provides that no action shall be taken by the Government in respect of any proposal or decision of the Board reserved for the approval of the President, until the approval to the same has been obtained. The President shall have the powers to modify such proposals on decision of the Board. The Government of India functions in the name of the President and the orders passed in the name of the President are authenticated as provided in the constitution of India. We therefore reach the same inescapable conclusion, as was reached was the learned Chandigarh Bench of the Tribunal in the case of Phuleshwar Prasad Singh Vs. Union of India and Others (OAs 1116 and 1128 of 2002, decided on 5.5.2003).

8. Now about the status of the staff belonging to different grades who were transferred to BSNL, Office Memorandum No.2-29/2000-Restg dated 30.9.2000 would be material. The Memorandum pertains to the setting up of BSNL, transfer of staff and the transitional arrangements. It provided as under:

> "(i) The establishment (offices, staff, employees and industrial workers) sanctioned for exchanges/offices, in various telecom circles, metro districts of Calcutta and Chennai, project circles, civil electrical and architectural wings, maintenance regions, specialised telecom, units, namely Data Networks, National Centre for Electronic witching, Technical and Development Circle, Quality Assurance Circle (except TEC) training institutions, other units like telecom factories, stores and electrification projects of DOT/DTS/DTO (belonging to various organised services and cadres given in Annexure A to this letter and posted in these circles/ offices/units will stand transferred to Bharat Sanchar Nigam Limited alongwith their posts on existing terms and conditions, on as is where is basis on deemed deputation, without deputation allowance, with effect from 1st October 2000 i.e. the date of taking over of telecom operations by the company from DTS and DTO. Bharat Sanchar Nigam Ltd will exercise control and supervision of staff working against these posts.
>
> (ii) The organisational structure of restructured Department of Telecommunications (DOT) is given at Annexure B (Tables I to IV giving posts/units to be retained in DOT and to be transferred to BSNL). Consequent to residual work of DTS and DTO being transferred to DOT, it will continue to do the work allocated under allocation of Business Rules. The officers and staff presently working in these posts will continue to work until further orders, in their existing posts under DOT and all other officers and staff will stand transferred alongwith their posts on existing terms and conditions on as is where is basis, on deemed deputation, without deputation allowance w.e.f. 1.10.2000 to the Company.
>
> iii)The Telecom Engineering Centre (TEC) Centre for Development of Telematics (C-DOT), Wireless Planning and Coordination (WPC) and Wireless Monitoring Organisation (WMO) will remain with the Government under the control of the department of telecommunications. An expert committee will be constituted for distribution of work of TEC between DOT and the company. Subsequently, as per the report of the expert committee, allocations of staff will be done accordingly, within 3 months from the date.

iv) Officers and staff belonging to various Central Secretariat Services (mentioned in annexure A) providing services to offices/units being transferred to the company will stand transferred alongwith their posts, on as is where is basis, on deemed deputation, without deputation allowance w.e.f. 1.10.2000 to the company on existing terms and conditions of service. Further orders in the matter would be decided by the DOT in consultation with DOPT which is the cadre controlling authority of CSS.

v) Officers and staff shall continue to be subject to all rules and regulations as are applicable to government servants, including the CCS(CCA) Rules till such time as they are absorbed finally by the company after they exercise their options. Their pay scales, salaries and allowances will continue to be governed by existing rules, regulations and orders.

vi) The management of Bharat Sanchar Nigam Limited shall have full powers and authority to effect transfers of all the staff at all levels working under it.

vii) Bharat Sanchar Nigam Limited will be competent to create costs as per norms adopted by it, however, it will seek prior approval of the government for appointments to higher level posts as per provisions of Article 144(1) of its Articles of Association.

viii) Instructions regarding appointing and disciplinary authorities for employees working on deemed deputation and disposal of pending disciplinary and vigilance cases will be issued separately.

ix) Regarding pension, gratuity and retiral benefits separate guidelines and order will be issued."

9. From the text, the following points emerge:

(a) That the establishment involving officers, staff, employees and industrial workers, including those belonging to organised services and cadres would stand transferred to BSNL alongwith their posts, on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance w.e.f. 1.10.2000.

(b) That the control and supervision of all such employees, would from that date, be exercised by BSNL. It would have full powers and authority to effect transfers. It can create posts as per norms, but for higher appointments it would seek prior approval of Government of India.

(c) Residual work of Departments of Telecom Services (DTS) and Telecom Operations (DTO) would now be reconstituted under an omnibus Department of Telecommunication (DOT) which would continue to do the work allocated under Alteration of Business Rules. Excepting such of the staff retained under DOT, all other would stand transferred as at (a) above to BSNL.

(d) Officers and staff transferred to BSNL would continue to be subjected to all rules as are applicable to Government servants including the CCS(CCA) Rules till their final absorption in the Company after they exercise their option.

(e) Separate instructions would be issued for handling disciplinary and vigilance cases and separate guidelines would be issued regarding pension, gratuity and other retiral benefits.

This should leave no one in doubt that w.e.f. 1.10.2000 until their absorption the staff and officers of the erstwhile DTO and DTS would continue to remain under the reconstituted DOT of Government of India and the power of control exercised by BSNL over these employees until they are finally absorbed, would be at the behest of Government of India as an interim measure. What clinches the issue is that such employees, until they are formally absorbed would be governed by all rules and regulations of the Government they were subjected to prior to their body transfer to BSNL. In a figurative way it can be said that while the body was transferred to BSNL, the soul continued to tick under the rubric of the Government (DOT). Although no further proof is required it may be reiterated by way of abundant caution that even though the staff and officers were transferred with their posts, meaning thereby that no post would be available to accommodate them if they wish to return unless they return carrying the posts with them, no formal orders terminating their lien were issued. Thus, the staff and officers transferred to BSNL w.e.f. 1.10.2000 on deemed deputation continued to remain holders of civil posts within meaning of Section 14 of the Administrative Tribunals Act atleast until their final absorption in BSNL. The applicants have gone to the extent of arguing that Section 14(6) read with Section 19 of the AT Act would be sufficient. A person aggrieved by any order pertaining to any matter within the

jurisdiction of the Tribunal may make an application to the Tribunal for the redressal of his grievance. Jurisdiction, according to this interpretation relates to 'matter' of grievance, and the 'order' pertaining to this matter. In the explanation appended to Sub-section 2 of Section 19 specifies that 'order' means an 'order' made: (a) by the Government of a local or other authority within the territory of India or under the control of the Government of India or by any Corporation (Society) owned or controlled by the Government or (b) by an officer, committee, or other body or agency of the government or a local or other authority or Corporation (or Society) referred to in clause (a). Thus, the applicant would argue that as long as the BSNL remains under the control of the Government, the mere fact of absorption would not in itself be sufficient to divest the Tribunal of an original jurisdiction vested in the Tribunal. This jurisdiction, even after the drastic change by way of law declared by the Apex Court in L.Chandra Kumar Vs. Union of India & Ors, remains supplementally exercisable under Articles 226/227of the Constitution of India. There can be no dispute about the fact that BSNL is a State instrumentality or a 'State' within the meaning of Article 12 of the Constitution of India and therefore it is amenable to the writ jurisdiction of the High Court as well as the jurisdiction of the Tribunal. Thus, the applicants do make a point when they argue that Sec.14(b) is enough to make BSNL amenable to the jurisdiction of the Tribunal irrespective of the status (absorbed or not) of the staff and officers transferred to BSNL, as long as BSNL remains a state instrumentality. But then that point would have to pass through the rulings in a host of cases holding diametrically opposite views and the only bit of crystalisation available to

us is that absorption would most certainly being about a change in material status under the law. We would not therefore go further into this wider spectrum of adjudication and draw the line at the point of absorption holding that until absorption, the staff and officers of BSNL who came on transfer on deemed deputation from the Government of India to the BSNL would remain holders of civil posts under that Government or holders of posts in connection with the affairs of an authority under the control of the Government, and their grievances arising from the orders of a State instrumentality as the BSNL issued until their dates of absorption, would be maintainable within the jurisdiction of the Tribunal under Section 14(b) of the AT Act.

10. The inevitable question that would arise is a temporal one, which must be handled conclusively. The question is as to the exact date of absorption. In none of the applications before us we have any indication as to the date of absorption. This date is material as this date according to us would determine upto which point the jurisdiction of this Tribunal would extend in conformity with our view in the matter. Apparently, 3rd/4th January 2001 there was an agreement signed with the three Staff Federations of Group C & D employees regarding options for absorption in BSNL. It was decided that four copies of the option form with one set of provisional terms and conditions was to be sent to each of the employees of Group-C and D by 15.1.2001 to complete the said process. In the absence of any pleadings in regard to the date of absorption in each individual case we hold that the parties have to produce the evidence of absorption and it has to be date-specific. We also hold that all such orders issued or action taken by BSNL upto that date which give rise to a grievance would be within

the jurisdiction of this Tribunal, while giving liberty to the parties to prove their claim with reference to their actual absorption orders. In case there are different dates of absorption for different employees, then the jurisdiction of this Tribunal would extent upto that date irrespective of category or class. If there is no such absorption order then such employees can seek redressal of their grievances by invoking the jurisdiction of the Tribunal in the normal course as they would continue to remain Government employees.

11. As far as officers in Group-A and B are concerned, we go by the principle laid down by the Punjab and Haryana High Court in CWP No.10948-CAT- Union of India Vs. S.P.Kohli in which the Hon'ble High Court had considered a host of decisions of the Apex Court and had come to conclusion that a contract of service being incapable of transfer unilaterally, a transfer of service from one employer to another could only be effected by a tripartite agreement among the employee, employer and the third party, the effect of which would be terminate his original contract of service and to make a new contract between employee and the third party. So long as the contract of service is not terminated, a new contract not made and the employee continues to be in the employment of the original employer. A view was taken in this line by the Chandigarh Bench of this Tribunal in Phuleshwar Prasad Singh Vs. Union of India and Others (OA 1116 and OA 1128 of 2992, decided on 5.5.2003) holding that all the employees and officers of Group A and B transferred to BSNL under OM dated 30.9.2000, shall not become the employees of BSNL unless they are finally absorbed in accordance with their options after delinking all their connections with the parent

Department. We are in respectful agreement with this view. Applications made by employees in these categories would therefore be entertainable if the matters raised arose upto their dates of absorption.

12. A serious doubt was raised by the respondents in regard to the power and authority of this Tribunal to get its orders enforced and implemented through the agency of BSNL. It was suggested that a Court or Tribunal shall not pass an order in vacuum being incapable of implementation. Here too, we are in agreement with the Chandigarh Bench in Phuleshwr Singh Vs. Union of India (supra). The relevant portion of the judgment is extracted below:

> "Since BSNL is a Corporation, fully owned or controlled by the Government of India, any order passed by it can be made the subject matter of challenge by an aggrieved person who falls within the ambit of the provisions of clauses (a) and (b) of Section 14(1) of the Act. The failure to implement the order passed against BSNL within the time specified by this Tribunal gives rise to cause of action for initiating contempt proceedings as contemplated under Section 17 of the Act. Therefore it is no gainsaying that the BSNL may venture to flout the order of this Tribunal merely on the ground that it is not amenable to the jurisdiction of this Tribunal in the absence of the notification under Section 14(2) of the Act. As said above, the notification under Section 14(2) deals with an entirely different subject matter i.e. it confers jurisdiction to entertain the grievances of the employees directly appointed, recruited or absorbed by/ in BSNL. Thus notification under Section 14(2) has nothing to do with the enforcement of orders against BSNL, which is a corporate body and a State within the meaning of Article 12 of the Constitution of India and thus always amenable to jurisdiction of this Tribunal."

13. Keeping in view the conclusions arrived at by the Division Benches and the Full Bench of the Tribunal and own

conclusion in their light, we arrive at the following broad principles to be used for testing the applicability of the Tribunal's jurisdiction.

i) Persons directly recruited and appointed by BSNL are employees of BSNL and in the absence of notification under Section 14(2) of the AT Act, this Tribunal would have no jurisdiction, power or authority to entertain and adjudicate disputes with regard to their service matters.

ii) Those in Groups C & D of the Government of India who were on transfer on deemed deputation to the BSNL and were absorbed by a specific order by exercising option can invoke the jurisdiction of the Tribunal under Section 14(1) if the matter arose from an action or order of the BSNL on any date from the date of transfer upto the date of absorption. When Section 14(1) is invoked, no separate notification under Section 14(2) would be awaited.

iii) Those in Groups A & B, who were transferred on deemed deputation and have not yet been absorbed by snapping their ties with the parent Department (DTS & DTO reconstituted as DOT) continue to be the employees of the Central Government and would continue to be covered under the jurisdiction of the Tribunal under Section 14(1) of the AT Act.

iv) Those in Groups A, B,C and D who have been absorbed, would remain outside the purview of the Tribunal's jurisdiction from the date of their absorption, unless they are already before the Tribunal relating to a matter arisen in the pre-absorption period.

v) Independent of notification under Section 14(2), the BSNL being a 'State' within the meaning of Art.12 of the Constitution of India, is amenable to the jurisdiction of this Tribunal which exercises the supplemental powers under Arts.226/227. Any order passed by BSNL in respect of service matters of the employees covered by Section 14(1) is subject to challenge before this Tribunal.

14. Keeping these principles in view we proceed to dispose of the issue of jurisdiction raised in the applications.

15. In OA 23/2002, the applicant is presently working as Senior Telecom Operating Assistant (Phones) under the respondents. He is an Ex-serviceman and re-employed under the

respondents as Telephone Operator in the scale of Rs/260-480 with effect from 16.8.78. The applicant joined Indian Navy on 18.1.65 as Probationary Store Assistant. He was confirmed as Store Assistant with effect from 8.7.67. On 18.1.75 he was discharged on the expiry of the engagement. The posts of Probationary Store Assistant, Stores Assistant and Leading Store Assistant are grouped as combatant Clerks in the Indian Navy. The probationary Store Assistant in the Navy is equivalent in Rank of Sepoy in Army. As per the OM dated 11.4.63 of the Ministry of Finance ex-combatant Clerks re-employed as Lower Division Clerks/Junior Clerks in Civil Posts are entitled to fixation of pay in re-employed post at a stage equivalent to the stage that would have been reached by putting in the civil posts, the number of completed years of service rendered in the posts in the Armed Forces. Such benefit was subsequently extended to the Time Scale Clerks in Post and Telegraph Department also. Accordingly the applicant's initial pay ought to have been fixed at Rs.340/- taking into account 10 years service as combatant Clerk in the Navy. But the respondents fixed his initial pay at Rs.269/- only. Aggrieved, the applicant filed OA 407/1996 which was disposed of by this Tribunal directing the applicant to file a representation. On filing representation the respondents rejected the request of the applicant. Applicant filed yet another O.A 19/1997 which was disposed of directing the Director General to consider the representation. Again the Director General rejected the request of the applicant. Thereafter, the applicant made representations to fix the pay of the applicant as per letter dated 10.9.65. The respondents issued an order fixing the pay of the applicant vide A5. Dissatisfied, the applicant filed an

OP No.3502/2001 and by judgment dated 23.11.2001 the Hon'ble High Court dismissed the O.P with liberty to the applicant to move this Tribunal. Now the applicant has filed this application for the following relief:

> i) call for the records leading to A5 and quash A5.
> ii) Direct the respondents to fix the pay of the applicant at a stage of Rs.340/- in the pay scale of Rs.260-480 with effect from 16.8.78 and grant all consequential benefits.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. In the circumstances of the case the jurisdiction of the Tribunal would be attracted. List for admission.

16. In O.A No.48/2002, the applicant is aggrieved by the reluctance on the part of the respondents in appointing him in the restructured cadre of Senior Telecom Operating Assistant (G) while appointing officials in the lower grade of T.O.A. The applicant had been working in the Telecom Department as Telecom Office Assistant since 15.12.82 in the Ernakulam Secondary Switching Area. The Department decided to introduce the restructured cadre of Senior Telecom Operating Assistant and Senior Assistant Superintendent, Telegraph Traffic for operating staff in the department. The applicant submitted his option in October 1996 to work in the Restructured cadre of Senior Telecom Operating Assistant. As the applicant does not fall in the walk-in-group, he had to appear in the qualifying screening test. His name was included in the eligibility list prepared in the Ernakulam SSA. The applicant got a transfer to Trichur SSA

where he joined on 23.2.98. When he joined at Trichur SSA, there was nobody in the eligibility list waiting for absorption in the restructured cadre of Senior TOA. After joining Trichur SSA he was sent for induction training and successfully completed on 18.6.98. However, the applicant was posted to officiate as Senior TOA purely on ad hoc and provisional basis w.e.f. 3.8.98 and was later reverted to the parent cadre of TOA. Applicant submitted a representation to the 2nd respondent on 19.1.2001. By the impugned order A-5, the respondents turned down the request of the applicant on the ground that he was a Rule 38 transferee and his name is not included in the eligibility list. Hence, the applicant has filed this application for the following relief:

> i) call for the records leading to the issue of A-5 and quash the same.
>
> ii) call for the records leading to the issue of A7 and A8 and quash them to the extent they allow the officials mentioned therein to continue to officiate as Senior TOA(G) till their confirmation in the basic cadre.
>
> iii) direct the respondents to give immediate absorption to the applicant in the restructured cadre of Senior TOA(G) with retrospective effect from 8.3.99 the date of officiating arrangement given to P.S Sudheer and 3 others vide A8 order or at least with effect from 16.8.99 the date of provisional appointment of Shri K.Unnikrishnan vide A7 order.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. Since the orders of reversion were issued prior to corporatisation, this Tribunal has jurisdiction under Section 14(1) of the AT Act to entertain the application. List for admission.

17. In O.A No.137/2002, the applicants are aggrieved by the orders issued by the 2nd respondent denying arrears of pay and allowances consequent on their retrospective promotion as Chief Telegraph Master and Chief Section Supervisor respectively. The first applicant commenced service as Telegraphist in P&T Department on 14.8.1960. He was promoted as Telegraph Master w.e.f. 30.11.1983 under TBOP scheme and became Senior Telegraph Master under BCR scheme. On introduction of promotion scheme for Grade-III staff to Grade-IV, the post of applicant redesignated as Chief Telegraph Master and he was placed in Grade-IV w.e.f. 1.7.1994. The 2nd applicant commenced service as Time Scale Clerk on 10.4.1965 in P&T Department. She was promoted as Section Supervisor w.e.f. 5.12.1978 and on completion of 26 years of service, was placed in Grade-III later designated as Senior Section Supervisor. On introduction of the promotion scheme she was placed in Grade-IV w.e.f. 1.1.1997. On the basis of an order of the Central Administrative Tribunal, Ahmedabad Bench in O.A No.623/1996, retrospective promotions were given to the applicants, notionally but no arrears were paid. Aggrieved, the applicants have made representations. By the impugned order A1 and A2 the applicants were informed that they are not entitled for monetary benefits on the basis of the order of the Tribunal in OA 623/1996. Hence, the applicants have filed this application for the following relief:

> i) to quash A1 and A2 and to declare that the applicants are eligible for pay and allowance from the date on which they are promoted to Grade-IV.
>
> ii)to direct the respondents to pay the arrears of the pay and allowances from the date they were promoted to Grade-IV consequently preponement of the promotion to Grade-IV.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. The applicants were promoted to Grade-IV in 1994 and 1997 and their claim arises prima facie from this time. The matter thus falls squarely in the jurisdiction of the Tribunal under Sec.14(1) of the AT Act. List for admission.

18. In O.A No.328/2002, the applicant while working as Sub Inspector. Punalur, was issued with a memorandum of charge dated 11.1.1993. The applicant denied the charges. An enquiry was ordered though the applicant filed petitions alleging bias against the Enquiry Officer. On the basis of the enquiry report, the 1st respondent passed a final order reducing the applicant's pay by 3 stages for a period of two years w.e.f. 1.12.1997. The applicant preferred an appeal. By A7 appellate order the punishment was confirmed. Thereafter the applicant field a revision petition. Applicant sought for a personal hearing. But the 3rd respondent confirmed the punishment and appellate order by A10 order. The applicant has pointed out several procedural irregularities in the entire proceedings. Hence the applicant has filed this application for the following relief:

i) To call for the records and quash A5, A7 and A10.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the matter.

Heard. As the matter relates to disciplinary proceedings initiated in 1993 and only revisional powers have been exercised by BSNL in 2001, the matter would fall substantively in the domain of the Central Government and hence the jurisdiction of the Tribunal under Section 14(1) can be invoked. List for admission.

19. In O.A No.354/2002, the applicant was a regular Mazdoor under the respondents is aggrieved by the discriminatory treatment meted out to him in the matter of his regularisation and consequent denial of pension. The applicant joined as Halwai Maker (Cook) during September 1981 in the Departmental Canteen attached to the Telephone Exchange at Trichur. He was approved as a selected casual Mazdoor of the Departmental Canteen vide A2 letter dated 23.6.1986. He was granted temporary status w.e.f. 1.10.1989 and appointed as a regular Mazdoor w.e.f. 1.4.96. The DOPT vide its letter dated 29.1.1992(A3) directed that all employees working in non-statutory Departmental Canteen are to be treated as regular Government servants w.e.f. 1.10.1991. In terms of DOPT's letter dated 16.11.1992 (A4), the entire period of service from 26.9.1983 is to be treated as qualifying for pensionary benefits. On representation, the applicant was granted the benefits of temporary status w.e.f. 1.10.89 and regular appointment w.e.f. 1.4.96. While so, one Mr.C.A.Mani, a junior to the applicant was given regular appointment from 1.10.91 (A5). Subsequently the applicant addressed series of representations and he filed OA 1013/2000 for regularising his service from 1.10.1991. That O.A was disposed of directing the

applicant to make a detailed representation. In obedience to the above direction, the applicant made a detailed representation A8 which was tuned down by the respondents by A9. Hence the applicant has filed this applicant for the following relief:

> i) To call for the records leading to the issue of A9 and quash the same.
>
> ii) To declare that the applicant is entitled to be treated as a regular government servant w.e.f. 1.10.91 and to declare further that he is entitled to reckon the whole of his service from 26.9.83 for the purpose of his pension and other retiral benefits and direct the respondents accordingly.
>
> iii) To direct the respondents to calculate and pay the applicant's retiral benefits including monthly pension in the light of the above declaration, upon the applicant's superannuation on 30.11.2000.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. The applicant is retired as a temporary status holder casual labourer on 30.11.2000. Evidently, he was transferred to BSNL as such and was not absorbed in/by BSNL. That being the case the jurisdiction of this Tribunal under Sec.14(1) of the AT Act can be invoked and therefore the case may be listed for admission.

20. In OA No.563/2002, the applicant was promoted and posted as Telecom Mechanic w.e.f. 31.1.98. As per order dated 24.9.98 issued from the office of the first respondent, the pay of the applicant was fixed at Rs.3200/- in the scale of Rs.3200-4900 and he was paid salary upto October, 1998. While so he was informed by the 1st respondent that his pay is reduced by one stage i.e. from 2780/- to 2720/- for a period of six months w.e.f. 1.7.98 on punishment and his posting order dated 24.8.98 was deferred until further orders. The applicant then approached this Tribunal in O.A 54/1999 which was disposed of directing the applicant to make a detailed representation for regularising his service from 21.8.98, to consider the representation and to disposed of the same within 2 months. According to the applicant, instead of disposing of the representation the respondents have cancelled the promotion to the applicant from 30.8.98 and ordered fresh promotion w.e.f. 1.1.99 (A2). Aggrieved, the applicant has filed this application for the following relief:

i) To quash A1 and A2

ii) To declare that the applicant is entitled to be considered as if he continued as Phone Mechanic w.e.f. 29.8.98 for pay and allowances and direct the respondents to pay him accordingly.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. The matter attracts the jurisdiction of the Tribunal under Section 14(1) of the AT Act. List for admission.

21. In O.A No.640/2002, the applicants are Senior Telecom Office Assistants working under the 3rd respondent. All the applicants belong to the Scheduled Caste. The 1st applicant entered service on 5.8.81, the 2nd applicant on 31.8.82, the 3rd applicant on 9.12.82 and the 4th applicant on 4.12.84. They had written the Departmental Competitive Examination for promotion as Junior Telecom Officers on 30.9.2000. Though they failed in the examination, had scored an aggregate of 36%, 33%, 32% and 31% respectively. The above examination was conducted as per the 1996 Recruitment Rules. Under the said rules, those employees who have passed High School/Matriculation examination or its equivalent and have competed 5 years' regular service are eligible to write the competitive examination. Subsequent amendments to the recruitment rules have prescribed higher qualifications of eligibility making the applicants herein ineligible to writ any test or examination in future to secure promotion in their service career. Only 5 SC/ST candidates came out successful in the examination conducted on 30.9.2000 and 1.10.2000. By A8 letter dated 4.5.81 of the P&T Board relaxed the standard of SC/ST candidates for qualifying examinations wherein it was directed that the cases of failed candidates should be reviewed on the basis of confidential reports, overall

performance, etc. with an objective "to decide whether SC/ST candidates who take departmental examinations are fit (at least 'not unfit') to hold the post for which they are competing rather than going only by their percentage of marks". Accordingly the 3rd respondent had selected 9 more candidates belonging to SC/ST category for promotion as JTOs. Still 19 more vacancies are lying vacant which are reserved for SC/ST. But the 3rd respondent has not taken any action to select the applicants for promotion to the cadre of JTOs. Hence the applicants have filed this application for the following relief:

> i) To declare that the applicants are entitled to relaxation of the minimum qualifying marks for pass in the Departmental Competitive Examination (15 quota), conducted on 30.9.2000 and 1.10.2000 to an aggregate of 30%.
>
> ii) To direct the respondents to select and post the applicants as JTOs in the unfilled backlog vacancies of JTOs in the SC/ST quota forthwith.
>
> iii) To direct the 3rd respondent to grant consequential benefits to the applicants.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. The respondents claim that the applicants have been absorbed in/by BSNL, though the date of absorption has not been specified. Keeping in view the date for completion of formalities relating to exercise of option, we find that the cause of action arose prior to absorption and hence jurisdiction of the Tribunal under Section 14(1) would be attracted. List for admission.

22. In O.A No.685/2002, the applicant was initially

appointed as Stenographer Grade-III and was posted in Bombay Telephones (later became MTNL) w.e.f. 13.4.1982. On request, the applicant was transferred to Kerala Telecom under Rule 38 of the P&T Manual Vol.IV. She joined in Thiruvananthapuram SSA on 19.7.1996. It is averred in the application that the applicant was promoted as Stenographer Gr.II in the pay scale of Rs.1400-2600 on regular basis w.e.f. 13.11.1991, that her basic pay at the time of transfer was Rs.1700/-, that the applicant continued to draw this basic pay till September 2001, that the respondents fixed her pay wrongly at Rs.4900/- w.e.f. 19.7.96, on her representation for protecting her pay the respondents gave A6 reply turning down her request. Aggrieved, the applicant has filed this application for the following relief:

> i) Set aside A4 and direct the respondents to refix the basic pay of the applicant protecting the basic pay at the time of her transfer from MTNL, Bombay to Kerala Telecom.
>
> ii) Direct the respondents to refix the pay of the applicant as on 19.7.96 as per the provisions contained in FR 22(I)A(2) read with FR 22(I)A(3).
>
> iii) Declare that A6 is not applicable to the applicant in this case.
>
> iv) Direct the respondents to pay the arrears to the applicant on account of the above refixation.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. The matter attracts the jurisdiction of the Tribunal under Section 14(1) of the AT Act. List for admission.

23. In O.A No.698/2002, the applicant was initially appointed as Stenographer Grade-III and was posted in Bombay

Telephones (later became MTNL) w.e.f. 7.5.80. On request, the applicant was transferred to Kerala Telecom under Rule 38 of the P&T Manual Vol.IV. She joined in Kannur SSA on 23.6.1995. It is averred in the application that the applicant was promoted as Stenographer Gr.II in the pay scale of Rs.1400-2600 on temporary basis w.e.f. 12.7.90, that her basic pay at the time of transfer was Rs.1750/-, that she continued to draw this basic pay upto October, 1995, that she was transferred to Calicut SSA from Kannur SSA on mutual transfer on 1.11.95, that the basic pay of the applicant was fixed wrong at Rs.1680/- and that on her representation for protecting her pay the respondents gave A7 reply turning down her request. Aggrieved, the applicant has filed this application for the following relief:

> i) Set aside A-4 and direct the respondents to refix the basic pay of the applicant protecting the basic pay at the time of her transfer from MTNL Bombay to Kerala Telecom.
>
> ii) Direct the respondents to refix the pay of the applicant as on 23.6.95 as per the provisions contained in FR22(I)A(2) read with FR 22(I)A(3).
>
> iii) Set aside A7 and delcare that A7 is not applicable to the applicant in this case.
>
> iv)Direct the respondents to pay the arrears to the applicant on account of the above refixation.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. The matter attracts the jurisdiction of the Tribunal under Section 14(1) of the AT Act. List for admission.

24. In OA No.150/2002, the applicant is working as Part-time Sweeper w.e.f. 1.11.1998 in the Department of Satellite Communications, Minicoy. He made a representation A9 for

regularising his service. Subsequently he filed O.A No.509/2001 which was disposed of by this Tribunal directing the 1st respondent to consider A-9 representation filed by the applicant and to pass appropriate orders. By A-12 impugned order the respondents have rejected the claim of the applicant. Hence the applicant has filed this application for the following relief:

> i) To declare that A12 order passed by the 1st respondent is highly illegal and improper in nature and to set aside the same.
>
> ii) To declare that the applicant is entitled for absorption as regular part-time Sweeper/Mazdoor under the respondents under whom the applicant is presently working.
>
> iii) To direct the respondents to pay the applicant wages of regular employees from the date on which the applicant has completed 240 days of service.
>
> iv) To direct that the service of the applicant should not be terminated and also not to appoint any other casual labourers in his place.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. We accept the contention of the respondents on the basis of evidence adduced, that the applicant is a Contract labourer and therefore would not fall in the scope of Section 14(1) of the AT Act for invoking the jurisdiction of this Tribunal. Dismissed for lack of jurisdiction.

25. In O.A No.225/2002, the applicants are approaching this Tribunal challenging A1 order of the respondents in denying employees of the BSNL from appearing in Junior Accounts Officer

Examinations. According to them, the post of Chief Accounts Officers are being filled up as per the Junior Accounts Officers' Service Recruitment Rules of 1977. A2 rules are applicable to the applicants. There are 2500 posts of JAOs in the Telecom Department existed upto 1999 and are still in force. By A3, BSNL promulgated the Recruitment Rules of JAOs on 31.8.2001. The case of the applicants is that A3 Special Rules can have only prospective application to the vacancies that have arisen after 31.8.2001. As far as 2500 vacancies existing prior to A3 Recruitment Rules dated 31.8.2001, the respondents are duty bound to follow A2 Special Rules. The Hon'ble Supreme Court has in the decision reported in AIR 1983 SC 852, categorically held that vacancies occurring prior to the amendment has to be filled by the unamended rules. Thus all the vacancies that arose prior to the issuance of A3 Special Rules ought to be filled up in accordance with A2 Special Rules. The applicants have filed this application for the following relief:

> i) To call for the records leading to the case and issue an order setting aside A1 order.
>
> ii) Direct the respondents to fill up the 2500 vacancies of JAO which arose prior to 31.8.2001 by following A2 rules.
>
> iii) Direct the respondents to permit all the employees of BSNL to participate in JAO Part I and Part II Examination strictly in accordance with the eligibility prescribed in Rule 9 of A2 Special Rules for those vacancies of JAO, which arose prior to 31.8.2001.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. The examinations were held under a different recruitment rule by the BSNL. BSNL is under no obligation to carry forward the vacancies in DTO or DTS even after the transitional arrangement has ceased. Hence the matter would not attract the jurisdiction of this Tribunal under Section 14(1) of the AT Act. The O.A dismissed for lack of jurisdiction.

26. In O.A No.210/2004, the applicants were initially engaged as Casual Labourers under the respondents. The first applicant was engaged in the year 1976. He was issued with casual mazdoor card as early as on 8.2.83 and was in the muster rolls. The second applicant was engaged from 18.2.77 intermittently and from 2.11.99 continuously. He was also issued with casual mazdoor card. According to the applicants, they are entitled to get temporary status as per Casual Labour (Grant of Temporary Status and Regularisation Scheme) dated 7.11.89. The casual labours engaged alongwith the applicants were granted temporary status and many of them were regularised. Since the applicants herein are also similarly circumstanced, they seek the similar treatment. Aggrieved, the applicants have filed this application for the following relief:

> i) Declare that applicants are entitled to be confirmed with temporary status as per the scheme from the date of their entitlement (the date they completed 240 days).
>
> ii) Direct the respondent to grant temporary status to the applicants from the date their entitlement and give all consequential benefits.
>
> iii) Quash and set aside A10 order.
>
> iv) Direct the respondents to treat the applicants deemed to have continued as casual labourers.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. No evidence to attract jurisdiction. Dismissed.

27. In O.A No.211/2004, the applicants were initially engaged as Casual Labourers under the respondents. The first applicant was engaged in the year 1986. The receipt showing the payment of charges given to him for attending the work has been produced as A1. The second applicant was also engaged from 1986. He was issued with a certificate by an official regarding casual engagement which is produced as A2. According to the applicants, they are entitled to get temporary status as per Casual Labour (Grant of Temporary Status and Regularisation Scheme) dated 7.11.89. The casual labourers engaged alongwith the applicants were granted temporary status and many of them were regularised. Since the applicants herein are also similarly circumstanced, they seek the similar treatment. Aggrieved, the applicants have filed this application for the following relief:

> i) Declare that applicants are entitled to be confirmed with temporary status as per the scheme from the date of their entitlement (the date they completed 240 days).
>
> ii) Direct the respondent to grant temporary status to the applicants from the date of their entitlement and to give all consequential benefits.
>
> iii) Quash and set aside A9 order.
>
> iv) Direct the respondents to treat the applicants deemed to have continued as casual labourers.

The preliminary question to be decided is whether the Central Administrative Tribunal has jurisdiction to entertain the application.

Heard. No proper evidence in regard to continuity of engagement under either DOT or the BSNL has been produced. Hence the application is dismissed as inadequate for invoking the jurisdiction of this Tribunal.

Sd/-
H.P. DAS
ADMINISTRATIVE MEMBER

Sd/-
K.V. SACHIDANANDAN
JUDICIAL MEMBER