

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH, ERNAKULAM**

ORIGINAL APPLICATION No. 241/2013

&

M.A.No.180/00937/2014 in O.A.No.241/2013

F.R.I.D.A.Y....., this the .../.../2015 day of JANUARY....., 2015

CORAM:

**HON'BLE Mr. U.SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE Ms. MINNIE MATHEW, ADMINISTRATIVE MEMBER**

1. M.Saseendran Pillai, (HR No.200803449),
s/o K.K.Madhavan Pillai, aged 47 yrs,
Kanjirathinkal Veedu, Thalikuzhy P.O.,
Pulimath (Via), Thiruvananthapuram-695 612,
presently posted at EWSD Exchange, Medical
College, Thiruvananthapuram-11.
2. Jeevan Babu, (HR No.200803789),
s/o K.N.Subhash Chandran, aged 44 yrs,
Guru Nilayam, Vavvakavu PO, Kollam-
690 528, presently posted at Telephone
Exchange, Vavvakavu, Karunagappally,
Kollam.
3. K.Raju (HR No.200803072), s/o Ravunni Nair,
aged 46 yrs, Thekkekalathumkandi Veedu,
B.C.Road Junction, Kozhikode-673 015,
presently posted at Telephone Exchange,
Nallalam, Kozhikodu.
4. Abdul Salam A.K. (HR-200803447),
s/o B.Abdul Karim, aged 46 yrs,
T.C.30/1871, Ananthapuri Lane,
Kannammoola, Pettah P.O.,
Thiruvananthapuram-690 524,
presently posted at NIB, Kaithamukku
Exchange, Thiruvananthapuram-23.
5. Vijayan V. (HR NO.200801810),
s/o Vasudevan.M, aged 47 yrs,
Sasi Mandiram, Thevalappuram P.O.,
Kottarakkara, Kollam-691507,
presently posted at Transmission
Projects, O/o Divisional Engineer,
Microwave Station, Pongumoodu,
Thiruvananthapuram.



6. Shaji Grigori K. (HR No.200803455),
 s/o Karlose G., aged 46 yrs., Prasanthi,
 Kalakkode P.O., Poothakulam, Kollam-
 691 302, presently posted at Transmission
 Maintenance, Central Telephone Exchange,
 Thiruvananthapuram.

7. Rajendran A. (HR No.200803790),
 s/o K.K.Chathukutty Nair, aged 49 yrs,
 Vajra, Klapana PO, Karunagapally,
 Kollam-690 525, presently posted at
 Telephone Exchange, Srayikkadu,
 O/o SDE (G), Manappally, Kollam-690 525.

Applicants

(By Advocate Mr.C.R.Suresh Kumar)

versus

1 The Chairman and Managing Director, BSNL
 Corporate Office, Janpath, New Delhi-110001.

2 The Chief General Manager, BSNL,
 Kerala Circle, Thiruvananthapuram -695 033.

3 The General Manager, PERS-IV ESTT/RECT,
 New Delhi-110 001.

4 The Deputy General Manager (Rectt.),
 O/o CGMT, BSNL, Trivandrum- 695 033. Respondents

(By Advocate Mr.Johnson Gomez, ACGSC)

The application having been heard on 11.12.2014, the Tribunal on
 16.01.2015, delivered the following:-

ORDER

HON'BLE Ms. MINNIE MATHEW, ADMINISTRATIVE MEMBER

The applicants are Ex-servicemen, who have been recruited to Bharat Sanchar Nigam Limited (BSNL) as Telecom Technical Assistants (TTAs). BSNL notified recruitment to the post of Junior Telecom Officer (JTO) from inservice candidates as per Annexure.A1 notification through Limited Internal Competitive Examination (LICE). As per the recruitment rules notified by BSNL, Group-C employees below 50 years of age having 7 years regular service in a post in Group-C and possessing the



stipulated essential qualifications are eligible for promotion as JTOs. The applicants' contention is that Ex-servicemen are entering the service at a later age of 40 years and above and consequently may not have the required years of service in BSNL. Yet, they have not been provided with any age relaxation or relaxation of the qualifying service period. They contend that the examination for the post of JTO is being conducted in various Circles adopting different norms for admitting Ex-servicemen for the examination. They contend that they have the necessary qualification equivalent to that of B.Tech and have 20 years experience in a similar field, whereas the respondents are insisting on 7 years service in BSNL itself. The 2nd respondent has not agreed to counting of previous experience of Ex-servicemen for promotion to the post of JTO and has taken a view not to allow Ex-Servicemen for LICE notified in A1. At the same time, the previous experience of Ex-servicemen is being considered for the post of Junior Accounts Officer (JAO), which is a post equivalent to that of JTO. It is also their submission that the forthcoming examination is being conducted after 13 years and denial of an opportunity to participate would result in them not getting any promotions in their entire career.

2. The respondents have contested the OA and filed reply statement stating that by virtue of age relaxation and quota reservation, the Ex-servicemen have already enjoyed two relaxations at the time of their first appointment. At the time of their appointment in BSNL in 2008, they were fully aware of the Recruitment Rules framed in 2001. Even before completing 7 years of service, they are trying to get undue advantage of promotion as JTO. Since JTO is a feeder cadre for all other

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executive cadres like Sub-Divisional Engineer, Divisional Engineer, Deputy General Manager, a very high technical skill is required. The minimum educational qualification and service requirement for a cadre are fixed after assessing the technical skill and level of knowledge required to handle the work. They have denied the contention of the applicants that different circles are taking different views regarding counting of past service of Ex-servicemen. The BSNL Corporate office letter No.5-11/2009-Per.IV (Pt), dated 8.3.2013, has clearly mentioned that the past service rendered by Ex-servicemen will not be counted for computing of qualifying service as per Recruitment Rule JTO 2001. Thus, all circles are taking the same view. The applicants are not eligible in terms of the Recruitment Rules to appear for the examination as they are not having the service of 7 years.

3. The respondents have also cited the judgments in O.A.No578/2010 of the Ernakulam Bench of CAT dated 6.1.2011 and O.A.No.644/2009 of the Hyderabad Bench of CAT, and the judgment of the Apex Court reported in 2011 (9) SCC 645 in support of their contention that the Court/Tribunals cannot interfere in matters like prescribing qualifications/standards for appointment/promotion to any particular post and that these are matters that lie exclusively within the domain of the executive.

4. Heard the learned counsel on both sides.

5. During the course of the arguments, the learned counsel for the applicants submitted that the applicants' case was squarely covered by

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the judgment of the Allahabad Bench of CAT dated 20.5.2014 in O.A.No.370/2013 and the judgment of the Hyderabad Bench of CAT dated 3.7.2014 in O.A.No.632/2013. Although the applicants have been permitted to appear for LICE in pursuance of this Tribunal's orders and although the applicants 1, 2, 4 and 5 have qualified in the LICE, the respondents have not deputed them for training or considered them for promotion inspite of their eligibility.

6. Per contra, the standing counsel for the respondents stated that the only issue to be considered is whether the applicants are qualified as per the recruitment rules. The applicants admittedly do not have 7 years of experience in BSNL. The essential qualifications and experience for Group-C employees has been very clearly laid down in Column No.12 of the recruitment rules. The applicants have not challenged the recruitment rules. Hence, the Tribunal has only to ensure whether the rules governing the recruitment are being correctly applied in respect of the applicants. He also argued that the relaxation of qualifications is not within the jurisdiction of the Courts. Further, he brought to the notice of the Tribunal that the order of the Allahabad Bench of CAT dated 20.5.2014 in O.A.No.370/2013, has been stayed by the Hon'ble High Court of Allahabad. Thus, when the recruitment rules have not been challenged and when Group-C has been well defined, there is no scope for interference by this Tribunal.

7. The two reliefs sought for in this OA are as below:

- a. The respondents may be directed to include the applicants in the forthcoming recruitment of JTO's by LDCE.

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b. The respondents may be directed to incorporate such provisions in the recruitment rules to avoid ambiguity among different circle/regional offices in the recruitment procedures wherein ex-servicemen are included, especially in case of age.

8. The prayer in the OA to include the applicants in the forthcoming examination for recruitment of JTOs has already been allowed, vide this Tribunal order passed in M.A.No.552/2013, dated 30.5.2013. Accordingly, the applicants have appeared for the LICE on 2.11.2013. When the results of the examination were allowed to be declared, the applicants 1,2, 4 and 5 have qualified in the said examination.

9. What remains to be adjudicated is the second prayer for a direction to the respondents to incorporate such provisions in the recruitment rules to avoid ambiguity among different Circles in respect of the recruitment procedures to be followed for Ex-servicemen.

10. This is a very broad prayer. Orders of other Circles, which have implemented the orders of the Allahabad and Hyderabad Tribunals, have not been produced by the applicants. There is no specific challenge to any of the provisions of the recruitment rules or Annexure.A6, which has clarified that the past service rendered by Ex-serviceman will not be counted for computing of qualifying service as per the Recruitment Rules 2001 of JTO's. The applicants, however, have cited the judgment of the Allahabad Bench of CAT dated 20.5.2014 in O.A.No.370/2013 and the judgment of the Hyderabad Bench of CAT dated 3.7.2014 in O.A.No.632/2013 in support of their contention that these Tribunals have



categorically held that the recruitment rules of JTO's does not provide 7 years experience in BSNL and clearly stipulates only 7 years regular service in a Group-C post. Hence, the aforesaid Tribunals have directed the respondents to count the past service rendered by the applicants therein in the Armed Forces in a Group-C post towards qualifying service for the purpose of promotion to JTO. Thus, although the applicants have not challenged the Recruitment Rules, they are claiming the benefit that has been extended to similarly placed persons by counting their past services in the Armed Forces in Group-C cadre so as to make them eligible for consideration for promotion to the post of JTO.

11. Having regard to the above facts and circumstances of the case, we dispose of this OA with a direction to the applicants to submit a comprehensive representation with copies of all the orders of the various Tribunals cited by them to the first respondent along with a copy of this order. In the event of such representation being submitted, the first respondent shall consider the same and pass appropriate orders ensuring that the applicants are not discriminated or placed at a disadvantageous position vis-a-vis their counter-parts in other Circles of BSNL in terms of consideration for promotion to the post of JTO.

12. The respondents shall dispose of the representation within a period of three months from the date of receipt of the same. It is also made clear that if other Circles of BSNL have implemented Court orders and counted the past services in the Armed Forces towards qualifying service, the applicants 1,2,4 and 5 herein, who have qualified in LICE for the post of JTO, shall be deputed for training in the next available slot

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with all consequential benefits.

13. The OA is disposed of as above.

14. In view ~~for~~ of the disposal of the main OA, the MA No.937/2014 is closed.

No order as to costs.

Mynethen
(MINNIE MATHEW)

ADMINISTRATIVE MEMBER

U. Sarathchandran
(U.SARATHCHANDRAN)
JUDICIAL MEMBER

(Dated, this the ...16th day of January....., 2015)

Dsn.