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OF C.A.T. (PROCEDURE) RULES

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos.1347/00, 1290/00, 1291/00, 1302/00, 1321/00, 1322/00, 1330/00, 1335/00, 8/2001, 108/01, 110/01, 111/01, 220/01, 221/01 and 311/01.

Wednesday this the 20th day of March 2002.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

O.A.1347/00:

1. A.Velu, Grade IV,
Chief Telegram Master CTO.,
Bharat Sanchar Nigam Ltd., Calicut.

2. PP Ayyappan, Grade IV,
Chief Telegram Master, CTO,
Bharat Sanchar Nigam Ltd.,
Palakkad.

3. V.Sugathan, Grade IV,
Chief Telegram Master, CTO,
Bharat Sanchar Nigam Ltd.,
Thiruvananthapuram. Applicant

(By Advocate Shri P.N.Purushothama Kaimal)

Vs.

1. Union of India represented by
Director General, Bharat Sanchar
Nigam Ltd., Ashoka Road,
Sanchar Bhavan, New Delhi.

2. The Chief General Manager,
Bharat Sanchar Nigam Ltd.,
Kerala Telecommunications,
Thiruvananthapuram-33.

3. Principal General Manager, Telecom,
Bharat Sanchar Nigam Ltd.,
Cochin-16. Respondents

(By Advocate Mr. C.Rajendran (SCGSC)

O.A.1290/00:

P.Ravindran, Chief Technical Officer,
Circle Telecom Training Centre,
Trivandrum. Applicant
(By Advocate Shri M.R.Rajendran Nair)

Vs.

1. Union of India, represented by
Secretary to Government of India,
Ministry of Communications.
New Delhi.

2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Trivandrum.

3. The General Manager,
Bharat Sanchar Nigam Limited,
Trivandrum Secondary Switching Area,
Trivandrum. Respondents

(By Advocate Ms. P.Vani, ACGSC)

O.A.1291/00:
K.Vidwakaran,
Chief Technical Officer.
Circle Telecom Training Centre,
Trivandrum. Applicant
(By Advocate Mr. MR Rajendran Nair)

Vs.

1. Union of India, represented by
Secretary to Government of India,
Ministry of Telecommunications,
New Delhi.

2. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Trivandrum.

3. The General Manager,
Bharat Sanchar Nigam Limited,
Trivandrum Secondary Switching Area,
Trivandrum. Respondents

(By Advocate Shri T.C.Krishna, ACGSC)

O.A.1302/00:
B.Savithri, W/o P.Rajappan,
Chief Section Supervisor,
Office of the Deputy General Manager (Urban),
Thiruvananthapuram-4. Applicant
(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. Deputy General Manager,
(Planning and Administration),
Telecom District,
Thiruvananthapuram-23.

2. General Manager, Telecom District,
Thiruvananthapuram -23.

3. Director General,
Telecom Department, New Delhi.

4. Bharat Sanchar Nigam Limited,
represented by its Chairman, New Delhi.

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

(By Advocate Shri C.Rajendran, SCGSC)

O.A.1321/00:

A.Vanajakshy, W/o Viswambharan,
Chief Telephone Supervisor,
Office of the Divisional Engineer,
(Trunks and Special Service),
Thiruvananthapuram. Applicant

(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. Deputy Chief General Manager,
(Planning and Administration),
Telecom District, B.S.N.L.,
Thiruvananthapuram-23.

2. General Manager, Telecom District,
B.S.N.L., Thiruvananthapuram.

3. Director General,
Telecom Department, New Delhi.

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

5. Bharat Sanchar Nigam Ltd., represented by
its Chairman, New Delhi. Respondents

(By Advocate Shri R.Madanan Pillai, ACGSC)

O.A.1322/00:

1. TA Narayanan, Grade IV, CTO,
Bharat Sanchar Nigam Ltd., Aluva.

2. Smt.Rosamma Paulose, Grade IV, CTO,
Bharat Sanchar Nigam Ltd.,
Cochin-16. Applicants

(By Advocate Shri P.N.Purushothama Kaimal)

Vs.

1. Union of India represented by
Director General,
Bharat Sanchar Nigam Ltd.,
Ashoka Road, Sanchar Bhavan,
New Delhi.

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

3. Principal General Manager, Telecom,
Bharat Sanchar Nigam Ltd.,
Cochin-16. Respondents

(By Advocate Shri K.R.Rajkumar, ACGSC)

O.A.1330/2000:

M.Suseela, D/o K.Padmanabhan Kani,
Chief Telephone Supervisor,
Office of the Sub Divisional Engineer,
Trunks, Central Telephone Exchange,
Thiruvananthapuram. Applicant

(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. Deputy General Manager,
(Planning and Administration),
B.S.N.L., Telecom District,
Thiruvananthapuram-23.

2. General Manager, Telecomn District,
B.S.N.L., Thiruvananthapuram-23.

3. Director General, Telecom Department,
B.S.N.L., New Delhi.

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

5. Bharat Sanchar Nigam Ltd., represented
by its Chairman,
New Delhi. Respondents

(By Advocate Shri C.Rajendran, SCGSC)

O.A.1335/00:

K.Omana, W/o Sasidharan,
Chief Telephone Supervisor,
Office of the Sub Divisional Engineer,
Kaithamukku, Thiruvananthapuram. Applicant

(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. Deputy General Manager,
(Planning and Administration),
B.S.N.L., Telecom District,
Thiruvananthapuram.

2. General Manager, Telecom District,
B.S.N.L., Thiruvananthapuram -23.

3. Director General, Telecom Department,
B.S.N.L., New Delhi.

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

5. Bharat Sanchar Nigam Ltd., represented by
its Chairman, New Delhi. Respondents

(By Advocate Shri C.Rajendran, SCGSC)

O.A.8/2001:

M.N.Damodaran,
Chief Telephone Supervisor,
Trunk Exchange, Kottayam. Applicant
(By Advocate Shri M.R.Rajendran Nair)

Vs.

1. Union of India, represented by its
Secretary to Government of India,
Ministry of Comunications, New Delhi.

2. Bharat Sanchar Nigam Ltd., represented by
the Chief General Manager, Kerala Circle,
Trivandrum.

3. The General Manager, Telecom District,
Kottayam-686 001. Respondents

(By Advocate Shri T.C.Krishna, ACGSC)

O.A. 108/01:

K.Madhavan,
Chief Section Supervisor,
Office of the General Manager,
Telecom, Kollam. Applicant
(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. General Manager,
Telecom District,
Bharat Sanchar Nigam Ltd., Kollam.

2. Director General, Telecom District, Bharat Sanchar Nigam Ltd., New Delhi.

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

4. Bharat Sanchar Nigam Ltd., represented by its Chairman, New Delhi.

5. P.Mohammed Basheer, Senior Telecom Office Assistant (G), Office of the General Manager, Telecom, Bharat Sanchar Nigam Ltd., Kollam. Respondents

(By Advocate Shri P.Vijayakumar, ACGSC (R.1-4))

O.A.110/01:

K.K.Lakshmi, W/o Gangadharan, Chief Telephone Supervisor, Auto Exchange, Kottarakara. Applicant

(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. General Manager, Telecom District, Bharat Sanchar Nigam Ltd., Kollam.

2. Director General, Bharat Sanchar Nigam Ltd., New Delhi.

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

4. Bharat Sanchar Nigam Ltd., represented by its Chairman, New Delhi.

5. P.K.Omana, Senior Telecom Office Assistant (P), Office of the Sub Divisional Engineer (TD & MDF), Kollam. Respondents

(By Advocate Shri M.R.Suresh, ACGSC (R.1-4)

O.A.111/01:

S.Karunakaran, Chief Telephone Supervisor, Office of the Divisional Engineer, Phones (Internal), Kottarakara. Applicant

(By Advocate Shri Sasidharan Chempazhanthiyil)

Vs.

1. General Manager, Telecom District,
Bharat Sanchar Nigam Ltd., Kollam.

2. Director General,
Bharat Sanchar Nigam Ltd. New Delhi.

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

4. Bharat Sanchar Nigam Ltd. represented by
its Chairman, New Delhi.

5. K.Rajan, Senior Telecom Office Assistant(P),
Office of the Sub Divisional Engineer
(TD & MDF), Kollam. Respondents

(By Advocate C.Rajendran, SCGSC (R.1-4)

O.A.220/01:

1. PK Krishnan, Grade IV,
Senior Telephone Supervisor,
Bharat Sanchar Nigam Ltd., Muttom.

2. K.A.Velayudhan, Grade IV,
Senior Telephone Supervisor,
Bharat Sanchar Nigam Ltd.,
Puthencruz. Applicant

(By Advocate Shri PN Purushothama Kaimal)

Vs.

1. Union of India represented by Director General,
Bharat Sanchar Nigam Ltd.,
Ashoka Road, Sanchar Bhavan, New Delhi.

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

3. Principal General Manager, Telecom,
Bharat Sanchar Nigam Ltd.,
Cochin-16. Respondents

(By Advocate Shri C.Rajendran, SCGSC)

O.A.221/01:

1. P.K.Sekharan, Grade IV,
Chief Technical Supervisor,
Bharat Sanchar Nigam Ltd., Vyttila.

2. K.M.Chandran, Grade IV,
Chief Technical Supervisor,
Bharat Sanchar Nigam Ltd.,
Vyttila. Applicants

(By Advocate Shri P.N.Purushothama Kaimal)

Vs.

1. Union of India represented by Director General, Bhart Sanchar Nigam Limited, Ashoka Road, Sanchar Bhavan, New Delhi.

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

3. Principal General Manager, Telecom, Bharat Sanchar Nigam Ltd., Cochin-16. Respondents

(By Advocate Mrs. Chitra, ACGSC)

O.A.311/01:

TV Nalini
Chief Telegram Master, Grade IV,
C.T.O., Kochi-16. Applicant

(By Advocate Shri P.N.Purushothama Kaimal)

Vs.

1. Union of India represented by Director General, Bharat Sanchar Nigam Ltd., Ashoka Road, Sanchar Bhavan, New Delhi.

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

3. Principal General Manager, Telecom, Bharat Sanchar Nigam Ltd., Cochin-16. Respondents

(By Advocate Snri C.B.Sreekumar, ACGSC)

The application having been heard on 20th March 2002 the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The facts and the question of law involved in all these cases are similar and therefore, these cases are being heard and disposed of by this common order.

2. All these cases are the fall out of the order of the Central Administrative Tribunal Ahmedabad Bench in O.A.523/96 and the letter dated 5.9.97 issued by the Chief General Manager, Telecom, Kerala Circle on the basis of the above said ruling of the Ahmedabad Bench. The applicants in all these cases belonging to SC/STs who had been promoted to Grade IV of BCR. have been by the impugned order in these cases reverted on the basis of the ruling of the Ahmedabad Bench of the Tribunal as aforesaid. The applicants challenge these orders in these applications on similar grounds. The facts in the individual applications are stated as under:

O.A.1347/2000:

3. The applicants 1 and 2 were promoted w.e.f. 30.11.90 to Grade IV of BCR and the applicant No.2 was promoted w.e.f. 1.7.92. While they were continuing thus on the promoted post they were served with the impugned orders A4 and A5 reverting them to BCR Grade III on a review of the promotion to Grade IV of BCR conducted as per Department of Telicommunication's (DOT for short) letter dated 8.9.99. Aggrieved by this, the applicants have filed this application seeking to set aside A-4 to the extent it affects the applicants 1 and 2 and A5 as it affects the

applicant No.3 declaring that the applicants have every right to continue in the post of Grade IV of BCR.

4. The respondents in their reply statement contend that the Ahmedabad Bench of the Tribunal in O.A.623/96 dated 11.4.97 seek to justify the impugned order on the ground that Ahmedabad Bench has held that the principles of reservation is not applicable for placement in the Grade IV BCR as the same is not a promotion and that the impugned order have been issued in terms of DOT's letter implementing the directions of the Tribunal. It has also been contended that the High Court of Gujarat has upheld the judgement of the Ahmedabad Bench.

O.A.1290/00

5. The applicant, a member of the Scheduled Caste community was promoted to Grade IV of BCR w.e.f. 1.1.95 by giving the benefit of reservation. Aggrieved by the impugned order dated 4.12.00 reverting the applicant from GnadeIV to Grade III on a review of the promotions to Grade IV pursuant to the DOT's letter dated 22.8.97 on the basis of the judgement of the Ahmedbad Bench of the Tribunal in O.A.No.623/96, the applicant has filed this application seeking to set aside A-1 dated 4.12.2000 and R-1 letter dated 22.8.97 on the basis of which the impugned order A-1 was issued.

6. The respondents in their reply statement seek to justify the impugned action on the ground that the placement in the higher scale of BCR does not amount to promotion calling for observance of the worst system as has been held by the Ahmedabad

Bench of the Tribunal in O.A.623/96 which has been upheld by the Hon'ble High Court of Gujarat and as the Hon'ble High Court of Kerala has also in the ruling reported in N.G.Prabhu and another Vs. The Hon'ble Chief Justice and others (1973 Lab IC 1399) held that placement in a higher scale does not amount to promotion warranting reservation for that. There is no merit in the claim of the applicant for placement in Grade IV of BCR promotion which calls for adjudication.

O.A.1291/2000:

7. The applicant a member of the Scheduled Caste community was promoted to Grade IV of BCR w.e.f. 30.11.90 giving the benefit of reservation. He is aggrieved by the impugned order dated 4.12.2000 (A1) by which he has been reverted. His representation against the reversion was rejected by A-7 order placing reliance on the letter of the DOT dated 8.8.97 which was issued in compliance with the judgement of the Ahmedabad Bench of the the Central Administrative Tribunal. The applicant has therefore, filed this application challenging A-1 to the extent it affects him as also the A-7 order.

8. The respondents in their reply statement seek to justify the impugned action on the ground that the placement in the Grade IV of BCR does not amount to promotion as has been held by the Ahmedabad Bench of CAT in O.A.623/96 which has been upheld by the Hon'ble High Court of Gujarat. It has also been contended that a Full Bench of the Hon'ble High Court of Kerala in N.G.Prabhu Vs.

Chief Justice (1973 Lab IC 1399) has also observed that upgradation to a higher pay scale does not amount to promotion. The respondents contend that the applicant is not entitled to the reliefs sought.

O.A.1302/00:

9. The applicant who belongs to Scheduled Tribe community was promoted to Grade IV of BCR w.e.f. 1.1.95 giving her the benefits of reservation. While so, the impugned order dated 4.12.2000 was issued reverting her to Grade III. Aggrieved by that the applicant has filed this application seeking to set aside the A-5 order to the extent it affects her declaring that she is entitled to continue in Grade IV under the 2nd respondent and for a direction to take action accordingly.

10. The respondents in their reply statement seek to justify the impugned action on the ground that the placement in Grade IV not being a promotion as has been held by the Ahmedabad Bench in O.A.623/96 which has been upheld by the Hon'ble High court of Gujarat, the action has been rightly taken.

O.A.1321/2000:

11. The applicant belongs to Scheduled Tribe community was promoted to BCR Grade IV w.e.f. 1.1.92 giving her the benefit of reservation. She is aggrieved by the impugned order dated 4.12.2000 reverting her to Grade III. The applicant has, therefore, filed this application seeking to set aside the

impugned order to the extent it relates to the applicant and for a declaration that she is entitled to be continued in Grade IV and for a direction to the respondents to take action accordingly.

12. The respondents seek to justify the impugned order on the ground that the placement of the applicant in Grade IV not being a promotion, she was not entitled to get the benefit of reservation, that the point has been clarified by the Ahmedabad Bench of the Tribunal in O.A.623/96 which has been upheld by the Hon'ble High Court of Gujarat and that the impugned order is unexceptional.

O.A.1322/2000:

13. The applicants 1 & 2 belonging to Scheduled Tribe community were promoted w.e.f. 1.1.93 and 1.4.95 respectively giving the benefit of reservation . have filed this application challenging the orders dated 23.10.2000 (A5), A6 and A7 order dated 27.11.2000 by which they were reverted to Grade III from Grade IV. They have filed this application challenging these orders and for a declaration that they are entitled to continue in the post of Grade-IV BCR.

14 In the reply statement the respondents seek to justify the impugned orders on the ground that the placement of the applicants in Grade IV BCR are not being a promotion, the roster for reservation was not applicable as has been held by the

Ahmedabad Bench of the CAT in O.A.623/96 and therefore, the impugned action taken in implementation of the above judgement cannot be faulted.

O.A.1330/2000:

15. The applicant a member of the Scheduled Tribe was promoted to Grade IV BCR w.e.f.1.1.92. Aggrieved by the order dated 4/12/2000 by which she has been reverted from the post of Grade IV of BCR to Grade III, she has filed this application seeking to set aside the impugned order A-5 declaring that she is entitled to be continued in Grade IV and to direct the respondents to take action accordingly.

16. The respondents in their reply statement, contend that the placement of the applicant in Grade IV was not a promotion and therefore, the principles of reservation was wrongly applied in view of the judgement of the Ahmedabad Bench of the CAT in O.A.623/96 which have been upheld by the Gujarat High Court, the action has been rightly taken. It has been further contended that the above action is supported by the ruling of the Full Bench of the Hon'ble High Court of Kerala in N.G.Prabhu and another Vs. Hon'ble Chief Justice and others (1973 Lab IC 1399).

O.A.1335/00

17. The applicant a member of the S.T. was granted Grade IV (Chief Telephone Supervisor) promotion w.e.f. 1.7.95 by order dated 29.3.96 giving the benefit of reservation.Purportedly in implementation of the judgment of the Ahmedabad Bench of the

C.A.T. in O.A.623/96 , the applicant was on notice to show cause why she should not be reverted as she was not eligible for promotion to Grade IV w.e.f. 1.7.95 submitted her explanation against the proposal and also made a representation A5 to the 4th respondent. However referring to letter dated 8.9.99(A3) of the of the DOT the impugned order dated 4.12.2000 has been issued by the second respondent reverting the applicant to Grade III. Aggrieved by this, the applicant has filed the O.A. seeking to quash Annexure A9 to the extent it affects her, declaring that the applicant is entitled to continue in Grade IV and for necessary direction to the respondents.

18. The respondents seek to justify the impugned orders on the basis of the decision of the Ahmedabad Bench of the Central Administrative Tribunal in O.A.623/96 which has been upheld by the Gujarat High Court.

O.A.8/2001

19. The applicant who joined the service on 25.1.1966 was granted TBOP and BCR and was later promoted to Grade IV of BCR on 1.1.1994. On the basis of the instructions contained in DOT letter dated 8.9.99 in purported implementation of the directions contained in the order of the Ahmedabad Bench of the Central **Administrative Tribunal in O.A. 623/96 which was confirmed by** the High Court of Gujarat, the third respondent issued Annexure A1 dated 18.12.2000 reverting the applicant from Grade IV to Grade III. Aggrieved by that the applicant has filed this

application seeking to quash Annexure A1 to the extent it affects him and for a declaration that he is entitled to continue as Grade IV and for direction to the respondents to allow him to continue as Grade IV.

20. The respondents seek to justify the impugned action on the ground that the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96 have held that the roster on reservation would not apply in the matter of placement from BCR Gr.III to 0% of BCR Gr.IV.

O.A.108/2001

21. The applicant belonging to Scheduled Caste community was granted BCR promotion to Grade IV with effect from 1.1.1996 by order dated 29.12.1995 (Annexure A1). On the basis of the judgment of the Central Administrative Tribunal, Ahmedabad Bench in O.A.623/96 with M.A.No.660/96 declaring that reservation is not applicable to SC/ST candidates for promotion to Grade IV BCR, the first respondent issued a notice dated 31.8.2000 (Annexure A2) proposing to revert him to Grade III .The applicant submitted a representation . In reply to his representation he has received the memo dated 11.1.2001 informing him that a favourable decision could not be taken on his representation as no revised instruction had been received from the DOT. He was also served with an order dated 11.1.2001 (Annexure A5) by which he was

reverted to Grade III with immediate effect. Aggrieved the applicant has filed this application challenging the impugned orders.

22. The respondents have filed a reply statement seeking to justify the impugned orders relying on the order of the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96.

O.A.110/2001

23. The applicant a member of Scheduled Tribe was promoted to Grade IV of the BCR with effect from 1.1.1994 by order dated 24.10.1994(Annexure A1) giving her the benefit of reservation. Pursuant to the orders of the DOT dated 22.8.1997 and 8.9.1999 on the basis of the judgment of the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96 a show-cause notice (Annexure A2) was served on the applicant proposing to revert her to Grade III of the BCR. The applicant submitted her representation opposing the proposed action. She was served with a memo dated 11.1.2001 of the first respondent informing her that a favourable decision on her representation would not be taken as also the order of the same date reverting her to Grade III. Aggrieved by that the applicant has filed this application seeking to set aside the impugned orders.

24. The respondents seek to justify the impugned orders placing reliance on the judgment of the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96.

O.A.111/2001

25. The applicant belonging to Scheduled Caste was promoted to Grade IV of BCR with effect from 1.7.1993 by order dated 24.10.1994(Annexure A1) giving him the benefit of reservation. While so, the applicant was served with a notice Annexure A2 proposing to revert him to Grade III in purported implementation of the judgment of the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96 . The applicant submitted his reply Annexure A3 opposing the proposed action. However the first respondent has issued the impugned order dated 11.1.2001 reverting the applicant to Grade III . Aggrieved the applicant has filed this application seeking to set aside the impugned order Annexure A4.

26. The respondents seek to justify the impugned action on the ground that the reservation for Scheduled Caste/Scheduled Tribe is not applicable to Grade IV promotion as has been held by the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96.

O.A. 220/2001

27. The first applicant was promoted to Grade IV BCR from 30.11.90(Annexure A) and the second applicant was promoted to Grade IV BCR with effect from 1.7.1994 by Annexure A2 order. They were promoted applying the reservation roster. Aggrieved by the order dated 31.1.2001 (Annexure A5) by which in purported

implementation of the judgment of the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96 they were reverted to Grade IV. They have filed this application seeking to set aside the impugned orders.

28. The respondents seek to justify the impugned action on the ground that the Ahmedabad Bench of the Central Administrative Tribunal has held that roster for reservation does not apply for placement in BCR Grade IV.

O.A.221/2001

29. The first applicant was promoted to Grade IV BCR with effect from 1.1.92 by Annexure A1 order and the second applicant was promoted to Grade IV with effect from 1.7.1994 by Annexure A2 order. Aggrieved by the order dated 22.12.2000 of the third respondent reverting them to Grade III in purported implementation of the judgment of the Central Administrative Tribunal, Ahmedabad Bench in O.A. 623/96 , the applicants have filed this application seeking to set aside the impugned order.

30. The respondents in the reply statement seek to justify the impugned action on the basis of the judgment of the Central Administrative Tribunal, Ahmedabad Bench in O.A. 623/96.

O.A.311/2001

31. The applicant belonging to Scheduled Caste was placed in the Grade IV of the BCR with effect from 30.11.90 by order dated 16.8.91 (Annexure A1) giving her the benefit of reservation.

Aggrieved by the impugned order dated 27.11.2000 (Annexure A4) by which she is reverted to Grade III on the basis of the letter of the DOT dated 8.9.99 , the applicant has filed this application seeking to set aside the impugned orders.

32. The respondents seek to justify the impugned order on the ground that the Ahmedabad Bench of the Central Administrative Tribunal in O.A. 623/96 has held that the reservation roster does not apply to Grade IV promotion.

33. We have perused the pleadings in all these cases and have heard the learned counsel on either side. The short question that calls for adjudication in these cases is whether the elevation to Grade IV of BCR is a promotion which attracts the roster communal reservation. The Ahmedabad Bench of the Tribunal in O.A.623/96 held that the elevation to Grade IV of BCR not being an appointment to a higher post, is not a promotion and therefore, the principle of reservation is inapplicable. The judgement of the Ahmedabad Bench of the Tribunal was upheld by the Hon'ble High Court of Gujarat in OP.No.685/99. As the Bangalore Bench of the Tribunal did not agree with the view taken by the Ahmedabad Bench of CAT, the issue was referred to a Full Bench of the Tribunal. The Full Bench of the Tribunal in M.L.Rajaram Naik and Others Vs. The Additional Director, CGHS Bangalore and others and in other cases considered the issues referred. One of the issues referred to the Larger Bench was:

> "Whether placement in 10 per cent BCR (Grade IV) as per the scheme dated 16.10.90 on the basis of seniority

in basic grade amounts to promotion and if so, whether reservation for scheduled castes and scheduled tribes in those BCR Grade-IV posts is not applicable?"

34. The Full Bench answered to these points in the affirmative. While reaching that conclusion the Full Bench considered the observations of the Hon'ble Supreme Court in various decisions on the issue. The Full Bench took note of the observations of the Apex Court in State of Rajasthan Vs. Fateh Chand Soni (1999) 1 SCC 562), the Apex Court observed as follows:

> "The High Court, in our opinion, was not right in holding that promotion can only be to a higher post in the service and appointment to a higher scale of an officer holding the same post does not constitute promotion. In the literal sense the word 'promote' means "to advance to a higher position, grade, or honour". So also 'promotion' means "advancement or preferment in honour, dignity, rank, or grade", (See Webster's Comprehensive Dictionary, International Edn., P.1009) 'Promotion' thus not only covers advancement to higher position or rank but also implies advancement to a higher grade. In service law also the expression promotion has been understood in the wider sense and it has been held that promotion can be either to a higher pay scale or to a higher post."

35. The Full Bench also noted that the Constitution Bench of the Apex Court in Ramprasad vs.D .K.Vijay and others(AIR 1999 SC 3563) referred to review the principle laid down in Fateh Chand Soni's case. It was on the basis of the above authorities that the Full Bench held that the placement in 10% BCR (Grade IV) as per the scheme dated 16.10. 1990 on the basis of seniority in basic grade amounts to promotion and therefore sreservation for SC/ST is applicable to such promotion . We are of the view that the Full Bench has settled the issue to be followed by all the Benches of the Central Administrative Tribunal.

36. The learned counsel of the respondents referred us to the ruling of a Full Bench of the Kerala High Court titled N.G.Prabhu

and another vs.The Hon'ble Chief Justice and others, reported in 1973 Lab I.C. 1399. The Hon'ble High Court in that case was considering whether nomination of a Senior Stenographer to the Selection Grade was a promotion in terms of definition of promotion in the relevant rule. The facts of this case are entirely different and the rules considered are also different. Therefore, the decision of the Larger Bench of the Tribunal following the decision of the Apex Court in Fateh Chand Soni's case that roster for reservation has to be applied for placement in the Grade IV BCR is bound to be followed by all the Benches of the Tribunal.

37. In the light of the above discussion, we find that the impugned orders in all these cases are unsustainable. We therefore, allow these applications setting aside the impugned orders to the extent they affect the applicants declaring that the applicants were entitled to continue in the Grade IV of BCR on the basis of their promotions giving them the benefit of reservation.

38. In O.A.1291/00 as the applicant has since been retired , the respondents are directed to treat that the applicant to have continued in the Grade IV BCR and to make available to him the arrears of pay and allowances and enhanced pensionary benefits.

39. In O.A.Nos.1290/00 and 1291/00 as there was no interim order of stay, the applicant was reverted. Respondents are therefore directed to reinstate the applicant in the Grade IV BCR as if the impugned order did not take effect and make available to him the arrears of pay and allowances.

40. The above directions shall be complied with within a period of two months from the date of receipt of a copy of this order. No costs.

Dated the 20th March, 2002.

Sd/-
T.N.T.NAYAR
ADMINISTRATIVE MEMBER

Sd/-
A.V.HARIDASAN
VICE CHAIRMAN

rv/njj

A P P E N D I X

O.A.1347/2000

Applicants' Annexures :

1. A-1: True photocopy of the order No.TFC/ST-8-6-BCR/90 promoting 1st and 2nd applicants to the post of Grade IV, BCR dated 25.2.91.

2. A-2: True photocopy of the order No.STA/30-25/Rlgs/94 issued from the office of the 2nd respondent dated 5.9.97.

3. A-3: True photocopy of the order No. 22-6/94-TE.II issued by 1st respondent dated 13.2.97.

4. A-4: True photocopy of the reversion order No.TFC/St.8-6/BCR/2000 issued to 1st and 2nd applicants from Office of the 2nd respondent dated 23.10.2000.

5. A-5: True photocopy of the reversion order No.ST.737/BCR/10%/2000/3 issued to 3rd applicant from Office of the 2nd respondent dated 28.8.2000.

Respondents' Annexures :

1. R-2A: Photocopy of the order in O.A.623/96 dated 11.4.1997 of the CAT, Ahmedabad Bench.

2. R-2B: Photo copy of the order No.22-6/94-TE.II dated 13.12.1995 of the Ministry of Communications, New Delhi.

O.A. 1290/2000

Applicant's Annexures:

1. A-1: True copy of the Order NO.ST.BCR/10%/Pt./14 dated 4.12.2000 issued by the 3rd respondent to the applicant.

2. A-2: True copy of the Memo No.ST-1030/BCR/Tech/III/4 dated 25.11.98 issued by the Deputy General Manager(Admn), Office of the General Manager, Telecom District, Trivandrum to the applicant.

3. A-3: True copy of the Memo No.ST 654/Tech/10%/16 dated 8.8.2000 issued by the DGM (Admn), Office of the 3rd respondent to the applicant.

4. A-4: True copy of the representation dated 4.9.2000 submitted by the applicant to the 3rd respondent.

5. A-5: True copy of the representation dated 4.9.2000 submitted by the applicant to the 1st respondent.

6. A-6: True copy of the Letter No.ST-BCR/10%/Pt/11 dated 4.12.2000 issued by the DGM (Plg& Amn.), Telecom District, Trivandrum-23 to the applicant.

Respondents' Annexures:

1. R-1: True copy of letter No.22-6/94-TE-II dated 22.8.97 issued by the DOT.

2. R-2: True copy of Judgement in O.A No.623/96 by Abamadabad C.A.T.

3. R-3: True copy of Judgement in 1987(4) ATC 3.3 by C.A.T. Jabalpur Bench.

4. R-4: True copy of the Judgement in 1973 Lab IC 1399 by Kerala High Court.

5 R-5: True copy of the letter No.22-6/94-TE 11 issued by DOT, New Delhi.

O.A. 1291/2000

Applicant's Annexures:

1. A-1: True copy of the Order NO.ST.BCR/10%/Pt./14 dated 4.12.2000 issued by the 3rd respondent to the applicant.

2. A-2: True copy of the Memo No.ST-1030/90-92/95 dated 22.4.91 issued by the Divisional Engineer (Admn), Office of the Telecom District Manager, Trivandrum to the applicant.

Applicant's Annexures:

3. A-3: True copy of the Memo No.ST 654/Tech/10%/17 dated 8.8.2000 issued by the DGM (Admn), Office of the 3rd respondent to the applicant.

4. A-4: True copy of the representation dated 21.8.2000 submitted by the applicant to the 3rd respondent.

5. A-5: True copy of the representation dated 21.8.2000 submitted by the applicant to the 1st respondent.

6. A-6: True copy of the representation dated 19.9.2000 submitted by the applicant to the 3rd respondent.

7. A-7: True copy of the Letter No.ST-BCR/10%/Pt/11 dated 4.12.2000 issued by the DGM (Plg& Amn.), Telecom District, Trivandrum-23 to the applicant.

Respondents' Annexures:

1. R-1: True copy of the DOT letter dated 22.8.97 No.STA/30-25/Rlgs/94.

2. R-2: True copy of Judgement of the Hon'ble Central Administrative Tribunal, Abamadabad Bench. in O.A No.623/96.

3. R-3: True copy of the order of DOT dated 8.9.99 No.22-6/94-TE 11 .

O.A.1302/2000

Applicant's Annexures:

1. A-1: True copy of memorandum No.KL/TR/5-3/13 dt.16.9.1994 of the Govt. of India, Indian Posts and Telegraphs Department.

2. A-2: True copy of memo No.ST/BCR/10%/Genl/10/95 dt.29.3.1996 of the 2nd respondent.

3. A-3: True copy of memorandum No.ST/BCR/10%/99/18 dt.8.8.2000 of the 1st respondent.

4. A-4: True copy of the representation dt.23.8.2000 to the 1st respondent.

5. A-5: True copy of letter No.ST/BCR/10%/Pt/11 dt.4.12.2000 of the 1st respondent.

6. A-6: True copy of the basic grade seniority list as obtaining on 1.1.96.

7. A-7: True copy of the model roster for promotion.

8. A-8: True copy of order No.Q-3127/PEN/8 dt.23.8.94 of the 2nd respondent.

Respondents Annexures:

1. R-1: True copy of the Order No.STA/30-25/Rlgs/94 dated 5.9.97 issued by the Asst. Director (Staff I), Trivandrum.

2. R-2: True copy of the Judgement ir OA No.623/96 WITH MA No.660/96 dated 11.4.97 of the Central Administrative Tribunal, Ahamedabad.

3. R-3: True copy of the order dt.24.3.87 of the Central Administrative Tribunal, Jabalpur Bench.

4. R-4: True copy of the Judgement in O.P.Nos. 4329 and 4339 of 1972 dated 16.3.73 of the Kerala High Court, Full Bench.

O.A.1321/2000

Applicant's Annexures:

1. A-1: True copy of memo No.ST.BCR/10%/TO/7/22 dated 8.8.2000 of the 1st respondent.

2. A-2: True copy of the representation dt.21.8.2000 to the 1st respondent.

3. A-3: True copy of the gradation list of Telephone Operators (basic grade) as on 1.1.96 of the Secondary Switching Area circulated by the 2nd respondent vide No.ST.563/TO/1/82 dt.19.7.2000.

4. A-4: True copy of order No.ST.BCR/10%/Pt/13 dt.4.12.2000 of the 1st respondent.

5. A-5: True copy of the order dt.11.4.97 in O.A No.623/96 of the Ahamedabad Bench of the C.A.T.

6. A-6: True copy of the Model Roster cadre strength upto 13.

Respondents' Annexures:

1. R-1: True copy of the order of DOT dt.5.9.97.

2. R-2: True copy of the order dated 11.4.97 of C.A.T., Ahamedabad Bench in O.A.No.623/96 with M.A.660/96.

3. R-3: True copy of the order dt.24.3.84 of C.A.T., Jabalpur Bench reported in 1987 (4) Administrative Tribunals cases.

4. R-4: True copy of the judgement (Full Bench) of the Hon'ble High Court of Kerala reported in 1973 LAB.I.C.1399 (V 6C 313)

O.A.1322/2000

Applicants Annexure :

1. A-1: True photocopy of the order No.E.1/Rlgs/BCR/226 promoting 1st applicant to the post of Grade IV, BCR dated 21.1.97.

2. A-2: True photocopy of the order No.E.35/79 promoting 2nd applicant to the post of Grade IV, BCR dated 5.6.96.

3. A-3: True photocopy of the order No.STA/30-25/Rlgs/94 issued from the office of the 2nd respondent dated 5.9.97.

4. A-4: True photocopy of the order No.22-6/94-TE.II issued by 1st respondent dated 13.2.1997.

5. A-5: True photocopy of the reversion order No.TFC/St-8-6-BCR/2000 issued to the 1st applicant from office of the 2nd respondent dated 23.10.2000.

6. A-6: True photocopy of the reversion order No.TFC/St-8-6-BCR/2000 issued to the 2nd applicant from office of the 2nd respondent dated 23.10.2000.

7. A-7: True copy of the notice of reversion No.ST/EK-262/29/Gr.IV/3 issued by 3rd respondent to the applicants dated 27.11.2000.

Respondents Annexures:

1. R-1: True copy of the judgment passed by Central Administrative Tribunal, Ahmedabad Bench in O.A.No.623/96 dated 11.04.97.

2. R-2: True copy of the order No.22-6/94-TE-II dated 8.9.99 issued by the Department.

O.A. 1330/2000

Applicant's Annexures:

1. A-1: True copy of memo No.ST-1030/11/52 dt.23.3.1992 of the 2nd respondent.

2. A-2: True copy of memo No.ST.BCR/10%/TO/1/23 dt.8.8.2000 of the 1st respondent.

3. A-3: True copy of the representation dt.21.8.2000 to the 1st respondent.

Applicant's Annexures:

4. A-4: True copy of seniority list of Telephone Operators (basic grade) as on 1.1.96 was circulated by the 2nd respondent vide No.ST. 553/TO/1/82 dt.19.7.2000.

5. A-5: True copy of order No.ST.BCR/10%/Pt.13 dt.4.12.2000 of the 1st respondent.

6. A-6: True copy of the order in OA No.623/96 dt.11.4.97 of the Ahamedabad Bench of the C.A.T.

7. A-7: True copy of the Model Roster Cadre strength upto 13.

Respondents' Annexures:

1. R-2A: Photo copy of the order dated 22.8.97 of the Dept. of Telecommunication.

2. R-2B: Photo copy of the order in OA 623/96 dated 11.4.97 of the C.A.T Ahmedabad Bench.

3. R-2C: Photo copy of the order in T.A. 139/86 dated 24.3.87 of the C.A.T Jabalpur Bench.

4. R-2D: Photo copy of the order in O.P 4329 and 4339/1972 dated 16.3.1973 of the Kerala High Court.

O.A.No.1335/2000

Applicant's Annexures:

1. A-1: True copy of memo No.ST/BCR/10%/Gen./9/95 dt.29.3.96 of the 2nd respondent.

2. A-2: True copy of memo No.ST.BCR/10%/TO/7/21 dated 8.8.2000 of the 2nd respondent.

3. A-3: True copy of letter No.22-6/94-TE.II dt.8.9.99 of the 3rd respondent.

4. A-4: True copy of the representation dt.21.8.2000 to the 2nd respondent.

5. A-5: True copy of the representation dt.21.8.2000 to the 4th respondent.

6. A-6: True copy of the order dt.11.4.97 in O.A No.623/96 of the Ahmedabad Bench of the C.A.T.

Applicant's Annexures:

7. A-7: True copy of the seniority list circulated with letter No.ST/563/TO/1/82 dated 19.7.2000 of the 2nd respondent.

8. A-8: True copy of the Model Roster for a cadre strength of 13.

9. A-9: True copy of order No.ST.BCR/10%/Pt/13 dt.4.12.2000 of the 1st respondent.

Respondents' Annexures:

1. R-2A: Photo copy of the order No.STA/30-25/Rlgs/94 dated 5.9.97 of the Chief General Manager, Trivandrum.

2. R-2B: Photo copy of the order in O.A. 623/96 dated 11.4.97 of the C.A.T., Ahmedabad Bench.

3. R-2C: Photo copy of the order in T.A.139/86 dated 24.3.87 of the C.A.T., Jabalpur Bench.

4. R-2D: Photo copy of the judgement in O.P.4329 & 4339/72 dated 16.3.73 of the Hon'ble High Court of Kerala.

O.A.8/2001

Applicant's Annexures:

1. A-1: True copy of the Memo No.E1/336/Coll.III/9 dated 18.12.2000 issued for the 3rd respondent.

2. A-2: True copy of the Memo No.E-I/336/Col. I/54 dated 21.3.95 issued by the Assistant General Manager (Admn), Office of the General Manager, Telecom District, Kottayam.

3. A-3: True copy of the Order No.22-6/94-TB-II dated 13.12.95 issued by the Director (TE), Department of Telecom District, New Delhi.

Respondents Annexures:

1. R-1: True copy of the order of the Central Administrative Tribunal, Ahemedabad Bench in O.A 623/96 with M.A 660/96 dated 11.4.97.

2. R-2: True copy of DOT letter No.22-6/94-TE-II dated 8.9.99.

O.A.108/2001

Applicant's Annexures :

1. A-1: True copy of order No.ST-G/Jus/Grade IV/1/16 dated 29.12.1995 of the 1st respondent.

2. A-2: True copy of order No.ST-A/Grade IV/TDS/28 dated 31.8.2000 of the 1st respondent.

3. A-3: True copy of the representation dated 0.9.2000 to the 1st respondent.

4. A-4: True copy of memo No.E-1/Rlgs/STBPs/11/37 dated 11.1.2001 of the 1st respondent.

5. A-5: True copy of memo No.E-1/Rlgs/STBPs/II/36 dated 11.1.2001 of the 1st respondent.

6. A-6: True copy of the order in O.A.Nos. 241, 870 and 1022 of 1999 dated 28.4.2000.

Respondents' Annexures :

1. R-1(a): True copy of order in OA 623/96 dated 11.4.1997 of Hon'ble C.A.T, Ahmedabad Bench.

2. R-1(b), True copy of letter No.22-6/94-TE-II dated 22.8.97 issued by Director of Telecom. New Delhi with covering letter No.STA/30-25/Rigg/94 dated 5.9.97 of Assistant Director(Staff), Office of CGMT. Trivandrum.

3. R-1(c): Letter No.22/6/94.TE.II dated 9.7.99 issued by ADG, (TE).

4. R-1(d): Circular No.2-6/94-TE dated 8.9.99 issued by Director Telecom, New Delhi.

O.A.110/2001

Applicant's Annexures :

1. A-1: True copy of memo No.ST-A/Gr.IV/TOs/22 dated 24.10.94 of the 1st respondent.

2. A-2: True copy of memo No.ST-A/Gr.IV/TDS/30 dated 31.8.2000 of the 1st respondent.

3. A-3: True copy of the representation dated nil to the Deputy General Manager, Kollam.

Applicant's Annexures:

4. A-4: True copy of memo No.E-I/Rlgs/STEPs/II/38 dated 11.1.2001 of the 1st respondent.

5. A-5: True copy of memo No.E-I/Rlgs/STEPs/II/36 dated 11.1.2001 of the 1st respondent.

6. A-6: True copy of the order of the CAT, Bangalore Bench in O.A.Nos.241,870 and 1022 of 1999 dated 26.4.2000.

Respondents' Annexures :

1. R-1(a): Order in OA 623/96 dated 11.4.1997 CAT, Ahmedabad Bench.

2. R-1(b): True copy of letter No.22-6/94-TE dated 22.8.97. issued by Director of Telecom with covering letter No.SAT/30-5/Rlgs/94 dated at Trivandrum the 5.9.1997 issued by O/o CGMT, Kerala Circle, Trivandrum.

3. R-1(c): Department of Telecom letter No.22-6-94-TE.II dated 9.7.99.

4. R-1(d): Department of Telecom letter No.SAT/2-6/94-TE.II dated 8.9.99.

O.A.111/2001

Applicant's Annexures :

1. A-1: True copy of memo No.ST-A/Gr.IV/TOs/22 dated 24.10.94 of the 1st respondent.

A-2: True copy of memo No.ST-A/Gr.IV/TOs/29 dated 31.8.2000 of the 1st respondent.

3. A-3: True copy of the representation dated 19.9.2000 to the Deputy General Manager.

4. A-4: True copy of memo No.E-I/Rlgs/STEPs/II/36 dated 11.1.2001 of the 1st respondent.

5. A-5: True copy of the order of the CAT, Bangalore Bench in O.A.Nos.241,870 and 1022 of 1999 dated 26.4.2000.

Respondents' Annexures :

1. R-1(a): True copy of the order in O.A.No.623/96 of Hon'ble Central Administrative Tribunal, Ahmedabad Bench.

2. R-1(b): True copy of letter No.22-6/94-TE-II dated 22.8.87 of 2nd respondent with covering letter datec 5.9.97.

3. R-1(c): True copy of the letter No.22-6/94-TE-II datec 3.7.99.

4. R-1(d): True copy of the letter No.22-6/94-TE-II datec 8.9.99.

O.A. 220/2001

Applicants' Annexures :

1. A-1: True photocopy of the order No.E.II/4/STBR/55 issued from office of the 3rd respondent promoting 1st applicant to the post of Grade IV, BCR dated 16.8.91.

2. A-2: True photocopy of the order No.ST/EK-224/29/1/26 issued from office of the 3rd respondent to 2nd applicant dated 21.8.97.

3. A-3: True photocopy of the order No.STA/30-25/Rlgs/94 issued from the office of 1st respondent dated 5.9.1997.

4. A-4: True photocopy of the letter No.T22-6/94-TE.II issued from office of the 3rd respondent dated 13.2.1997.

5. A-5: True photocopy of the proposed postponement of promotion to Grade IV letter No. ST.EK-224/29/II/30 issued to applicants from office of 3rd respondent dated 31.1.2001.

Respondents Annexures :

1. R-1: True copy of the letter No.22-6-94-TE.II dated 13.12.95 issued by the Director, Department of Telecom.

2. R-2: True copy of instructions issued by the Department of Telecom No.22-6-94-TE.II dated 8.9.99.

O.A.221/2001

Applicants Annexures.

1. A-1: True photocopy of the order No.ST/EK-225/28 /II/68 issued from Office of 3rd respondent promoting 1st applicant to the post of Grade IV, BCR dated 2.4.93.

2. A-2: True photocopy of the order No.ST/EK-218/29/8 issued from the Office of the 3rd respondent to 2nd applicant dated 14.12.95.

3. A-3: True photocopy of the order No.STA/30-25/Rlgs/94 issued from the Office of 1st respondent dated 5.9.97.

4. A-4: True photocopy of the letter No.T.22-6/94-TE.II issued from Office of the 3rd respondent dated 13.2.97.

5. A-5: True photocopy of the proposal of reversion No.ST.EK-218/28/II/42 issued to applicants from the Office of 2nd respondent dated 22.12.2000.

Respondents' Annexures.

1. R-1: True copy of letter No.22-6/94-TE-II dated 13.12.95 issued by Ministry of Communication.

2. R-2: True copy of order in letter No.22-6/294-TE dated 8.9.99. BSNL of ADG,(TE).

3. R-3: True copy of order No.ST/EK-218 /29/I/47 dated 7.2.2001, BSNL, Cochin reverting the applicants.

O.A.311/2001

Applicant's Annexures:

1. A-1: True photocopy of the order No.E/II/4/STBR/55 issued from office of 3rd respondent promoting applicant to the post of Grade IV, BCR dated 16.8.91

2. A-2: True photocopy of the order No.STA/30-25/Rlgs/94 issued from the office of 1st respondent dated 5.9.97.

3. A-3: True photocopy of the letter No.T22-6/94-TE-II issued from office of the 3rd respondent dated 13.2.97.

4. A-4: True photocopy of the proposed postponement of promotion of Grade IV letter No.ST.EK-262/29/Gr.IV/5 issued to applicant from the office of 3rd respondent dated 27.11.2000.

Respondents' Annexures:

1. R-1: True copy of the order No.22-6/94-TC-II dated 11.9.99 issued by the Director, Department of Telecom, New Delhi.

2. R-2: True copy of the Judgement in O.A.623/96 with M.A.No.680/96 dated 11.4.97 of the Hon'ble CAT Ahmedabad Bench.

* * * * *

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16.4.02

CERTIFIED TRUE COPY
Date 23.4.2002
Deputy Registrar