

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 389 OF 2011

Wednesday, this the 17th day of August, 2011

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. G.Mohandas
Area Manager, Telecom District
Alappuzha – 688 011
 2. B.Sudhakaran
Deputy General Manager
Office of the Chief General Manager Telecom
Kerala Circle, Thiruvananthapuram
 3. K.Vijayakumaran Nair
Divisional Engineer (Transmission & Maintenance)
STR, Telecom Bhavan, BSNL
M.C.P.O.Thiruvananthapuram – 11
 4. T.D.Yohannan
Deputy General Manager
Office of the Telecom District Manager
Lakshadweep, Kavarati
 5. Baby Peter
Assistant General Manager (Admn)
Office of the Chief General Manager Telecom
Kerala Circle, Thiruvananthapuram
- ... Applicants

(By Advocate Mr.Vishnu S Chempazhanthiyil)

versus

1. The Chairman and Managing Director
Bharat Sanchar Nigam Limited
Corporate Office, Statesman House
New Delhi
2. The Senior General Manager (Pers)
BSNL Corporate Office, Bharat Sanchar Bhavan
Janpath, New Delhi – 110 001
3. The Assistant General Manager (DPC)
BSNL, Bharat Sanchar Bhavan
Janpath, New Delhi – 110 001
4. The Chief General Manager
Bharat Sanchar Nigam Limited
Kerala Circle, Thiruvananthapuram

5. The Chief General Manager (Maintenance)
BSNL, STR, 11 Link Road
Ganapathy Colony, Thiru-vi-ka-Nagar
Gruindy, Chennai – 600 032 ... Respondents

(By Advocate Mr. George Kuruvilla)

The application having been heard on 17.08.2011, the Tribunal on the same day delivered the following:

ORDER

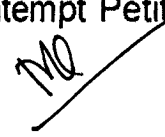
HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicants seek for a direction to the respondents for granting them the benefits arising out of revision of seniority as carried out in Annexure A-5 including consideration for promotion as DGM(T) on ad-hoc basis. And also to direct the respondents to grant the applicants placement in Annexure A-9 seniority list taking into account the revised seniority at Annexure A-5.

2. The applicants have approached this Tribunal earlier in connection with their fixation of inter-se-seniority for promotion to the post of Assistant Engineer under Telegraph Engineering service. There were other OAs filed by similarly situated persons and by common order all these OAs were disposed of. Annexure A-1 is the copy of the order rendered in OA 1788/91 and other connected cases. As per the penultimate paragraph of the order, following the judgment of the Allahabad High Court it was found that the cases are identical, all these applications were allowed and directed the 1st and 2nd respondents therein to extend the benefits of the judgment dated 20.02.1985 of the Hon'ble High Court of Allahabad in W.P Nos.2739 and 3652 of 1981 to the applicants in these cases also and to promote them to the TES Group B service with effect from the dates prior to the dates of promotion of any Junior Engineer



including the 3rd respondent in OA 817/91, 840/91 and 1516/91, who passed the departmental qualifying examination subsequent to the passing of such examination by the applicants and to revise their seniority in the TES Group B cadre on that basis. There was a further direction to revise the pay of the applicants with effect from the revised dates of promotion and to give them all monetary benefits arising therefrom. A time limit was also prescribed for compliance of the order. Subsequently based on a later judgment of the Hon'ble Supreme Court, the benefits as conferred by the orders of the Tribunal in Annexure A-1 on the applicants were withdrawn which was under challenge. Since Annexure A-1 having become final, the later decision of the Hon'ble Supreme Court could not have been a ground for withdrawing the benefit culminated in Annexure A-1 order of the Tribunal. This position was clarified by the Apex Court passed in ***Union of India vs. Madras Telephone SC & ST Social Welfare Association (2006) 8 SCC 662***. As a result of the clarification made by the Apex Court in the aforesaid judgment, the benefits which were withdrawn has to be restored to the applicants. As a matter of fact, the applicants claiming the benefit of the judgment of the Apex Court passed in ***Union of India vs. Madras Telephone SC & ST Social Welfare Association (2006) 8 SCC 662*** and also judgment of the Hon'ble High Court of Kerala in ***W.P(C) No.3807/05 (T.N.Peethambaran)*** filed OA 520/09. Despite Annexure A-4 order, when the actual benefits were not restored to them, the applicants have filed C.P(C) 129/10. During the pendency of the Contempt Petition, orders were complied with and an affidavit to that effect was filed by the official respondents, which is produced as Annexure A-6. In the reply affidavit, it is averred by the Chief general Manager, BSNL that as a consequence of the revision of the seniority, the Contempt Petitioners are



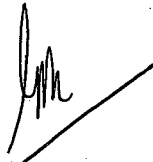
entitled for promotion in the grade of STS (ad-hoc) in the IDA pay scale of ₹ 14500-350-18700 (pre-revised) with effect from the date of promotion of their immediate junior Shri M.R.Belani as the latter has been determined as the junior in other similarly placed officers' cases. However, it is stated that the above revision of seniority and consequential benefits will be subject to the outcome of SLPs on similar issues pending before the Hon'ble Supreme Court. Subsequently, Annexure A-5 order was passed. Hence he has filed the present OA for the reliefs sought for as referred to earlier. Incidentally it is pointed out that the APARs were called for from the eligible candidates but the applicants APARs were not called for which perhaps gave the impression to the applicants that Annexure A-5 is not implemented presumably because there were some mistakes crept in while issuing Annexure A-9. During the pendency of the OA, the mistake crept in Annexure A-9 has been corrected by issuing Annexure R-1(a) and (b) produced along with the reply affidavit. By the aforesaid action the APAR of the applicants are also forwarded except in the case of applicants 4 & 5. In the case of applicants 4 & 5, the same could not be forwarded as they were only ad-hoc promotees and during the pendency of the OA, by issuing Annexure R-1(c) their promotions are regularized and their APARs are also being forwarded. Even though, the applicants have a case that by Annexure R-1(a) to (c) except applicants 4 & 5, the remaining APARs of the applicants have been forwarded and there is nothing to indicate that Annexure A-9 has been corrected. We find that so far as the seniority has been rightly refixed as per Annexure A-5 if at all there is a mistake in Annexure A-9 that cannot stand in the eye of law. Annexure A-5 is a document produced by the respondents in the earlier OA and it is contended that the seniority position has been restored. We declare that

me


the seniority stands restored to the applicants as per Annexure A-5. In view of Annexure R1 (a) to (c) and in view of the above declaration, no relief remains to be granted.

3. OA is accordingly **disposed of**. No costs.

Dated, the 17th August, 2011.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

VS