

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.396/2001

Friday this the 6th day of September, 2002

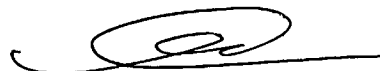
C O R A M

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HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. Lathika G.Nair ,  
Sr.TO, Computer Cell, O/o GMT Calicut  
residing at 38/2675-E,Nishan Apartments,  
East Hill, Calicut - 5.
2. K.Shyla, Sr.TO(G), O/o GMT Calicut  
residing at Sun Beam, 3/427, Near CTC Hostel,  
Pottangale Raghavan Road, Calicut -11
3. G.P.geetha,  
Work Accounts Section GMT, Calicut.  
residing at Silpa, Sub-station Road,Chevayur, Calicut-17
4. N.Jayarani,Sr.TOA, GMT,Calicut.  
residing at Ashiyama, P.O.Chevayur, Calicut.
5. K.E.Sara, Sr.TOA GMT, Calicut.  
residing at Thirunilam, P.O.Perumanna, Calicut -26.
6. N.D.Sreeletha, AO Plg, O/o GMBSNL, Calicut.  
residing at 5/522 P & T Quarters, Nallalam, Calicut.
7. P.Vijayan, Sr.TOA, O/o GMT, Calicut.  
residing at Melemandarath House, P.O.Kopttamparamba,  
(Via) Medical College.
8. C.V.Kamakshy, Sr.TOA, GMT, Calicut.  
residing at Dream dend flats, 1/3615-H,  
East Hill Road, Calicut.
- .. 9. Sheeba Solomon C, TRA Unit, Calicut.  
residing at 1/551-Pulikkaiparamba, West Hill, Calicut - 5
10. N.P.Promod Singh, Sr.TOA, Planning Section,  
O/O GMT, Calicut.  
residing at Muchikkadiparamba, P.O. Chevarambalam, Calicut
11. T.geetha, Sr.TOA, Cable Plg. Unit, Calicut  
residing at Pillakat House, Pootheri Quarters, Cheruvannoor
12. Showkath Ali K.P.,Sr.TOA, O/O GMT, Calicut.  
residing at 34/809 A, Chailliyode, Kottoli P.O., Calicut.
13. T.Shobhana, Sr.TOA(G), Telecom Computer Centre,  
Tele Exge, Mananchira, Calicut.  
residing at 42/552, Pandiyathparamba, Kottol, Calicut-16.
14. A.K.Geetha, Sr.TOA, Telecom Computer Centre,  
Tele Exge, Mananchira, Calicut.  
residing at Sangeeth, P.O.Puthiyara, Near Jafargheh  
Colony, Thiruthiyad, Calicut - 4.

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15. A.Viswanathan Nair, Sr.TOA(P), TRA Unit, VI Calicut.  
residing at Vandanam P.O. Perumanna, Calicut - 26.
16. K.P.Lakshmi Devi, Sr.TOA(G), O/O GMT, Calicut.  
residing at Karat Vennery, Karat Road, West Nadakkavu,  
Calicut - 11.
17. P.Ragini, Sr.TOA(G), O/o GMT, Calicut.  
residing at Ragam, N.V.Road, Kakkodi, Calicut.
18. M.K.Beena, Sr.TOA(G), O/o GMT, Calicut.  
residing at Sindoor, Gandhi Road, Calicut - 11.
19. T.Prameela, Sr.TOA(G), O/o GMT, Calicut.  
residing at Aiswyarya, Naduthodiparamba P.O. Nelokode,  
Calicut - 16.
20. K.Beena, Sr.TOA(G), O/o GMT, BSNC, Calicut.  
residing at A/1 Gandhi Nagar Colony, West Hill, Calicut.
21. P.Shibu Raj, Sr.TOA (a) TR-4, O/o GMT Calicut.  
residing at 27/1235 - A, Tejus, Puthiyara P.O., Calicut-4
22. Sheela Mathew, Sr.TOA(D), O/o GMT, Calicut.  
residing at 34/390-B, Mukalayil, OP.O.Civil Station,  
Calicut-20.
23. Smitha Jayaprakash, Sr.TOA(G), O/o GMT Calicut.  
residing at Koodathil House, P.O.Makkada, Calicut 17
24. Rani George, Sr.TOA(G), O/o GMT Calicut,  
residing at 27/1367 Chinna Mahal, Puthiyapalam, Calicut-4
25. Usha Remana, Sr.TOA(TG), O/o GMT, Calicut,  
residing at Harsha, Kottooli P.O, Calicut - 16.
26. Vilasini T., Sr.TOA(G), O/o GMT, Calicut.  
residing at 31/213, Prasadam, Mayanad.
27. C.M.Moothorankutty, Sr.TOA(P), O/O GMT, Calicut  
residing at 31/213, Prasadam, Mayanad.
28. Beena Rani M., Sr.TOA(G), GMT(O), Calicut  
residing at Heenkuzhi House, Chalapuram, Calicut - 2.
29. Jayakrishnan P. Sr.TOA (G), GMT (O), Calicut.  
residing at Panathinkal House, P.O.Areekode, Malapuram.
30. Abdul Nazer A., AOTR GMT, Calicut  
residing at Panathinkal House, P.O.Areekode, Malapuram.
31. V.Purushothaman, Sr.TOA Computer Centre,  
residing at Jincy Nivas, Eranhikkal P.O, Calicut - 3.
32. Sarojam N.K. Sr.TOA, CTO, Calicut.  
residing at Sreyas, Pipeline Road, Chevarambalan,  
Calicut - 17.



33. Lalitha Karthikeyan, Sr.TOA, O/o SSTT, Calicut, residing at Lekshmipuram, Panniyankara, Kallai P.O calicut - 3.
  34. Anitha Sasikumar, Sr.TOA(TG), residing at Sreepadam, Near Kavu, Chevayur, Calicut.
  35. Anitha Neeni, Sr.TOA, O/o GMT, Calicut. residing at Purathadathil House, P.O.Govindapuram, Calicut-16
  36. E.Pushpa, Sr.TOA, O/o GMT, Calicut. residing at A-4 Hill View Colony, Chevayur, Calicut - 17.
- Applicants

[By Advocate Mr.Saji Isaac K.J]

Vs.

1. The Union of India represented by the Secretary to Government, Ministry of Communications, New Delhi.
  2. The Chief General Manager, Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.
  3. The Director (ST-1), Bharat Sanchar Nigam Ltd., Sanchar Bhawan, New Delhi
- Respondents

[By Advocate Mr.M.R.Suresh,ACGSC]

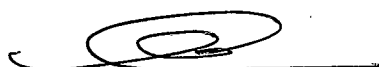
The application having been heard on 19.06.2002, the Tribunal on 6th September, 2002 delivered the following:

#### O R D E R

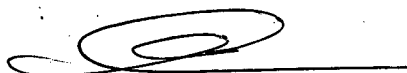
HON'BLE MR K.V. SACHIDANANDAN, JUDICIAL MEMBER

The brief facts of the case is briefly stated as follows. According to applicants, they are eligible officials based on the select panel of the 2nd respondent and performing the duties of the restructured cadres in the new technology areas. Consequent on the introduction of new restructured cadres in the Department of Telecom, the 2nd respondent by order dated 31.8.94 (Annexure A-1) informed all the concerned authorities that the posts in the restructured cadres may be

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filled up by posting the empanelled officials in the select panel on officiating basis pending formal appointment after their selection and training, subject to the condition that they work in the new technology areas and perform the duties of restructured posts, which came into force with effect from 1.1.94. Some applicants (seven in number) have filed O.A.1109/94 (Annexure A-2) before this Bench of the Tribunal against the enforcement of the rule before it was gazetted and this Tribunal disposed of the same on 12.8.94 stating that until the rule breathes life it has no force. Thereupon, the 2nd respondent passed an order dated 30.8.94 (Annexure A-3) instructing that no action should be taken till completion of the proceedings in the said O.A., though the proceedings in the O.A. were completed on 12.8.94 and kept the matter in abeyance till 13.12.96 on some pretext until guidelines issued on officiating arrangements in respect of restructured cadre of Sr.T.O.As as per order dated 13.12.96 (Annexure A-4) by the Office of the 2nd respondent. The 1st applicant thereupon submitted a representation dated 6.11.97 (Annexure A-5) stating that they are entitled for officiating pay without undergoing Sr.T.O.A. training with effect from 1.1.94. Thereupon a reply was given to the 1st applicant by the Assistant General Manager (Admn), Office of the General Manager, Telecom, Calicut, as per letter dated 7.4.99 (Annexure A-6) stating that no further instruction from CGMT regarding implementation of officiating with effect from 1.1.94 has been received and hence officiating with effect from 1.1.94 could not be implemented. It is said that similar applications were given by the other applicants.



The 1st applicant again submitted a representation dated 22.2.2000 (Annexure A-7) before the 2nd and 3rd respondents to give officiating pay with effect from 1.1.94 without undergoing Senior T.O.A training, the respondents have not taken any action. Aggrieved by the inaction of the respondents, the applicants have filed this O.A. seeking the following reliefs:

- i. Declare that the applicants who are eligible officials in the select panel are entitled to be given officiating pay without undergoing Sr. T.O.A. training with effect from 1.1.94 as provided in Annexure A-1.
- ii. To call for Annexure A-6 and to quash Annexure A-6.
- iii. Declare that the applicants who are eligible officials in the select panel are entitled to pay scale and allowances as applicable from time to time with effect from 1.1.94.
- iv. Declare that the applicants who are eligible officials in the select panel is entitled to the scale, arrears, and fixation of pay and all other consequential benefits to which they are entitled to from time to time from 1.1.94.
- v. Direct the respondents to consider and dispose the representation dated 22.2.2000.
- vi. Grant the costs of this Original Application."

2. Applicants have filed M.A.770/2001 wherein it is said that as provided in Annexure A-1 order, officiating chance may be given to the existing officials in the basic grade who are performing the duties of Sr.T.O.As retrospectively with effect from 1.5.93 against the sanctioned posts of Sr.T.O.As remained unfilled as per order dated 14.10.93 (Annexure A-8). By order dated 2.8.94 (Annexure A-9) the decision of the Telecom Commission had defined the new technology areas in the Department of Telecom. Annexure A-10 is the Minutes of the

..6/-



36th O & M Meeting held on 5.11.92 in the Office of the General Manager of Telecom, Calicut regarding the computerization work which was almost complete even during 1992. The monthly statistics of the telephone exchanges during March 1994 is shown at Annexure A-11 which is said to be essential for a fair and proper disposal of this O.A. The applicants have filed another M.A.No.347/2002 wherein it is said that only the officials who have been empanelled in the select panel and those who work in the new technology areas and perform the duties of restructured posts are eligible for officiating pay. In this context the order dated 8.3.2002 (Annexure A-12), and orders dated 11.3.2002 (Annexure A-13 to 15) respectively, were issued by the Assistant General Manager (Admn), Office of the General Manager, Telecom, Calicut. The applicants have filed yet another M.A.No.560/2002 wherein it is said that the decision of this Bench of this Tribunal in O.A.1388/95 is not applicable to this case based on the orders dated 23.6.93 (Annexure A-16).

3. Respondents have filed a reply statement and contended that Annexure A-1 order was issued based on the demand of the staff union that sufficient number of qualified and selected officials are not available to man the restructured posts available in the circles and existing basic cadre officials were performing the duties of restructured cadre (Sr.T.O.A) even before their selection and appointment to this cadre and the said order dated 31.8.94 is applicable only to those basic grade officials who fulfil the eligibility conditions. It is submitted that as per judgment of this Tribunal dated 12.8.94

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in O.A.1109/94 (Annexure A-2) that until the rule breathes into life, it has no force and completion of all prescribed formalities required for posting as Sr.T.O.A were halted on 12.8.94 till 17.6.96 and hence the Circle could not take steps for sanction of Sr.T.O.A posts as per the provisions in DOT order dated 29.3.94 (Annexure R-1) and due to this, the applicants in the O.A. were also not given the officiating promotion with effect from 1.1.94 till 12.12.96 and implemented only from 13.12.96. It is further submitted that in pursuance to a discussion held between staff unions and BSNL Management it was agreed upon and decided that eligible staff members be granted notional officiating promotion with effect from 1.1.94 and actual benefits will be given from 1.10.2000, the date of formation of BSNL to till date as per BSNL, SR Cell, New Delhi letter dated 30.10.2001 (Annexure R-2) and hence the BSNL is required an order to this effect of enhancement of pay either notional or actual in light of the ruling of this Tribunal in O.A.1109/94.

4. The applicants have filed a rejoinder contending the averment to the effect that the formalities were halted on 12.8.94 till 17.6.96 as per the direction of this Tribunal in O.A.1109/94 is false and hence denied and in fact the said O.A. was filed against the enforcing the rule before it has been gazetted. The Tribunal had ordered that until the rules breathes life it has no force and not required the respondents to halt the proceedings, but had only ordered that the rule should not be given force until it has been gazetted. The respondents kept the matter in abeyance till 13.12.96 on the

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pretext that any action taken until completion of the proceedings in the O.A. will invite contempt of the Court. They further contended that though the eligible staff members will be granted notional officiating promotion with effect from 1.1.94, they have not given any reason for their contention that the actual benefit will be given from 1.10.2000.

5. The respondents have filed an additional reply statement reiterating the contentions put forward in the reply statement by the clarification order dated 9.3.95 (Annexure R-3) to the DOT order dated 31.8.94 clearly specifies that officials in the OTBP/BCR cadre are not eligible for officiating promotion and it is reiterated that as the pay scale of OTBP/BCR officials is higher than that of TTA/Sr.TOA, such officials need not be considered for officiating arrangement against restructured posts with effect from 1.1.94 provided such officials have been actually working in the areas of new technology as per Government of India, Ministry of Communications, Department of Telecommunications letter dated 9.3.95 (Annexure R-3). As per the agreement (Annexure R-3), CGMT, Trivandrum has issued administrative orders dated 31.12.2001 and 28.1.2002 (Annexure R-4 and R-5) for implementation through out the Circle including Calicut SSA where the applicants are working with actual benefits from 1.10.2000 and reiterated that the applicants do not have live grievance and that their eligibility for granting officiating promotion with effect from 1.1.94 can be given only, if they fulfil the prerequisites of DOT order dated 31.8.94.

..9/-






6. We have heard the learned counsel for either parties and perused the materials/documents placed on record carefully.

7. Learned counsel for the applicant submitted that the applicants are eligible in the select panel and performing the duties of the restructured cadres and working in the new technology areas and therefore entitled to be given officiating pay without undergoing Sr.T.O.A training with effect from 1.01.94. Keeping the matter in abeyance on the pretext of O.A 1109/94 is not justified and the applicants are entitled to the pay scale and allowances as applicable from time to time with effect from 1.01.94. Annexure A-1 order was implemented in 1997 and they are entitled to get officiating pay from 1.01.94. Alternatively they also requested for a direction to consider and dispose of the representation dated 22.2.2000. Counsel for respondents submitted that sufficient number of selected officials are not available to man the restructured posts available in the circles and they are performing the duties of restructured cadre (Sr.TOA) even before their selection to Sr.TOA cadre. The DOT letter dated 31.8.94 is applicable only to those basic grade officials who fulfil the conditions prescribed in Para 4 (a) to (d) of the reply statement. The posting of Sr.TOA requires formalities to be complied with and they were halted on 12.8.94 till 17.6.96 as per the directive of the order of the Hon'ble Tribunal dated 12.8.94 in O.A 1109/94. In this the Tribunal ordered (Annexure R-2 judgment) that until the rule breaths into life it has no force. Therefore respondents were unable to give relief to the applicant before the recruitment rule were gazetted.

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8. we have carefully gone through the pleadings, evidences, documents and materials on record. On going through the pleadings in the reply statement respondents has taken a specific plea as follows :-

Even though the DOT instruction dated 31.8.94 was available for giving officiating promotion with effect from 1.01.1994, it could be implemented in Kerala Circle with effect from 13.12.96 only due to constraints put forth by the court judgment dated 12.8.94. Due to this, the applicants in the OA were also not given the officiating promotion with effect from 1.1.94 till 12.12.1996 and implemented only from 13.12.1996.

It is further submitted for the sake of completeness, pending the OA, that in pursuance to a discussion held between staff unions and BSNL management it has been agreed upon and decided that eligible staff members be granted notional officiating promotion with effect from 1.1.94 and actual benefits will be given from 1.10.2000, the date of formation of BSNL to till date. Copy of the agreement is produced herewith and marked as Annexure R-2 Under the circumstances, the applicant does not have live grievance. The above OA may be disposed of accordingly.

But in the light of the ruling by this Hon'ble Tribunal in OA No.1109/94 the BSNL is required to issue an order to the effect of enhancement of pay either notional or actual. Under the circumstances the right of the BSNL to issue necessary orders in terms of agreement as stated above may be reserved.

9. In furtherance in Annexure R-2 order dated 30.10.2000 the respondents has stated that BSNL Management has agreed to consider sympathetically that eligible staff members be granted notional officiating promotion with effect from 1.01.94 so that the pay fixation is done and the actual benefits is given from 1.10.2000 and the decision be taken expeditiously latest by end of November, 2001. Thereafter they have filed an additional reply statement to the rejoinder alongwith Annexure R-4 and R-5 orders granting officiating promotion with conditions. The

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Annexure R-4 order dated 31.12.2001 and R-5 order dated 28.1.2002 are reproduced as under :-

Annexure R-4

BHARAT SANCHAR NIGAM LIMITED  
(A GOVERNMENT OF INDIA ENTERPRISES)  
OFFICE OF THE CHIEF GENERAL MANAGER  
KERALA TELECOMMUNICATIONS  
TRIVANDRUM - 695033

To

All Heads of all SSAs

No.STA/40-5/Rlgs/IV/2000(Pt-III) Dated at Tvm, the 31.12.2001

Sub:- Officiating promotion in Sr.TOA Cadre w.e.f. 01.01.1994 - reg.

As per DOT ND letter No.27-2/94-TE-II(iv) dated 31.08.1994 communicated vide CGMT, TVM letter No.ES/4-1/Rlgs/94 dated 05.10.1994, it was instructed to fill up the posts in the restructured cadre by posting empaneled officials in the select panel on officiating basis, pending formal appointment of the officials to these posts after their selection and training subject to the condition that these officials actually work in the new technology area. This order was to come into force w.e.f. 01.01.1994. Again as per DOT letter No./27-2/94-TE-II(Pt) dated 09.03.1995 it was also clarified that OTBP/BCR officials in TOA cadre need not be considered for officiating promotion w.e.f. 01.01.1994 as they hold the pay scales higher than that of Sr.TOA and such officiating arrangements may be given to officials in basic grade only. Due to court cases, the officiating promotion in any of the restructured cadres could not be ordered w.e.f. 01.01.1994 in the Circle. The officiating order was issued by this office vide letter No.STA/40-5/Rlgs/II/94 dated 13.12.1996 to implement in the Circle with immediate effect.

As the Circle could not implement the officiating promotion for the period from 01.01.1994 to 12.12.1996 due to the judgments in various court cases, staff unions were demanding to implement the scheme w.e.f. 01.01.1994. Now in view of the persistent demand of the staff unions for the implementation of officiating promotion in Sr.TOA cadre w.e.f. 01.01.1994 as done in other Circles, BSNL Head quarters, New Delhi has examined the issue and conveyed the approval for grant of notional officiating promotion as Sr.TOA w.e.f 01.01.1994 (so that Pay fixation is done accordingly) with the actual benefits from 01.01.2000 onwards.

Accordingly the posts (383 Sr.TOA(P) & 301 Sr.TOA(G) ) in the cadre of Sr.TOA(P)/Sr.TOA(G) approved for creation in the SSAs as per the sanction memo dated 18.04.1994 may be considered

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for granting notional officiating promotion for the period from 01.01.1994 to 12.12.1996.

Approval of CGMT, Kerala Circle has also been issued vide this office Memos.ES/Sr.TOAs/Kerala/2001-2002 dated 18.12.2001 (copies enclosed for ready reference) for retrospective creation of the posts viz., Sr.TOA(G)-409, Sr.TOA(P)-405 w.e.f. 29.03.1994. These posts may also be considered for granting notional officiating promotion for the period from 29.03.1994 to 12.12.1996. The remaining sanctioned posts available in the SSAs as per the sanction issued by this office memo dated 24.09.1996 i.e., 526 Sr.TOA(P) & 357 Sr.TOA(G) may be considered for giving officiating promotion for the period from 06.03.1995 to 12.12.1996.

In respect of officials pertaining to Circle gradation list, 67 posts in Sr.TOA(G) cadre may be considered for granting notional officiating promotion w.e.f. 29.03.1994 and all the remaining sanctioned posts (44) conveyed vide this office letters No.ES/1-5/RC/93 II dated 24.09.1996 and ES/89/2 dated 09.06.1997 may be considered for granting officiating promotion notionally for the period from 06.03.1995 to 12.12.1996.

The advancement of the period of officiating will be subject to the usual verification like vigilance clearance/disciplinary clearance, provision of SC/ST reservation and other conditions/guidelines issued in this regard from time to time.

The orders may be implemented immediately and compliance reported for onward transmission to BSNL Head quarters.

Sd/-  
D.THAMIZHMANI  
Deputy General Manager(Admn)  
For CGMT, BSNL, Tvm - 33.

Annexure R-5

BHARAT SANCHAR NIGAM LIMITED  
(A GOVERNMENT OF INDIA ENTERPRISES)  
OFFICE OF THE CHIEF GENERAL MANAGER  
KERALA TELECOMMUNICATIONS  
TRIVANDRUM - 695033

To

Shri T.K.Chandrasekhar,  
PGMT/GMT,  
Calicut.

No.STA/40-5/Rlgs/IV/2000(Pt-III) Dated at Tvm-33, the 28.1.2002.

Sub: Officiating promotion in Sr.TOA cadre w.e.f.  
1.1.94 - regarding

Ref: This office letter No..STA/40-5/Rlgs/IV/2000  
(Part-III) dated 31.12.2001.

Kindly refer to the above cited letter issued in compliance with the instructions contained in BSNL HQ letter

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No.250-30/2001-Pers-III dated 3.12.2001. In continuation of the instructions issued under the said letter, the number of posts in Sr.TOA(P)/Sr.TOA(G) cadres sanctioned vide this office letters viz. ES/Sr.TOAs/Kerala/2001 PT/II dated 24.1.2002, may also be considered for giving notional officiating promotion w.e.f. 01.01.1994, with actual benefits from 1.10.2000 onwards, in addition to the number of posts conveyed by this office letter cited above. The officiating promotion w.e.f. 6.3.1995 may be ordered against the remaining posts in each SSA as explained in this office letter of even no. dated 31.12.2001. This means that the posts sanctioned vide memos dated 18.04.1994, 18.12.2001 and 24.01.2002 have to be given effect from 01.01.1994 and remaining posts out of the total posts sanctioned to be given effect from 06.03.1995. This will be applicable for Sr.TOA(G) as well as Sr.TOA(P). SSAs have to draw officials from the eligibility list for granting officiating promotion. The officiating promotion ordered as per these orders are to be terminated, on their promotion under OTBP/BCR subsequently. The posts vacated by these officials can be considered for granting officiating promotion to the officials in the eligibility list.

Other conditions for grant of officiating promotion remain unchanged.

Sd/-  
D.THAMIZHMANI  
DY.GENERAL MANAGER(A)  
O/o C G M T, TVM

10. From the above orders, it is very clear that the department has taken initiative to implement the relief that is sought in the O.A but on a different dates. It is specified that as has been done in other circles BSNL HQs, New Delhi has examined the issues and conveyed the approval for notional officiating promotion as Sr.TOA with effect from 1.01.94 (so that pay fixation with actual benefit from 1.01.2000 onwards). The applicants have filed Annexure A-16 in M.A No.560/2002 which is as follows :-

Sr.TOA - officiating chance

Annexure R-16

DOT No.15-22/92-TE-II

Dated : 23.06.1993

Attention is invited to this office No.27-4/87-TE-II dated 11.7.91 wherein the procedure to be adopted for the purpose of treating posts in the newly restructured cadres of Phone Mechanics, Telecom, Technical Assistants and Sr.TOAs etc. have been laid. Orders have

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also been issued vide this office letter No.19-3/93-TE-II dated 20.05.1993 to the effect that for the examinations for the current year already announced, the number of restructured posts would be calculated on the basis of 15% of the total posts in the feeder cadres including those in OTBP & BCR in each of the Circles.

2.. Representations have been received from the staff Unions that the posts in the restructured cadres (Sr.TOAs) have not been created so far and the basic cadre staff are being deployed for operation of computer etc. without any incentives.

3.. The matter has been examined by the Telecom Commission and I am directed to intimate that posts in the restructured cadres shall be created expeditiously as per instruction already issued and the officials appointed against these posts pending formal appointment of officials to these posts after their selection and training, the existing officials in the basic cadre who are performing the duties of Sr.TOAs for operation of computer etc. may be given officiating chance against these post. These orders will come into force from the date of issue of orders and any officiating arrangement made is purely/temporary and will not confer any right on them for regular appointment to these posts.

This issues with the concurrence of Finance Advice vide their U.O.No.2165/FA-I dated 20.7.1993.

and submitted to distinguish the order in OA 1388/95 and submitted that it is not applicable in the case of applicants and the applicants are praying for a direction for the incentives by the above said order which has come into force from the date of issue of orders ie, 23.06.93.


11. On going through the documents it is clear that the major chunk of the relief prayed for in the Original Application has been granted with reference to the date of benefit. The actual benefit as per Annexure R-4 and R-5 has been granted from 1.10.2000 whereas the applicants are claiming the same from 1.01.1994. The respondents has made it clear that because of the orders of this Tribunal the matter was held up till 1996 and subsequently Annexure R-4 and R-5 orders have been passed. In the circumstances the claim for entitlement from 1.01.94 cannot be considered.



12. It is clear that person who officiate in order to have any right, to claim for regularisation is merely on the ground that he was officiating to a substantive post. Considering this aspect we are of the view that the Tribunal will not be justifying in interfering with such matters since the date on which the order of the government should be given effect to, is a policy matter of the government. Therefore the relief sought for by the applicants to give the benefits with effect from 1.01.94 is a matter to be decided by the respondent/government.

13. In the conspectus of the facts and circumstances we do not find any reason to make a declaration to the eligibility of the applicants and thereby quashing Annexure A-6 since they have already granted the benefit/relief thereof. Regarding the date of effect of the implementation of the order granting the relief from 1.01.94 or such other date is concerned we direct the respondents to dispose of the representation dated 22.02.2000 submitted by the applicants with reference to the extant rules and regulations on the subject and take a decision thereof and communicate the same within four months from the date of receipt of this order. With the above observation we dispose of the Original Application as above as to no order as to costs.

Dated, the 6th September, 2002.



K.V.SACHIDANANDAN  
JUDICIAL MEMBER



G.RAMAKRISHNAN  
ADMINISTRATIVE MEMBER

VS

A P P E N D I X

Applicants' Annexures:

1. A-1: True copy of order DOT No.27-2/94-TE-II(IV) dated 31.8.94 issued by the office of the 1st respondent.
2. A-2: True copy of the order in O.A.No.1109/94 dated 12.8.94 passed by this Hon'ble Tribunal.
3. A-3: True copy of the order Rectt/28-253/94 dated 30.8.94 issued by the office of the 2nd respondent.
4. A-4: True copy of the order No.STA/40-5/Rlgs/11/94 dated 13.12.96 issued by the office of the 2nd respondent.
5. A-5: True copy of the letter dated 6.11.97 sent by the 1st applicant to the 2nd respondent.
6. A-6: True copy of letter No.SAT-2014/14 dated 7.4.99 sent to the 1st applicant sent by the O/o the General Manager, Telecom, Calicut.
7. A-7: True copy of the representation dated 22.2.00 sent by the 1st applicant to the 3rd respondent.
8. A-8: True copy of the order No.DOT No.15-22/92 TE-II dated 14.10.93 issued by the office of the 2nd respondent.
9. A-9: True copy of the order No.DOT No.27-10/93-TE-II dated 2.8.94 issued by the office of the 2nd respondent.
10. A-10: True copy of the minutes of the 36th O&M Meeting held on 5.11.92 in the office of the General Manager of Telecom Calicut.
11. A-11: True copy of the monthly statistics of the telephone exchanges during March 1994.
12. A-12: True copy of the order No.SGN-9029/2002-03/9 dated 8.23.2002 issued by the respondent.
13. A-13: True copy of the order No.SGP -8004/97-2002/53 dated 11.3.2002 issued by the respondent.
14. A-14: True copy of the order No.SGP-6010/2001-2002/17 dated 11.3.2002 issued by the respondent.
15. A-15: True copy of the order No.SAT-2014/98-2002/37 dated 11.3.2002 issued by the respondent.
16. A-16: True copy of the order No.DOT No.15-22/92-TE-II dated 23.6.1993 issued by the respondent.



Respondents' Annexures:

1. R-1: Letter No.27-2-94 TE-11(111) New Delhi dated 29.3.94 Sub: Sanction of posts in the restructured cadres issued by Asst. Director General (TE) for Govt. of India, Ministry of Communication, Department of Telecommunication.
2. R-2: Letter No.BSNL/7/SR/2001/Pt. dated 30.10.2001 B.S.N.L., S.R.CELL, New Delhi.
3. R-3: Copy of letter No.27-2/94-TE-II (Pt.) dated 9.3.95 issued by Govt. of India, Ministry of Communication, Department of Telecommunications, New Delhi.
4. R-4: Copy of letter No.STA/40-5/Rlgs/IV/2000 (Pt.III) dated 31.12.2001 issued by BSNL, Kerala Telecommunications, Trivandrum.
5. R-5: Copy of letter No.STA/40-5/Rlgs/IV/2000(Pt.III) dated 28.1.2002 issued by BSNL, Kerala Telecommunications, Trivandrum.

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