

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Dated of order: 14.07.2003

OA No.187/2003

Japan Singh aged about 32 years s/o late Shri Bajrang Singh r/o village surera, Tehsil Dantaramgarh, District Sikar.

.. Applicant

Versus

1. Union of India through the Secretary, Telecommunication, Department of Telecom, Sanchar Bhawan, New Delhi.
2. Bharat Sanchar Nigam Limited through its Chief General Manager, Rajasthan Telecom Circle, Jaipur.
3. Assistant General Manager (Admn.) Bharat Sanchar Nigam Limited office of Chief General Manager, Rajasthan Telecom Circle, Jaipur.

.. Respondents

Mr. Manish Sharma - counsel for the applicant

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

O R D E R (ORAL)

Per Hon'ble Mr. M.L.Chauhan

The only question which requires my consideration in this case is as to whether this Tribunal has jurisdiction, power and authority to decide the dispute with regard to recruitment or/and appointment of a person pertaining to Bharat Sanchar Nigam Limited (hereinafter referred to as BSNL).

2. The applicant is the only son of Shri Bajrang Singh, who was holding the post of LIO in the erstwhile

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Department of Telecommunication and expired on 24.8.1999. The applicant is aggrieved of the order dated 11.3.2003 (Ann.A1) passed by the Assistant General Manager (Admn.), BSNL whereby his application for compassionate appointment was rejected. The applicant has filed the present application thereby praying for the following reliefs:-

"(i) the impugned order Annexure A-1 dt. 11.3.2003 be quashed and set aside and the respondents be directed to consider the case of the applicant for compassionate appointment on a suitable post which may be available with the respondents from the date he submitted the application for the purpose;

(ii) Any other appropriate order or direction which the Hon'ble Court deems fit and proper in the facts and circumstances of the case may also be passed in favour of humble applicant.

(iii) Cost of this O.A. may also be awarded in favour of humble applicant."

3. Heard the learned counsel for the applicant and perused the material placed on record.

3.1 The learned counsel for the applicant could not satisfy this Tribunal regarding jurisdiction, power and authority of this Tribunal to entertain this application. It is not disputed that the BSNL is a limited company incorporated under the Companies Act, 1956 having distinct jurisdiction which has come to being by an agreement between the Union of India and the BSNL and the impugned order (Ann.A1) was also passed by the BSNL. The Administrative Tribunal was created under the

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Administrative Tribunals Act, 1985 in view of the powers conferred under Article 323-A of the Constitution of India for adjudication of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local authority within the territory of India or under the control of Govt. of India or of any corporation or society owned or controlled by the Govt. of India, as can be seen from the preamble of the Act. Section 19 of the Administrative Tribunals Act mandates that subject to other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal can make an application to the Tribunal for redressal of his grievance. Section 14 of the Act confers upon the Central Administrative Tribunal jurisdiction, powers and authority in respect of the recruitment and matters concerning recruitment and also service matters pertaining to recruitment and condition of service of a person appointed to public service and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Govt. of India or of any corporation or society owned or controlled by the Government and all matters connected with or incidental thereto. In the instant case, we are concerned with sub-section 2 and 3 of Section 14 of the Act which runs as follows:-

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(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of

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sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations (or societies) owned or controlled by Government, not being a local or other authority or corporation (or society) controlled or owned by a State Government.

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations (or societies).

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation (or society), all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court in relation to-

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation (or society); and

(b) all service matters concerning a person (other than a person referred to in clause (a) or clause (b) of sub-section (1) appointed to any service or post in connection with the affairs of

such loca or other authority or corporation (or society) and pertaining to the service of such person in connection with such affairs".

3.2 Admittedly, no notification under section 14(2) of the Administrative Tribunals Act has been issued by the Central Govt. thereby conferring jurisdiction, power or authority on this Tribunal in respect of BSNL which is admittedly a company incorporated under the Companies Act, 1956. Thus the service matters of BSNL is not maintainable under the jurisdiction of this Tribunal. As can be seen from the prayer clause, the grievance of the applicant is regarding rejection of his case for compassionate appointment by the BSNL and further directions to the respondents to consider his case for compassionate appointment on a suitable post which may be available with them and grant the applicant appointment from the date he has submitted his application for the purpose. Thus, it is a matter concerning recruitment and appointment of the applicant to a suitable post in the BSNL and in the absence of notification under Section 14(2) of the Act, this Tribunal has no jurisdiction, power or authority to entertain and adjudicate the dispute with regard to this matter. Thus the grievance of the applicant is beyond the jurisdiction of this Tribunal and as such the present applicant is not maintainable.

4. In view of what has been stated above, the present OA is dismissed as being not maintainable with no order as to costs.


(M.L.CHAUHAN)

Member (Judicial)