

50/100
**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 292/2000

R.A/C.P No. 16/02

E.P/M.A No.....

1. Orders Sheet..... O.A..... Pg. 1..... to 3.....
CP 16/02..... Pg. 1..... to 3..... Accepted 4/9/02

2. Judgment/Order dtd. 10.8.2001..... Pg. 1..... to 3..... Allowed

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A..... 292/2000..... Pg. 1..... to 12.....

5. E.P/M.P..... Pg. 1..... to 9.....

6. R.A/C.P. 16/02..... Pg. 1..... to 9.....

7. W.S..... Pg. 1..... to 25.....

8. Rejoinder..... Pg. 1..... to 10.....

9. Reply..... Pg. 1..... to

10. Any other Papers..... Pg. 1..... to

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

Wahid
20/12/17

(Teleph. Supr.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI, 5 (FORM NO. 4)
ORDER SHEET. (See Rule-42)

APPLICATION NO. 292/2000

Applicant(s) Sri Hemanta Ghorai

Respondents(s) Union of India and others.

Advocate for Applicant(s) Mr. B.K. Sharma

Advocate for Respondent(s) Mr. S. Sarma.

C.G.S.C.

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

26.9.00 Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.

Heard Mr B.K. Sharma, learned Sr.counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents.

Application is admitted. Issue usual notices.

List on 31.10.2000 for written statement and further orders.

Vice-Chairman

pg

31.10.00

Heard Mr S.Sarma, learned counsel for the applicant. Four weeks time is allowed to enable the respondents to file written statement on the prayer of Mr A.Deb Roy, learned Sr.C.G.S.C.

List on 28.11.2000 for written statement and further orders.

Vice-Chairman

pg

28.11.00

Three weeks time is granted to file written statement on the prayer of Mr A. Deb Roy, learned Sr.C.G.S.C.

List on 13.12.00 for order.

Vice-Chairman

pg

A.W.S. 23/11

Notice prepared and sent to D/S for notice to respondents
No. 1 to 4, wide D.No. 2202/2203 dtd 10/10/2000

b
10/10/00
Written statement has
not been filed +/
30/10/2000

(2)

O.A. 292/2000

① Service report are
still awaited.

13.12.2000 Present : Hon'ble Mr. Justice D.N.Chowdhury,
Vice-Chairman.

② No. Writs has been filed.

Hon'ble Mr. M.P.Singh, Member (A).

By
27.11.2000

Four weeks further time is allowed
to file written statement on the prayer of Mr.
A. Deb Roy, learned Sr. C.G.S.C.

List on 19.1.2001 for written
statement and further orders.

Member
Member (A)

Vice-Chairman

Notice duly served on
R.No 2,384.

By
28/11/00

12-12-2000

trd

No. Writs filed on 19.1.01
has been filed by
the respondents.

By
R.00

No. Writs has been filed.

By
18.1.2001

No written statement
has been filed.

lm

27.2.01

No written statement
has been filed.

By
15.2.01

Member

Vice-Chairman

Four weeks time allowed to file
written statement on the prayer of
Mr A.Deb Roy, learned Sr.C.G.S.C.

List on 27.3.01 for further order.

ICU Shar
Member

Vice-Chairman

19.3.2001 27.3.01
v/s. Submitted
by the respondents.

Written statement
has been filed.

By
26.3.01

pg

ICU Shar
Member

Vice-Chairman

Written statement has been filed.
The applicant may file rejoinder
within two weeks from today.

List on 1.5.2001 for order.

Notes of the Registry

Date

Order of the Tribunal

No. Rejoinder has been filed.	1.5.01	Written statement has been filed. The applicant may file rejoinder within two weeks from today. List on 17.5.2001 for orders.
	bb	I C Usha Member
By 5.6.01	17.5.01	It has been stated that written statement has already been filed. The applicant may file rejoinder, if any, within two weeks from today. List on 7.6.2001 for orders.
	bb	I C Usha Member
9.8.2001 Rejoinder has been submitted by the applicant to the W/S filed by the Respondents.	7.6.01	Written statement has already been filed. The case may be listed for hearing. The respondent may file rejoinder, if any, within two weeks from today. List on 4-7-2001 for hearing.
	bb	I C Usha Member
10.8.2001 P.M.	4.7.01	List after four weeks to enable the parties to obtain necessary instruction in the matter. List on 10-8-2001 for hearing.
	bb	I C Usha Member
10.8.2001 P.M.	10.8.01	Judgment delivered in open Court. Kept in separate sheets. Application is allowed. No costs.
	lm	I C Usha Member

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 292 of 2000

Date of Decision.....10.8.01.....

Sri Hironmoy Ghosh

Petitioner(s)

Mr.B.K.Sharma, Mr.S.Sarma

Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(s)

Mr.A.Deb Roy, Sr.C.G.S.C.

Advocate for the
Respondent(s)

THE HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN

THE HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : **VICE-CHAIRMAN**

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.292 of 2000

Date of Order: This the 10th Day of August 2001

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN
HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

Sri Hiranmoy Ghosh, Chief Telephone of
Supervisor (P) Grade IV in BCR, Scheme since
reverted to the post of Senior Telephone Supervisor (P) Office
of the SDE (E-10B) (MDF & PP), Daccaipatty,
Silchar. Applicant.

By Advocate Mr.B.K.Sharma, Mr.S.Sarma

-Vs-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Sanshar Bhawan, New Delhi-1.
2. The Chief General Manager, Telecommunication, Assam Circle, Ulubari Guwahati-7.
3. The General Manager, Telecom, Silchar SSA, Silchar
4. Divisional Engineer(P&A) Office of the General Manager, Telecom, Silchar.

By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R.

CHOWDHURY J(VC) :

By order dated 20.7.98 the applicant was promoted to the officiate as Chief Telephone Supervisor Grade-IV under BCR scheme in the scale of Rs. 6500/-200-10,500/-p.m. By the impugned order dated 21.6.2000 the aforementioned order of promotion given effect to that the order dated 27.7.98 was cancelled and was reverted to his substantive post of Senior Telephone Supervisor with effect from 21.06.2000. Hence this application.

contd/-2.

We have heard Mr. B.K. Sharma, Sr. counsel and assisted by Mr. S. Sarma learned counsel for the applicant and also Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents at some length.

The respondents have submitted the written statement. In the written statement the respondents have submitted that on review of the cases on receipt of the complaints revealed that the applicant had superseded his basic grade Senior officials in BCR at the time of DPC. Admittedly, the impugned order of reversion was passed in violation of principle of natural justice. The applicant was promoted under the BCR scheme but the impugned order has been issued stating that the promotion of the applicant was found on erroneous /the purported review. In the impugned order mentioned about the letter No. 22-6/94-TE.II dated 8.9.99. As per said letter dated 8.9.99 the promotion to Gr.IV was earlier being done on the basis of seniority in BCR. The issue was challenged in the Court. In view of the judgment of Principal Bench, New Delhi upheld by the Supreme Court, that it was decided /in supersession of earlier instructions that promotion to Gr.IV may be given from amongst officials in Gr.III on the basis of their seniority in the basic cadre restricting the number of officials thus promoted strictly to 10% of the posts placed in Gr.III. The said communication indicated the judgment of Hon'ble C.A.T, Ahmedabad Bench dated 11.4.97. The said communication itself indicated that some of the officials already promoted to Group IV became ineligible and were facing reversion and therefore, enjoined upon the officials to protect those person from reversion those who were promoted to the BCR Scheme.

In the facts and circumstances the impugned order dated 21.6.2000 is set aside. The respondents are directed to provide all consequential benefits to the applicant.

Application is allowed to the extent indicated above. There shall however, no order as to costs.

K K Sharma
(K.K.SHARMA)
ADMINISTRATIVE


(D.N.CHOUDHURY)
VICE-CHAIRMAN

LM

केन्द्रीय प्रशासनिक न्यूनता
Central Administrative Tribunals

61/ 25 SEP 2000

गुवाहाटी न्यूनता
Guwahati 7-10-2000

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : OA No. 292/2000

BETWEEN

Shri Hiranmoy Ghosh,
... Applicants

- versus -

Union of India & Ors.
... Respondents

I N D E X

SL. No.	Particulars of the documents	Page No.
1.	Application	1 to 10
2.	Verification	11
3.	Annexure-A	12
4.	Annexure-B	14
5.	Annexure-C	15

Filed by :

Ujjal Kr. Goswami
Advocate

Filed by
the Applicant
through
Mijal kr. Goswami
Advocate
11

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

D.A. No. 292 of 2000

BETWEEN

Sri Hiranmoy Ghosh, Chief Telephone of Supervisor (P) (Grade-IV in BCR Scheme)- Since reverted to the post of Senior Telephone Supervisor (P) Office of the SDE (E-10B) (MDF & PP), Daccaipatty, Silchar.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Sanshar Bhawan, New Delhi-1,
2. The Chief General Manager, Telecommunication, Assam Circle, Ulubari Guwahati-7
3. The General Manager, Telecom, Silchar SSA, Silchar.
4. Divisional Engineer (P&A) Office of the General Manager, Telecom, Silchar.

25 SEP 2000

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The present application is directed against the order of reversion of the Applicant as ordered by the Respondent No. 3 under order No. E-9/BCR/174 dated 21.6.2000 reverting the Applicant from the post of Chief Telephone Supervisor (P) to that of Senior Telephone Supervisor (P) with effect from 21.6.2000.

8/66

2. JURISDICTION OF THE TRIBUNAL

The Applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

The Applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE

4.1 That the Applicant is a citizen of India and as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India.

4.2 That the Applicant is aggrieved by the impugned order dated 21.6.2000 by which he has been reverted to the post of Senior Telephone Supervisor (P) (hereinafter referred to as STS (P)) from the post of Chief Telephone Supervisor (P) (hereinafter referred to as the CTS(P)). By the impugned order, the Applicant has been most illegal reverted to his former post of STS(P) with effect from 21.6.2000 and while being so the Respondents did not take into account the various circulars holding the field and also the decisions of the Hon'ble Tribunal coupled with the fact that other similarly situated persons are still continuing in the promoted post without facing any reversion.

4.3 That the Applicant states that having regard to the stagnation and there being no scope for promotion, the Government of India in the department of communication took a policy decision to provide time bound promotion to the telecom employees who were facing such stagnation. It was under such policy decision, schemes regarding Time Bound One Promotion and Biennial Cadre Scheme (in short TBOP & BCR respectively) were introduced. Under the TBOP Scheme a telecom employee became entitled to be upgraded on completion of 16 years of service and under the BCR Scheme, one became entitled to be placed in the next higher grade on completion of 26 years of service. The BCR scheme further provided for promotion against 10% posts in BCR.

25 SEP 2000 The Applicant craves leave of the Hon'ble Tribunal to produce the aforesaid scheme, if and when necessary.

Guwahati Bench 4.4 That the Applicant under the aforesaid BCR scheme earned his promotion to the rank of STS (P). Thereafter he was consider for promotion against 10 % BCR posts and was promoted as CTS (P) by an order No.E-9/BCR/164 dated 20.7.98 followed by another order dated 27.7.98.

Although the said order was stated to be purely temporary and adhoc in nature, but the same was in fact was a regular promotion and was with the same tune as in the case of other such promotions. This position is amply born out from the fact that the Applicant has been reverted by the impugned order not on the ground of his promotion being adhoc and temporary but the

impugned order has been issued stating the promotion of the Applicant to be erroneous on a purported review.

A copy of the order of promotion dated 20.7.98 and also a copy of the order dated 27.7.98 are annexed hereto as Annexure-A & B respectively.

4.5 That pursuant to the promotion of the Applicant, the Applicant took charge of the post of CTS(P). As already stated above the promotion of the Applicant was against 10% BCR posts under which 10% promotional posts are filled up from amongst the BCR promotees. The Applicant was so promoted after having found him eligible and suitable by a regularly constituted DPC as envisaged under the BCR scheme and circulars thereto. Ever since the promotion of the Applicant as CTS (P) the Applicant was discharging his duties to the satisfaction of all concern. Be it further stated here that some other persons were also promoted like that the Applicant of which mention may made of the name of Shri Sukumal Chandra Das whose date of appointment in

25 SEP 1968 the initial grade is 15.5.68 as against date of appointment of one Shri Sanjib Sarkar 23.1.67 who is working as TTA at Karimganj in a lower grade.

4.6 That the Applicant states that while he was functioning as CTS (P), he was surprised to receive a copy of the impugned order dated 21.6.2000 issued under No. E-9/BCR/174 by which his promotion is stated to be erroneous after review and accordingly his order of promotion is treated as canceled and the Applicant has been reverted to his substantive post of STS(P) with effect from 21.6.2000.

A copy of the said order dated 21.6.2000 is annexed hereto as Annexure-C.

4.7 That being aggrieved by the aforesaid impugned order the Applicant filed a writ petition being WP(C) No. 3611/2000 making a challenge to the same. Although as per the provisions of law the Applicant was to approached this Hon'ble Tribunal being the Court of First instance, he could not do so inasmuch as at that relevant point of time the Hon'ble Tribunal was not functioning there being no Member either Judicial or Administrative. The writ petition was moved on 30.6.2000 and the same has now been withdrawn on 22.9.2000 with liberty to approach the Hon'ble Tribunal.

The Applicant craves leave of this Hon'ble Tribunal to produce a copy of the order dated 22.9.2000 as and when required.

25 SEP 2000

4.8 That the Applicant states that although in the impugned order the promotion of the Applicant is described as erroneous after review, but nothing has been stated as to how the same was erroneous. Before issuing the impugned order the Applicant was not informed anything. No notice what so ever was issued to the Applicant before passing the impugned order or placing the matter of promotion of the Applicant for a review. As already stated above the Applicant was promoted after he was found suitable by a regularly constituted DPC. In case of any review of such selection and promotion adversely effecting the service

interest of the Applicant, he ought to have been informed of the same before hand giving him an opportunity to make representation and or to have his say in the matter. However, the Respondents did nothing of the sort and the Applicant has been reverted in a most arbitrary and illegal manner and in gross violation of the principles of natural justice and also in violation of Article 311 of the Constitution of India.

4.9 That the Applicant states that other similarly situate persons with that of the Applicant who were also promoted to the rank of CTS(P) like of the Applicant with similar terms and conditions have not been issued with any such order and they are still continuing in their promotional post of CTS(P). In this

connection mention may be made of the case of Shri ~~Subroto Banerjee~~ Sukumal Ch. Das. Even the juniors to the Applicant are continuing in the promotional post. Mention may be made

of the case of Shri S. Das working under the Sub-
Guwahati Bench ~~Sub-Sub~~ divisional Engineer (Internal), Silchar PRX. Thus on the face of it the impugned order is violative of Article 14 and 16 of the Constitution of India.

4.10 That in the impugned order although there is mention of letters dated 22.6.94, 13.12.95 and 8.9.99, on the strength of which the said order is stated to be issued the Applicant has not been informed of anything. However on enquiry the Applicant has come to know that those letters envisage promotion from amongst the officials on the basis of their seniority and the basic

grade the promotions with the subject of fitness determined by the DPC. The circular dated 8.9.99, of which and mention has been made in the impugned order speaks of reversion of ineligible promotees who were promoted by application of reservation roster.

The Respondents may be directed to produce the above circulars at the time of hearing of the case and any other circular which will have a bearing in the case.

4.11 That the Applicant states that he was not promoted against any reservation roster but was promoted to Grade IV (10% of BCR) on the basis of his seniority. Thus there was no occasion for the Respondents to revert the Applicant by the impugned order and the same is liable to be set aside and quashed. The Applicant has been so informed by letter dated 27.7.2000 issued by the Respondent No. 4 and the Applicant craves leave of the Hon'ble Tribunal to produce the said letter as and when necessary.

4.12 That the Applicant states that the impugned order has been issued on a wrong interpretation of the circulars and before issuing the impugned order the Applicant was not informed of anything and the same has been issued behind the back of the Applicant. On this score alone, same is liable to be set aside. Further the Respondents also did not take into account the various decisions of the Hon'ble Tribunal touching the issue involved in this case.

Alghas

4.13 That the Applicant states that he has got no alternative than to approach this Hon'ble Tribunal by filing this OA.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the action of the respondents in not considering the case of the Applicant in terms of the circulars holding the field is illegal and arbitrary and hence the impugned order is liable to be set aside and quashed.

5.2 For that the impugned order having been issued in gross violation of Article 311 of the Constitution of India and so also the principles of natural justice, same is liable to be set aside.

5.3 For that the Applicant having not been issued under any of the criteria requiring review of his case, the impugned order is liable to be set aside.

5.4 For that the impugned order being violative of Article 14 and 16 of the Constitution of India, same is not sustainable and liable to be set aside

5.5 For that although the promotion of the Applicant was stated to be on adhoc and temporary basis, but the reason for his reversion being on ground of his alleged erroneous promotion, the Applicant ought not have been informed of the same before hand enabling him to make representation and or to have his say in the matter.

għad

5.6. For that the Respondents having not taken into consideration the various decisions of the Hon'ble Tribunal in such matter on the basis of which the Respondents have also issued circulars, the impugned order is not sustainable and liable to be set aside.

5.7 For that in any view of the matter the impugned order is not sustainable and the Applicant is entitled to the reliefs sought for in this OA.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

Central Admin. Court

25 SEP 2000 MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

Gauhati Bench The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them. The Applicant had earlier filed a writ petition being WP(C) No. 3611/2000 in the Gauhati High Court and the same has been withdrawn 22.9.2000 with liberty to approach the Hon'ble Tribunal. Thus this OA.

7/10/2000
8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted,

records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

- 8.1 To set aside and quash the Annexure-C order dated 21.6.2000 with all consequential benefits such as arrear salary, seniority, continuity in the promotion post, etc.,
- 8.2 Cost of the application.
- 8.3 Any other relief/reliefs to which the Applicant is entitled to and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the OA the impugned order dated 21.6.2000 (Annexure-C) may be suspended directing the Respondents to allow the Applicant to continue the promotion post of CTS(P).

10.

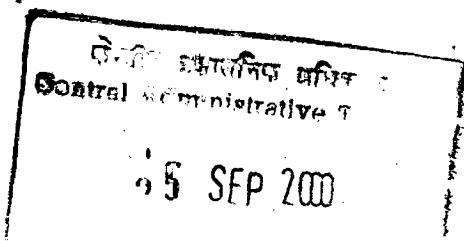
The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 26 50188
- ii) Date : 14/9/2000
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.



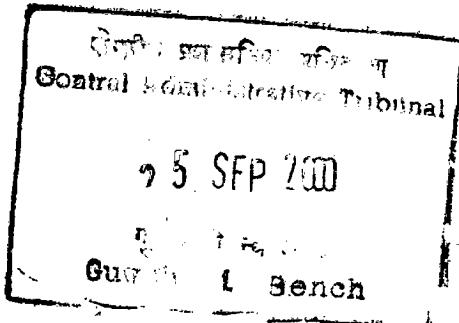
Alphabets

VERIFICATION

I, Shri Hiranmoy Ghosh, aged about 57 years, son of Late Haripada Ghosh, Chief Telephone of Supervisor (P) (Grade-IV in BCR Scheme) - Since reverted to the post of Senior Telephone Supervisor (P) Office of the SDE(E-10B) (MDF & PP), Daccaipatty, Silchar, do hereby solemnly affirm and verify that the statements made in paragraphs 4'1 to 4'3, 4'5, 4'7 to 4'13 are true to my knowledge ; those made in paragraphs 4'4, 4'6 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 25 th day of September 2000.

Hiranmoy Ghose



DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
SILCHAR-788001

No. E-9/BCR/164

Dated at Silchar, the 20.7.98

Sri Hironmoy Ghose, senior Telephone Supervisor(0) is hereby promoted to officiate as Chief Telephone Supervisor(0) i.e. Grade-IV under BCR scheme in the scale of pay Rs. 6500-200-10,500/- p.m. purely on temporary and adhoc basis until further orders.

The promotion takes effect from the date of assumption of charges of the higher post by the promotee.

Pay of the official will be fixed under FR-22(1)(a)(i).

The promotion is purely temporary and adhoc in nature and does not bestow the official may claim for regular absorption in the cadre. This adhoc promotion is liable to be terminated at any time without assigning any reason thereof.

Sd/-Illegible

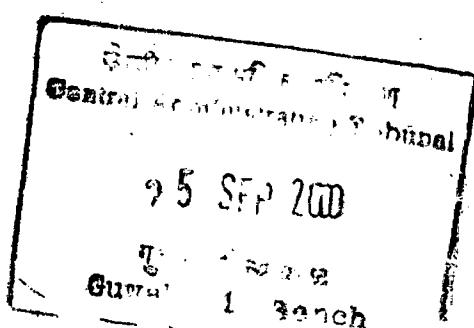
DIVISIONAL ENGINEER (P & A)
O/O THE TDM/SILCHAR-788001

COPY TO :

1. The CGMT/Assam Circle, Guwahati-7 for favour of kind information please.
2. The SDE(Trunk)/Silchar for information and necessary action please.
3. The AC(Cash) O/O the TDM/Silchar.
4. The AAO(Cash) O/O the TDM/Silchar.
5. The Official concerned. Sri H. Ghose SRT/S C/o SE(TK)/SC.
6. Personal file of the official.
7. E-9/GL.
8. Staff statement file.
9. Office copy.
10. Spare.

Sd/-Illegible

SUB DIVISIONAL ENGINEER (HRD)
O/O THE TDM/SILCHAR-788001



DEPARTMENT OF TELECOMMUNICATION

The officer Sri Hironmoy Ghose, Senior Telephone Supervisor Trunk is hereby promoted to officiate as Chief Supervisor (O) i.e. Grade-IV under BCR scheme in the scale of pay Rs. 6500-200-10,5000/- pm on purely temporary + adhoc basis until further order.

The official will have no any claim for regular absorption in the cadre. The adhoc promotion is liable to be terminated at any time without assigning any reason.

Further Sri H. Ghose SRT/s has assumed the charges of Chief Supervisor on the FIN of 27.7.98.

NO GG 3/98 99/17

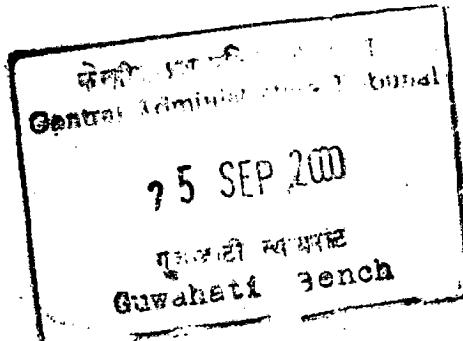
Date 27.7.98.

Sd/-Illegible

SUB DIVISIONAL ENGINEER
E-10-9 (MDF & Owr Plant)
SILCHAR-7888001

Copy to :

1. SDE (HRD) O/O the TDM/Silchar for favour of information please.
2. Sri H. Ghose Chief Supervisor TK/XOC/SC for information please.



14
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM
SILCHAR SSA :: SILCHAR

ANNEXURE C

NO. E-9/BCR/174

Dated at Silchar, the 21-06-2000

In pursuance of the instructions contained in DOT New Delhi letter No. 22-6/94-TE-II dtd. 13-12-95 & subsequent clarifications vide letter No. 22-6/94-TE-II dtd. 08-09-99 the promotion of Sri Hironmoy Ghose as Chief Telephone Supervisor (P) (Grade-IV in BCR scheme) vide this office memo No. E-9/BCR/164 dtd. 20-07-98 is found to have been erroneous after review.

The said promotion order of Sri Hironmoy Ghose is treated as cancelled and he is reverted to his substantive post of Senior Telephone Supervisor (P) w.e.f 21-06-2000.

The pay of the official will be fixed under FR 31-A.

Sd/-
(C.B. Nair)

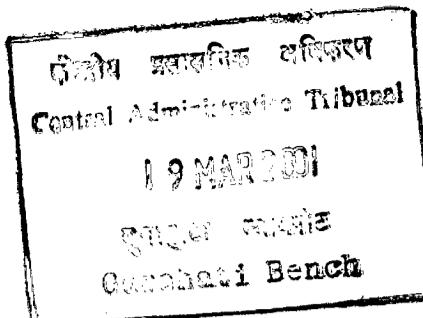
General Manager Telecom,
Silchar SSA : Silchar.

Copy to :-

1. The Chief General Manager Telecom, Assam Circle, Guwahati for kind information.
2. The DE (E-10B), Silchar for information.
3. The SDE (E-10B), (MDF & PP), Silchar for information & necessary action.
4. The Senior A.O. (Cash), O/O the GMT/Silchar.
5. The A.A.O (Cash), O/O the GMT/Silchar.
6. The Official concerned. *Sri Hironmoy Ghosh C.T.S.*
7. Personal file of the official.
8. Chief SS, Pay Bill Section.
9. Staff Stt. File.
10. Office Copy.

*Attested
Utkal Kumar
Advocate
certified to be true copy*

*J.P.P
22/6/2000*
(J.P. Paul)
Divisional Engineer (P&A)
O/O the G.M. Telecom, Silchar.



Recd 14
By 12/3/01
(A. D. R. C.)
C. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 292 OF 2000

Shri Hironmoy Ghosh

-Vs-

Union of India and others.

- And -

In the matter of :

Written Statement submitted by the
respondents

The respondents Most Respectfully beg to submit
the Written Statement as follows :-

1. That with regard to para 4.1 the respondents
beg to offer no comment.
2. That with regard to para 4.2 the respondents
beg to state that the reversion is legal, justified and
in accordance with the provisions of rules. No similarly
situated person is continuing in the promotional post
without reversion in Silchar SSA.
3. That with regard to para 4.3 the respondents
beg to offer no comment.

Contd.....

4. That with regard to para 4.4 the respondents beg to state that the adhoc promotion to Shri Hiranmoy Ghosh from Sr. TS (P) to CTS (P) was given purely on temporary basis. The said promotion order was challenged by some senior BCR officials stating that the promotion was irregular since they were senior to Shri Hiranmoy Ghosh in the basic grade. They also sought for review of the order.

^{representation} 3-12-98 & 5-4-99
A copy of the ~~review order~~ dated 03.03.2000 is
are annexed herewith and marked as Annexure - 1.

Subsequently the case was raised in the 28th IJCM meeting dated 03.03.2000 and minuted for examination and review.

The order dated 20.07.98 was very clear quote last para.

" The promotion is purely Temporary and adhoc in nature and does not bestow on the official any claim for regular absorption in the cadre. The adhoc promotion is liable to be terminated at any time without assigning any reason thereof".

Copy of the order dated 20.07.98 is annexed herewith and marked as Annexure - 2.

The order dated 27.07.98 is a follow up order of the order dated 20.07.98 is in the same tune.

The conditions of adhoc promotion have been emphasised in the order dated 27.07.98 also.

5. That with regard to para 4.5 the respondents beg to state that the comparison as shown by the applicant, Shri Hiranmoy Ghosh, with Shri Sukomal Chandra Das, CTS does not justify because :-

6.

a) The basic cadre of Sukomal Ch. Das & Sanjib Sarkar is "Technician" whereas the basic cadre of Shri Hiranmoy Ghosh is "Telephone Operator". Separate seniority list is maintained in each cadre and promotion given from respective cadre on the basis of their inter-se-seniority.

b) Sukomal Ch. Das, Chief Technical Supervisor, an S/C candidate, was promoted to Grade-IV on 01.07.94 against a vacant Reservation roster point. Shri Sanjib Sarkar also an S/C candidate in BCR, even though junior to many O/C officials in his grade has claimed promotion to Grade IV against the said "roster point" stating him to be senior to Shri Sukomal Ch. Das, CTS. The case has been referred to Circle Office/GH to examine, since the promotion w.e.f. 01.07.94 was given by C.O/GH. This has no relevancy with the case of Sri Hiranmoy Ghosh.

Eligibility criteria for Grade-IV promotion in brief.

Prior to 13.12.95

a) Inter-se-seniority of the BCR officials (grade-III) in that cadre.

b) Reservations roster applicable.

After 13.12.95

a) Seniority in the basic grade (grade-I) of that cadre.

b) Reservation roster applicable prior to 11.04.97.

Contd.....

c) Reservation roster not applicable after 11.04.97.

Sukomal Das, CTS promoted to grade-IV w.e.f. 01.07.94.

Date of joining in BCR of S.C. Das 28.01.92.

Date of joining in BCR of S. Sarkar 16.04.92.

(as per Service Book).

As such, the comparison of the case of Shri Sukomal Ch. Das, who belongs to a separate cadre, promoted against a "reservation roster point" by adopting a different method applicable prior to 13.12.95 is not justified and does not hold good.

The adhoc promotion of Shri Hiranmoy Ghosh to Grade-IV i.e. CTS(P) was given on 20.07.98.

6. That with regard to para 4.6 the respondents beg to state that the review of the cases on receipt of the complaints reveal that Shri Hiranmoy Ghosh has superseded his basic grade senior officials in BCR at the time of DPC. It further revealed that instead of considering the basic grade seniority list, the Divisional gradation list was considered to determine the seniority. Thus misinterpreting the instruction of DTO/ND order dated 13.12.95 .

Copy of the order dated 13.12.95 is annexed herewith and marked as Annexure-3 .

¶.

Comparative Status of BCR officials as on 16.07.98 (Date of DPC)

<u>Sl No.</u>	<u>Name</u>	<u>Basic grade Seniority No.</u>	<u>D.O. entry as T.O (basic grade)</u>	<u>D.O. confirmation as T.O.</u>
1.	H.P. Chakraborty	153	20-09-62	20.09.62
2.	R.R. Acharjee	170	13.06.60	01.03.63

3. M.L. Dhar	226	25.08.64	25.08.64
4. H. Ghosh	277	04.03.63	01.03.66.

Ref. Final gradation list of TOA (P) circulated by CGMT/GH vide No. STES-9/30/31 dated 28.01.95.

Copy of the ~~xxxxxxxx~~ order dated 28.01.94 is annexed herewith and marked as Annexure 4.

S1.(1) to S1. (3) above were superseded by Shri Hiranmoy Ghosh by the said promotion order dated 20.07.98.

The reversion of Shri Hiranmoy Ghosh from CTS (P) to Sr. TS (P) after thorough examination of records, rulings & circulars etc. was found justified to give relief to Sr. Officials who were deprived of the said promotion by the wrong interpretation of rulings circulars and adoption of wrong method.

Deprival of genuine Senior Officials to protect the interest of a junior official promoted erroneously amounts to violation of natural justice.

DOT/ND vide circular dated 08.09.99 has once again elaborately explained the procedure for grade-IV promotion. It also admitted that some of the instructions have been interpreted contrary to its spirit by some of the circles and reiterated/clarified the points (Para 1).

Copy of the order dated 08.09.99 is annexed herewith and marked as Annexure - 5.

As such an adhoc promotion purely on temporary basis on a wrong interpretation of circulars/orders must not be admitted as a claim and the official, Shri Hiranmoy Ghosh, thus promoted should not be allowed to continue in the post at the cost of deprival of other genuine senior officials.

Shri Hironmoy Ghosh has been reverted to his substantive post of Sr. TS(P) with pay protection under FR.32 A.

7. That with regard to para 4.7 the respondents beg to offer no comment.

8. That with regard to para 4.8 the respondents beg to state that the procedure for grade-IV promotion after 13.12.95 have been briefed in para 4.5.

DOT/ND order dated 13.12.95 (As per Annexure-2) and subsequent order dated 08-09-99 (Forwarded by CGMT/GH vide No. ESTT-4/32/32 dated 28.09.99) are very much clear.

Basic grade seniority (seniority in grade-I of the respective cadre i.e., TOA(P), TOA(G), Technician, TOA(TG) etc.) is the eligibility criteria for grade-IV promotion.

But the adhoc promotion order of Shri Hironmoy Ghosh dated 20.07.98 and subsequent reversion order 21.06.2000 is not covered by any protection scheme/order of DOT. The promotion order was erroneous due to misinterpretation of circular.

Copy of the order dated 21.06.2000 is annexed herewith and marked as Annexure - 6.

The selection should have been done on the basis of Seniority in basic grade (Grade-I) of T.O. cadre where as the selection in this case has been done on the basis of seniority in Divisional gradation list. Divisional G/L list has nothing to do in determining the eligibility for Grade-IV selection.

Hence, the process or method adopted was wrong and not in spirit of the DOT orders.

-7-

DPC did not find any thing wrong apparently and approved the adhoc promotion temporarily.

As per Govt. of India's order under FR 31 A (Rule 2)

" The order or notification of promotion or appointment of a Govt. servant should be cancelled as soon as it is brought to the notice of the appointing authority that such a promotion or appointment has resulted from a factual error and the govt. servant concerned should, immediately on such cancellation, be brought to the position which he would have held but for the incorrect order of promotion or appointment ".

(Ref. FRSR. Part-I, General Rule).

Copy of the order of promotion or appointment
is annexed herewith and marked as Annexure 3.

As such no notice was required before issuing the reversion order against adhoc promotion found erroneous after review.

The action taken by the appointing authority is well within provisions of rules to give justice to the deprived persons in view of the erroneous order of promotion of Shri Hiranmoy Ghosh. There is no violation of rule or any constitutional provisions.

9. That with regard to para 4.9 the respondents beg to state that the comparison is not justified and the analogy drawn by the applicant does not hold good.

Contd.....

The reversion order is justified to protect the interest of actually senior officials deprived of their genuine claim because of the erroneous promotion order of Sri Hiranmoy Ghosh.

Thus natural justice is safe guarded/protected as per rule.

There is no violation of the articles of ~~constitution~~ constitution of India.

10. That with regard to para 4.10 the respondents beg to state that the order dated 08.09.2000 is elaborate and exhaustive. It covers almost all the methods adopted in Grade-IV promotion prior to 13.12.95 and after 13.12.95 till date of issue of the order.

Order dated 13.12.95 (Annexure - 2a)

Order dated 08.09.99 (Annexure - 2b)

Perhaps order dated 22.06.94 as mentioned is not correct. This may be 22-6/94-TE-II dated 13.12.95 (The point may be clarified).

11. That with ~~para~~ regard to para 4.11 the respondents beg to state that the seniority of Shri Hiranmoy Ghosh produced in the MPC was based of factual error. His Divisional Gradation list seniority was misinterpreted as basic grade seniority (Seniority as Grade-I as T.O.) which was established in subsequent examination of records and review on receipt of the complaints from senior officials and also the minutes of the LJCM.

-9-

12. That with regard to para 4.12 the respondents beg to state that a mistake cannot be admitted as a fact/rule.

All the decisions of Hon'ble Tribunals and DOT orders/circulars have been taken into account before taking the decision.

The reversion & order was justified to protect the interest of Senior Officials suffered due to erroneous order of Grade-IV promotion dated 20.07.98 by promoting Sri Hiranmoy-Ghosh.

As per Govt. of India's decision any promotion by erroneous order, brought to the notice of appointing authority, is to be cancelled immediately.

The relief sought for by the applicant is not justified and should not be admitted.

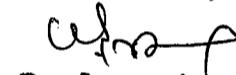
Verification.....

-10-

VERIFICATION

I, Shri Ganesh Chandra Sarma
being authorised do hereby solemnly declare that the
statement made in this written statement are true to
my knowledge, belief and information and I have not
suppressed any material fact.

And I sign this verification on this 19th day
February of 2001. 2000.


Declarant.

Asst. Director Telecom
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781009

23

U. Colpm

HK P-11

ANNEXURE 1 (3 sheets)

168

To
P. K. Mait

The Telecom District Manager,
Silchar.

3/12/98

Annexure-1

Dated, Silchar the 3/12/98.

Sub:-

Eligibility of staff working in Restructure cadre to Grade IV (10% BCR) of the basic cadre.

Sir,

I beg to, lay down the following facts for favour of your kind consideration and favourable orders.

That Sir, Sri H. Ghosh Sr. TOA(P) who has been promoted as CS(P) is junior to me where as I was appointed on 20.9.62 and Shri Ghosh was appointed on 4.3.63. It is not known how the Junior official can be promoted supersiting the senior like me.

That Sir, There are certain instructions communicated by the CGMT/Guahati letter ESTT-8/3/Pt-I/7 dtd. 11/9/98 it is clear that promotion should be done to the staff working in re-structure cadre to Grade .-IV (10% BCR) of the basic cadre

Though I have transferred from Guahati to Silchar in my own request in this case promotion should not be effected for selection of grade-IV (10% BCR) in the basic cadre. Moreover, it is clearly stated in your letter No. ER/BCR/Promotion/Rmg/73 dtd. 8.1.98 that such benefit should be given as per seniority in the basic cadre of the old cadre.

I therefore request you to consider my case on the ground as stated by the different instructions received from time to time so that I may not be deprived for my legitimate claim.

Received on
27/12/98
T

Yours faithfully,
Haripada Chakraborty

(HARIKADA CHAKRABORTY)
Sr. TOA(P)
Trunk Exchange, Silchar.

The Telecmm District Manager
Silchar Telecmm Division
Silchar-788001.

17-5-99

(Through proper channel)

Dated at HLK, the 5th April 1999.

Sub :- Deprival of Grd.IV promotion in respect of
B.Chakrabarty,STS, Hailakandi.

Ref :- My letter dt. 24th Sept 1998.

Sir,

With reference to the subject and letter cited above, I beg to state that I brought to your kind notice that Sri Hiranmoy Ghose who had been promoted to grade IV CTS in operative cadre by your letter No. E-9/BCR/164 dtd. 20.7.98 depriving me from my legitimate claim of having the same, as I am senior to Sri Hiranmoy Ghose in basic cadre. But to my letter surprise that till date nothing has been done in this respect nor I have been intimated anything about my prayer.

That Sir, though I have come to this Division under Roll 38 in the year 1965, yet Roll 38 transfer has nothing to do with Grade IV promotion as per DOT letter No.22-6/94 TE dt.13.12.95. Where it is clearly mentioned that promotion to grade IV shall be made, on, the basis of the seniority in basic cadre.

That Sir, Sri H.Ghose is junior to me so far the basic cadre is concerned. So his promotion to grade IV by supersiting me is a clear case of deprival as per DOT letter No.22-6/94 dtd. 13.12.95.

In view of the above I appeal to your kind good self once again to review the case in the light of existing order. So that I shall not be deprived of. An early decision is solicited.

Thanking you.

Yours faithfully.

B.Chakrabarty
(B.M.CHAKRABARTY)
STS
Telephone Exchange, Hailakandi

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
SILCHAR-788001.

No. E-9/BCR/164

Dated at Silchar, the 20-07-98.

Sri Hiranmoy Ghosh, Senior Telephone Supervisor(O) is hereby promoted to officiate as Chief Telephone Supervisor(O) i.e, Grade-IV under BCR scheme in the scale of pay of Rs.6500-200-10,500/-P.M. purely on temporary and adhoc basis until further orders.

The promotion takes effect from the date of assumption of charges of the higher post by the promotee.

Pay of the official will be fixed under FR-22(1)(a)(i).

The promotion is purely temporary and adhoc in nature and does not bestow of the official any claim for regular absorption in the cadre. This adhoc promotion is liable to be terminated at any time without assigning any reason thereof.

Debnath

DIVISIONAL ENGINEER (P&A)
O/O THE TDM/SILCHAR-788001.

Copy to:-

- 1) The CGMT/Assam Circle, Guwahati-7 for favour of kind information please.
- 2) The SDE(Trunk)/Silchar for information and necessary action please.
- 3) The AO(Cash)O/O the TDM/Silchar.
- 4) The AAO(Cash)O/O the TDM/Silchar.
- 5) The official concerned.
- 6) Personal file of the official.
- 7) E-9/GL.
- 8) Staff statement file.
- 9) Office copy.
- 10) Spare.

Debnath
SUB-DIVISIONAL ENGINEER(HRD)
O/O THE TDM/SILCHAR-788001.

OK

Government of India
Ministry of Communications
Department of Telecom.
Sonchar Bhawan, New Delhi-110001

No. 22-6/94-TE-LI

Date 13-12-95

To

All Heads of Telecom. Circles,
Metro Districts, Htds. Regions,
Project Circles and all other
Heads of Administrative Units.

Subj: Procedure for promotion to Gr. IV (scale of Rs.2000-3200)
against 10% posts in the BCR Scheme.

Your kind reference is invited to the instructions contained in this office letter No. 27-1/87-TE-11 dated 7-7-94 and 13-2-94, i.e. letter No. 22-11/94-TE-LI dated 30-8-94 which stipulates promotion to Gr. IV in the scale of Rs.2000-3200 (against 10% posts in the BCR) as per the seniority position in Grade-III. The said procedure has been challenged by certain officials before the CAT Principal Bench, New Delhi by filing OA No. 1455/94.

The Hon'ble CAT vide its judgement dated 7-7-92 directed that promotions to 10% posts in the scale of Rs.2000-3200 would have to be based on seniority in the basic cadre subject to fulfilment of other conditions of the BCR viz. those who are regular employees as on 1-1-90 and had completed 26 years of service in the bank (including higher grades). The DOR filed an SLP against the said judgement and the Hon'ble Supreme Court vide their order dated 9-12-94 upheld the judgement of CAT Principal Bench, New Delhi. Similar application had also been filed before other CAT benches in the country and in those cases as well, the judgements in line with the judgement of Principal Bench, New Delhi had been given.

Review of the existing procedure of promotion to Grade-IV (now designated as Chief Section Supervisor) under the BCR Scheme has been under consideration in view of the judgement of Principal Bench, New Delhi upheld by the Supreme Court. It has now been decided in subversion of earlier instructions that promotion to the Grade-IV may be given from amongst officials in Grade-III on the basis of their seniority in the basic Grade. The promotions would be subject to fitness determined by the DPC as usual.

(P)
(P)
(P)
(P)
(P)
(P)
(P)
(P)
(P)
(P)

11/5/95 (HRD)
AS PL

2/-

39

-2-

The cases of promotion to the said Grade-IV in the scale of 2000-3200 against 10% posts under the BCR Scheme may be reviewed and the same may be regulated accordingly restricting the number of officials thus promoted strictly to 10% of the posts placed in Grade-III (scale of Rs.1600-2660) as provided in the BCR Scheme.

(B.S.VERMA)
Director(TE)

Copy to:-

1. P.S. to Chairman, Telecom. Commission, New Delhi.
2. All Members/Advisor, Telecom. Commission, New Delhi.
3. Additional Secretary (1), D.O.T., New Delhi.
4. DDG(ESTT)/DDG(Pers.)/DDG(TC)/DDG(SA)/DDG(MR), D.O.T.
5. D.R.(TE)/Dir(ST-1)/ST-1)/Dir(SR)/Dir(PA-1)/Dir(TC) D.R. New Delhi.
6. ADD(NCG)/ADD(ESTT)/(TC)/STH/PA-1/FA-1/ D.R. New D.
7. Budroot/FA-1/TE-1/TE-1/TC-1, II, III, IV, V, VI, VII, VIII, IX, X/ Sections D.R. New Delhi.
8. All recognised Federation/Union/Associations.
9. Secy. Staff Departmental Council(JCM).
10. All Members, Staff Departmental Council(JDN).
11. Q.L. Section for Hindi Version.
12. Spare copies-50.

(T.R.G.B)
Section Officer(TE-1)

VI-10/35/2/PT.T/00 Dated at Guwahati the 7

Copy for Information/guidance and necessary action

- 1-2. The Area Manager Telecom/ Guwahati/ Dibrugarh
- 3-4. The Telecom District Manager/ Guwahati/ Dibrugarh
- 5-9. The T.D.E./Tezpur/Nagaon/Silchar/Jorhat/Barpeta
10. The A.G.M.(TR), Circle office, Guwahati
11. The A.D.T.(E&R), Circle office, Guwahati
- 12-13. The Circle Secretary, NFTE / FNTO, Guwahati
14. Spare

For Chief General Manager T.
Assam Telecom Circle, Guwahati

—15— (3) 1752 Annexure-4
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER: ASSAM TELECOM. CIRCLE
ULUBARI: GUWAHATI- 781007.

NO. STES-9/30/31

Dated at Guwahati on 23/1/94.

To

1. The A.M.T., Dibrugarh/Guwahati.
2. The T.D.M., Guwahati.
3. The T.D.E., Silchar/Dibrugarh/Jorhat/Tezpur/Bongaigaon/
Nagaon.
4. The R.E.M./Guwahati.
5. Director Mtce., Guwahati.

ANNEXURE 6 (13 sheet)

Sub:- Final Gradation List of T.O.A.(P).

Kindly find herewith the Final Gradation List of TOA(P) corrected upto 1/7/92. Sufficient copies of the list are enclosed hereto for wide circulation among all TOA(P).

Receipt of this may kindly be acknowledged.

Enclo:- As above.

(K.S.K. Prasad Sarma)
Asstt. Director Telecom. (Staff)
for Chief General Manager
Assam Telecom. Circle, Guwahati-7.

Copy together with a copy of G.L. forwarded to :-

1. Circle Secretary, AITEEU, Class-III, Assam Telecom.
Circle.
2. Circle Secretary, NUTEE, Class-III, Assam Telecom.
Circle.

for Chief General Manager
Assam Telecom. Circle, Guwahati-7.

N.M.

AC/PPD
S. C. B.
16/12/94

SSE
P. Maiti
O. Chakraborty
16/12/94

16

DRAW GRADATION LIST OF SR. SUPERVISOR/JR. SUPERVISOR(S) Corrected upto 01.07.92

Sl. No.	Name of the officials	Category	Date of Birth	Date of entry in service	Date from which work is continuing in this Deptt.	Date of Present	Pay How	D.M.I.	Remarks	
									Designation	Drawn
1	2	3	4	5	6	7	8	9	10	11
1.	Shri A.K. Hore	OC	29.7.35	9.3.55	19.4.71	1.3.74	TDM/GH			
2.	Mrs. Lovenima Das	SC	19.1.36	18.1.54	22.4.67	1.3.72	TDE/DR			
3.	Mrs. Pratima Gupta	OC	16.1.35	11.8.35	11.8.35	1.3.72	TDE/SC			
4.	Mrs. Tarulata Borah	CC	6.8.36	10.11.53		1.3.72	TDE/JRT			
5.	Shri Monoranjan Das	SC	21.3.35	26.5.55	26.5.55	1.3.76	TDE/SC			
6.	Shri N.P. Rabidas	CC	1.4.36	5.12.55	1.6.74	1.3.77	TDE/JRT			
7.	Shri Kamal Ch. Phukan	CC	1.5.35	3.1.56	1.6.74	1.2.80	TDE/NCG			
8.	Shri R.K. Bhattacharjee	OC	1.11.36	4.1.56	1.6.74	1.5.80	TDE/DR			
9.	Shri Harendra Ch. Bhattacharjee	OC	1.6.35	2.1.56	1.6.74	1.7.80	TDE/SC			
10.	Shri B.P. Bhattacharjee	OC	13.1.35	10.1.56	1.6.74	1.7.81	TDE/DR			
11.	Shri Pritikana Das	OC	6.3.36	1.2.56	1.6.74	1.7.81	TDM/GH			
12.	Shri Susanta Kr. Das	OC	10.2.36	1.2.56	1.6.74	1.1.82	TDM/GH			
13.	Shri Kamalendu Purkayastha	SC	1.3.35	3.2.56	1.6.74	1.1.82	TDE/SC			
14.	Shri Subhash Ch. Bhattacharjee	OC	7.3.35	3.2.56	1.6.74	1.11.86	TDM/GH			
15.	Shri Nirmal Ch. Chakraborty	OC	1.9.36	3.2.56	1.6.74	1.7.82	TDE/TZ			
16.	Shri Gauranga Roy	CC	31.3.36	3.2.56	1.6.74		TDE/BGN			
17.	Shri Arun Ch. Choudhury	OC	1.2.36	4.2.56	1.6.74	1.1.83	TDE/BGN			
18.	Shri Sulekha Singh Dey	CC	21.7.34	3.2.56	1.6.74	1.7.83	TDE/SC			
19.	Shri Jitendra Ch. Dey	CC	6.7.34	10.3.56	1.6.74		TDE/WRT			
	Shri Mukhyashwar Sharma	CC	1.3.35	4.6.56	1.6.74	1.1.86	TDE/WRT			
	Samarendra Choudhury	CC	2.3.37	27.6.56	1.6.74	1.3.86	TDM/NH			

1	2	3	4	5	6	7	8	9	10	11
149.	Shri Paritosh Kanti Dutta	CC	01.05.32	11.05.62	11.05.62	11.05.62	11.05.62	TDE/CH		
150.	Shri Surat Ch.Chakraborty	CC	17.12.40	9.09.62	9.09.62	9.09.62	9.09.62	TDE/CHN		
151.	Shri B.A.Mehhi	CC	01.01.42	10.09.62	10.09.62	10.09.62	10.09.62	TDE/CH		
152.	Mrs.Maya Chakraborty	CC	01.01.42	10.09.62	10.09.62	10.09.62	10.09.62	TDE/CH		
153.	Shri Mahadev Nath Deka	CC	01.04.42	10.09.62	10.09.62	10.09.62	10.09.62	TDE/CH		
154.	Mrs. Decta Das	CC	20.11.42	10.09.62	10.09.62	10.09.62	10.09.62	TDE/CH		
155.	Shri Ranjit Bhattacharjee	CC	01.01.33	11.09.62	11.09.62	11.09.62	11.09.62	TDE/CH		
156.	Shri Narendra Nath Misra	CC	01.03.41	11.09.62	11.09.62	11.09.62	11.09.62	TDE/CH		
157.	Shri Dili Kr.Nath	CC	01.14.61	13.09.62	13.09.62	13.09.62	13.09.62	TDE/TZ		
158.	Shri Soprat Ch.Das-I	CC	01.03.43	13.09.62	13.09.62	13.09.62	13.09.62	TDE/CH		
159.	Shri Thenu Ami Derman	CC	01.03.41	14.09.62	14.09.62	14.09.62	14.09.62	TDE/CHN		
160.	Md.Mahinul Ali Ahmed	CC	01.02.42	17.09.62	17.09.62	17.09.62	17.09.62	TDE/CH		
161.	Shri Nirmal Kr. Debnath	CC	01.17.41	18.09.62	18.09.62	18.09.62	18.09.62	TDE/CH		
162.	Shri Biswanath Sharma	CC	01.12.41	18.09.62	18.09.62	18.09.62	18.09.62	TDE/CH		
163.	Shri Hemjyoti Chakraborty	CC	01.03.42	20.09.62	20.09.62	20.09.62	20.09.62	TDE/CH		
164.	Shri Amit Kish Deka	CC	01.04.42	21.09.62	21.09.62	21.09.62	21.09.62	TDE/TZ		
165.	Shri Parikshit Chakraborty	CC	25.5.43	23.09.62	23.09.62	23.09.62	23.09.62	TDE/TZ		
166.	Shri K.N.Dan	CC	01.03.40	22.02.63	22.02.63	22.02.63	22.02.63	TDE/TZ		
167.	Mrs. Soura Bhownuk	CC	12.02.42	15.02.63	15.02.63	15.02.63	15.02.63	TDE/CH		
168.	Shri DurgaJher Deka	CC	01.03.41	15.02.63	15.02.63	15.02.63	15.02.63	TDE/CH		
169.	Shri Prafulla Ch.Bagman	CC	01.05.42	15.02.63	15.02.63	15.02.63	15.02.63	TDE/CHN		
170.	Shri Purushottam Sekhar Nath	CC	01.17.42	15.02.63	15.02.63	15.02.63	15.02.63	TDE/CH		
171.	Shri Ashutosh Ch. Kalita	CC	01.17.43	15.02.63	15.02.63	15.02.63	15.02.63	TDE/CH		
172.	Shri Upendra Kanta Das	CC	01.12.43	15.02.63	15.02.63	15.02.63	15.02.63	TDE/CH		
173.	Shri Arunachal Mohan Sharma	CC	01.02.44	15.02.63	15.02.63	15.02.63	15.02.63	TDE/CH		

1	2	3	4	5	6	7	8	9	10	11
164.	Sri Surendra Ch.Das	SC	01.03.44	15.02.63	15.02.63	15.02.63	TDM/GH			
165.	Sri Ranjit Kr.Dey	OC	21.01.39	09.02.60	09.02.60	01.03.63	TDE/JRT			
166.	Sri Satya Ranjan Sarkar	OC	01.02.40	10.02.60	10.02.60	01.03.63	TDE/DR			
167.	Sri B.B.Roy Choudhury	OC	01.04.39	10.06.60	10.06.60	10.06.60	TDE/NGG			
168.	Sri Kamal Prasad Sarmah	OC	03.07.36	13.06.60	13.06.60	01.03.63	TDE/DR			
169.	Sri Anil Kr.Deb	OC	01.04.41	13.06.60	13.06.60	01.03.63	TDE/SC			
170.	Sri R.R.Acharjee	OC	01.04.41	13.06.60	13.06.60	01.03.63	TDE/SC			
171.	Md.Habibur Rahman	OC	01-02-37	15-06-50	21-03-63	01-03-63	TDM/GH			
172.	Smt.Nishiprabha Sharma	OC	17-07-40	15-06-60	15-06-60	01-03-63	TDE/JRT			
173.	Sri Subash Ch.Ghosh	OC	01-07-40	01-06-60		01-03-63	TDE/JRT			
174.	i)Sri Meera Chowba Singh	OC	01-06-37	17-06-60	17-06-60	01-03-63	TDE/SC			
	ii)Sri Ramesh Barman	OC	01-06-40	09-12-60		01-03-65	TDM/GH			
175.	Smt. Suchitra Roy	OC	01-03-40	14-12-60	14-12-60	01-03-63	TDE/SC			
176.	Sri Surjya Kantha Acharjee	OC	10-03-38	19-12-60	19-12-60	01-03-63	TDE/DR			
177.	Sri Golok Ch.Patgiri	OC	01-04-38	17-02-61	17-02-61	01-03-63	TDM/GH			
178.	Smt. Uma Rani Deb	OC	01-09-39	10-04-61	10-04-61	01-03-63	TDE/DR			
179.	Smt. Bharati Guha -II	OC	01-09-40	10-04-61	10-04-61	01-03-63	TDE/DR			
180.	Smt. Kshama Dutta	OC	31-01-41	10-04-61	10-04-61	01-03-63	TDM/GH			
181.	Smt. Aparna Paul	OC	31-03-41	10-04-61	10-04-61	01-03-63	TDM/GH			
182.	Sri Nagen Ch. Chetia	OC	16-12-41	10-04-61	10-04-61	01-03-63	TDE/JRT			
183.	i)Sri Jayanta Bijoy Choudhury	OC	01-01-41	12-04-61	12-04-61	01-03-63	TDE/DR			
	ii)Sri Basanta Nath Sharma	OC	01-03-43	19-02-63		19-02-63	TDM/GH			
184.	Sri Tarini Kanta Boro	ST	02-03-42	15-03-63	15-03-63	15-03-63	TDM/GH			
185.	Sri Bikram Kr.Acharjee	OC	01-09-41	04-05-63	04-05-63	04-05-63	TDM/GH			
186.	Sri Jatindra Ch. Kalita	OC	01-09-42	04-05-63	04-05-63	04-05-63	TDM/GH			
187.	Sri Arun Kr. Deb	OC	01-10-42	04-05-63	04-05-63	04-05-63	TDM/GH			

1	2	3	4	5	6	7	8	9	10	11
213.	Sri Rabi Kanta Gogoi	OC	03.08.39	15.06.61	15.06.61	01.03.64	TDE/JRT			
214.	Smti Putuli Begam	OC	01.04.41	09.09.61	09.09.61	01.03.64	TDE/DR			
215.	Smti Arati Dey	OC	24.02.40	13.09.61	13.09.61	01.03.64	TDE/DR			
216.	Sri Syed Rafiqua' Hussain	OC	17.02.41	09.09.62	09.09.62	01.03.64	TDE/JRT			
217.	Sri Abinash Mazumdar	OC	01.03.43	13.09.62	13.09.62	01.03.64	TDE/DR			
218.	Md.Nazar Ali	OC	01.08.40	14.09.62	14.09.62	01.03.64	TDE/NGG			
219.	Sri Kula Gswami	OC	01.03.41	11.09.61	14.09.62	01.03.64	TDE/JRT			
220.	Sri Kiron Ch. Das	SC	31.08.42	15.12.62	15.12.62	01.03.64	TDE/DR			
221.	Sri Subash Ch.Bhattacharjee	OC	02.12.41	22.12.62	22.12.62	25.08.64	TDM/GH			
222.	Sri Jyotirmoy Sarkar	OC	01.10.42	25.08.64	25.08.64	25.08.64	TDM/GH			
223.	Sri Gopal Ch.Deka	OC	01.10.43	25.08.64	25.08.64	01.10.70	TDE/TZ			
224.	Sri Lakshmi Kanta Sharma	OC	01.03.44	25.08.64	25.08.64	25.08.64	TDM/GH			
225.	Sri Bhupan Mohan Deka	OC	01.04.44	25.08.64	25.08.64	25.08.64	TDE/SC			
226.	Sri Moti Lal Dhar	OC	01.02.45	25.08.64	25.08.64	25.08.64	TDM/GH			
227.	Sri Ram Charan Deka	OC	01.09.43	26.08.64	24.08.64	26.08.64	TDM/GH			
228.	Sri N.B.Das Purkayastha	OC	01.09.43	26.08.64	26.08.64	26.08.64	TDE/TZ			
229.	Sri Bhabendra Nath Goswami	OC	01.05.42	26.08.64	26.08.64	01.10.70	TDE/TZ			
230.	Sri Ramendra Kishore Paul	OC	01.10.42	26.08.64	26.08.64	01.10.70	TDM/GH			
231.	Sri Narendra Mohan Choudhury	OC	31.03.45	29.08.64	29.08.64	29.08.64	TDM/GH			
232.	Sri Rabindra Ch.Saikia	ST	01.02.43	30.08.64	30.08.64	30.08.64	TDM/GH			
233.	Sri Jageswar Patwari	OC	01.03.44	01.09.64	01.09.64	01.09.64	TDM/GH			
234.	Sri Dina Bandhu Bhattacharjee	OC	01.04.45	25.12.64	25.12.64	25.12.64	TDM/GH			
235.	Sri Sarat Kr.Chanda	OC	01.02.40	26.12.64	26.12.64	26.12.64	TDM/GH			

1	2	3	4	5	6	7	8	9	10	11
260.	Shri Prasanna Narayan Barua	CC	01-06-42	25-01-65	25-01-65	25-03-65	TDE BNG			
261.	" Bani Kanta Deb Sarma	OC	01-07-42	27-08-65	27-05-65	27-05-65	TDM GH			
262.	" Paresh Ch. Sharma	OC	01-01-40	15-12-60	15-12-60	03-06-63	TDM GH			
263.	" Mali Ram Boro	ST	01-07-40	03-06-65	03-06-65	03-06-65	TDM GH			
264.	" Hemanga Nath	OC	01-11-42	05-06-65	05-06-65	05-06-65	TDM GH			
265.	" Chandra Kanta Talukdar	OC	07-12-44	06-06-65	06-06-65	06-06-65	TDM GH			
266.	Smt. Padma Kumari Mishra	OC	2-12-44	15-06-65 <i>postal clerk</i>	15-06-65	15-06-65	TDM GH			
267.	Shri Narendra Nath Saikia	ST	01-09-40	22-06-65	22-06-65	22-06-65	TDM GH			
268.	" Rakhal Das Bhattacharjee	OC	29-02-40	09-05-62	09-05-62	01-07-65	TDE TZ			
269.	Asutosh Mazumdar	OC	31-03-42	15-12-62	15-12-62	03-10-65	TDE NGG			
270.	" Mukul Kanti Dey	OC	01-09-40	15-12-62	15-12-62	01-03-66	TDE DR			
271.	" Nilakanta Gogoi	OC	01-01-41	15-12-62	15-12-62	01-03-66	TDE DR			
272.	Md. Azizur Rahaman	OC	01-12-42	15-12-62	15-12-62	01-03-66	TDE DR			
273.	Shri Pradip Kr. Deb	OC	01-05-43	15-12-62	15-12-62	01-03-66	TDE DR			
274.	Smt. Mandira Dey	OC	29-02-43	20-12-62	15-12-62	01-03-66	TDE DR			
275.	Shri Pinu Behari Nath	OC	01-01-44	22-12-62	22-12-62	01-03-66	TDM GH			
276.	Smt. Arati Bose	OC	01-01-43	24-12-62	24-12-62	01-03-66	TDE DR			
277.	Shri Hiranmay Ghose	OC	01-11-43	04-03-63	04-03-63	01-03-66	TDE SC			
278.	" Bidhan Ch. Choudhury	OC	01-04-44	04-03-63	04-03-63	01-03-66	TDE SC			
279.	" J.K. Dey	OC	01-02-42	06-03-63	06-03-63	01-03-66	TDE SC			
280.	" S.B. Choudhury	OC	07-03-41	07-03-63	07-03-63	01-03-66	TDE SC			
281.	" Jayanta Kr. Sinha	OC	01-03-43	25-05-63	21-05-63	01-03-66	TDE SC			
282.	" S. R. Seal	OC	01-05-44	25-11-64	25-11-64	01-03-66	TDE NGG			
283.	Smt. Labanya Gogoi	CC	01-03-44	21-05-63	21-05-63	01-03-64	TDE JRT			
284.	Jogendra Nath Dutta	CC	01-04-43	28-09-63	28-09-63	01-03-64	TDE JRT			

DEPARTMENT OF TELECOM

No. 22-6/94-TE.II

Dated: 8.9.99

To

All Heads of Telecom Circles/
Metro Districts/ Maintenance Regions

Subj: Procedure for promotion to Gr.IV against 10% posts in BCR Scheme.

There has been number of instructions on promotion/ placement to Gr. IV (10% BCR) issued from time to time. It has been observed that some of the instructions have been interpreted contrary to its spirit in some of the circles. In view of this, the position on placement to Gr. IV in view of the existing instructions on the subject is reiterated/clarified as under:

The Scheme of BCR and 10% BCR (Gr. IV) was introduced in the Department vide No. 27-4/87-TE.II dt. 16.10.90.

The promotion to Gr. IV was done on the basis of seniority in BCR. The issue was challenged in the Court. In view of the Judgement of Principal Bench, New Delhi upheld by the Supreme Court, it was decided in supersession of earlier instructions that promotion to Gr. IV may be given from amongst officials in Gr. III on the basis of their seniority in the basic cadre. Accordingly, the Order No. 22-6/94-TE.II dt. 13.12.95 was issued. As per the Order, the promotion to the Gr. IV was to be reviewed and the same was to be regulated as per Court Judgement (restricting the number of officials thus promoted strictly to 10% of the posts placed in Gr. III).

Consequent to the above Order dated 13.12.95, some of the officials already promoted in Gr. IV became ineligible and were facing reversion. It was decided by Order of even No. dated 13.2.97 that those promoted officials who will be rendered ineligible for promotion to Gr. IV in pursuance of the Order dated 13.12.95 may be protected from reversion by creating as many supernumerary posts as required from person to person basis. It is further clarified that these supernumerary posts were to be created only to avoid reversion of the officials promoted to Gr. IV by different method prior to 13.12.95.

Order 27-4/87-TE.II dated 22.10.93 allowed the officials in restructured cadre to opt for the BCR scale of the old cadre with the stipulation that they will not be entitled to Gr. IV of the old cadre. Subsequently, it was decided vide Order of even No. dated 16.6.97 that Gr. IV scale should be allowed to the staff working in the restructured cadre. This benefit will be given to the staff in the

- 2 -

restructured cadre from the date their juniors in the old cadre have got this benefit as per seniority in the basic grade of the old cadre. Order No. dated 2.9.98 allowed creation of supernumerary posts to accommodate officials in Gr. IV in compliance of this office Order dated 16.6.97. It is clarified that Gr. IV was to be given to the officials in the restructured who were senior to the officials of old cadre placed in Gr. IV because of seniority in basic cadre. Such comparison was not to be drawn by the officials of old cadre who were working against supernumerary posts etc. to avoid their reversion in pursuance of Order dated 13.12.95.

It was mentioned in Order No. 22-6/94-TE.II dated 13.96 that the rules of reservation would apply to promotions in Gr. IV. The same was challenged in the Court. Hon'ble CAT Ahmedabad vide its Judgement dated 11.4.97 in OA No. 623/96, upheld by Hon'ble High Court, Gujarat, has issued an Order that Reservation Roster will not apply for placement from Gr. III to 10% BCR (Gr. IV). The decision of the CAT alongwith copy of Court Order was circulated vide this office letter of even No. dated 13.96. The same was reiterated vide this office letter of even No. dated 13.96 wherein it was emphasised to review DPCs in which reservation roster have been applied for placement in Grd. IV.

2. In view of the above Orders regarding placement to Gr. IV, the following may be taken:

(i) In pursuance of Order No. 27-4/87-TE.II dated 16.6.97, the officials of the restructured cadre wrongly promoted to Gr.IV by comparison with officials of old cadre placed in Gr. IV either against supernumerary posts created in pursuance of Order No. 22-6/94-TE.II dt. 13.02.97 or through application of the 'Reservation Roster' as per Order No. 22-6/94-TE.II dt. 13.96, may be reverted with immediate effect.

(ii) To comply with the Ahmedabad CAT Order circulated vide this office No. 22-6/94-TE.II dt. 22.8.97, review DPC may be conducted for ineligible officials promoted to Gr.IV by application of Reservation Roster as mentioned in this office Order of even No. dated 13.96 may be reviewed with immediate effect. All eligible officials may be placed in Gr. IV and their pay may be fixed notionally. However, no arrears will be paid to such officials approved by reviewed DPC.

BAL KISHORE
DIRECTOR

CABJ/6/1

S. DDC (B.W) / DDC (P&P) / DDC (P&A)

48

restructured cadre from the date their juniors in the old cadre have been given this benefit as per seniority in the basic grade of the old cadre. Order of even No. dated 2.9.98 allowed creation of supernumerary posts to accommodate officials in Gr. IV in compliance of this office Order dated 16.6.97. It is further clarified that Gr. IV was to be given to the officials in the restructured cadre who were senior to the officials of old cadre placed in Gr. IV because of the seniority in basic cadre. Such comparision was not to be drawn by the Govt. of officials of old cadre who were working against supernumerary posts created to avoid their reversion in pursuance of Order dated 13.12.95.

It was mentioned in Order No. 22-6/94-TE.II dated 1.3.96 that the normal rules of reservation would apply to promotions in Gr. IV. The same was challenged in the Court. Hon'ble CAT Ahmedabad vide its Judgement dated 11.4.97 in OA No. 623/96, upheld by Hon'ble High Court, Gujrat, has passed an Order that Reservation Roster will not apply for placement from BCR (Gr. III) to 10% BCR (Gr. IV). The decision of the CAT alongwith copy of the Court Order was circulated vide this office letter of even No. dated 22.8.97. The same was reiterated vide this office letter of even No. dated 19.7.97 wherein it was emphasised to review DPCs in which reservation roster would have been applied for placement in Grd. IV.

2. In view of the above Orders regarding placement to Gr. IV, the following steps may be taken:

- (i) In pursuance of Order No. 27-4/87-TE.II dated 16.6.97, the officials of restructured cadre wrongly promoted to Gr. IV by comparision with officials of old cadre placed in Gr. IV either against supernumerary posts created in pursuance of Order No. 22-6/94-TE.II dt. 13.02.97 or through application of Reservation Roster as per Order No. 22-6/94-TE.II dt. 1.3.96, may be reverted with immediate effect.
- (ii) To comply with the Ahmedabad CAT Order circulated vide this office letter No. 22-6/94-TE.II dt. 22.8.97, review DPC may be conducted. All ineligible officials promoted to Gr. IV by application of Reservation Roster as mentioned in this office Order of even No. dated 1.3.96 may be reverted with immediate effect. All eligible officials may be placed in Gr. IV and their pay may be fixed notionaly. However, no arrears will be payable to such officials approved by reviewed DPC.

9/1/98
(BAL KISHAN)
DIRECTOR (TE)

Certify to :

Sr. BDA (B.W) / BDA (P&P) / BDA (P.C.A.)



-23-

ANEXURE 6 (IS)
174 C
19

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM
SILCHAR SSA :: SILCHAR

No. E-9/BCR/174

Dated at Silchar, the 21-06-2000

In pursuance of the instructions contained in DOT New Delhi letter No. 22-6/94-TE-II dtd. 13-12-95 & subsequent clarifications vide letter No. 22-6/94-TE-II dtd. 08-09-99 the promotion of Sri Hironmoy Ghose as Chief Telephone Supervisor (P) (Grade-IV in BCR scheme) vide this office memo No. E-9/BCR/164 dtd. 20-07-98 is found to have been erroneous after review.

The said promotion order of Sri Hironmoy Ghose is treated as cancelled and he is reverted to his substantive post of Senior Telephone Supervisor (P) w.e.f 21-06-2000.

The pay of the official will be fixed under FR 31-A.

O/C

Govt b
(C.B. Nair)
General Manager Telecom
Silchar SSA : Silchar

Copy to :-

1. The Chief General Manager Telecom, Assam Circle, Guwahati for kind information.
2. The DE (E-10B), Silchar for information.
3. The SDE (E-10B), (MDF & PP), Silchar for information & necessary action.
4. The Senior A.O. (Cash), O/O the GMT/Silchar.
5. The A.A.O (Cash), O/O the GMT/Silchar.
6. The Official concerned.
7. Personal file of the official.
8. Chief SS, Pay Bill Section.
9. Staff Stt. File.
10. Office Copy.

O/C

Supd 22/6/2000
(I.R. Paul)
Divisional Engineer (P&A)
O/O the G.M. Telecom, Silchar.

24

PAY

[F.R. 31

It has been decided that in the case of a person proceeding on leave, if the period of leave counts for increment in the officiating post under F.R. 26 (b) (ii) subject to the production of the necessary certificates, his officiating pay may be fixed under F.R. 31 (2) from the very date of increment or increase in the substantive pay as if he was appointed to officiate in that post on that date. The benefit of the increase in officiating pay can be had by him only from the date of resumption of duties but his next increment in the officiating post will accrue to him from an earlier date in the next year calculated with reference to the date of refixation of pay.

If, however, the period of leave does not count for increment in the officiating post, the Government servant will be entitled to get his officiating pay refixed in case of any increase in the substantive pay occurring during the period of such leave, only from the date of his return from leave and in that case the next increment will fall due only on completion of prescribed period of duty for earning increments reckoned from the date of resuming charge, unless he becomes entitled to refixation of pay under F.R. 31 (2) once again from an earlier date.

For refixation of officiating pay under provisions of F.R. 22-C, see Government of India's Order (12) below that rule.

[G.I., M.F., O.M. No. F. 2 (9)-Est. III/60, dated the 28th April, 1960 and the 8th November, 1960 and O.M. No. 1 (8)-E. III (A)/73, dated the 6th August, 1973 modifying para. 3 with effect from 6-8-1973.]

(5) **Refixation of pay in a case coming under the purview of 'next below rule'.**—A question was raised whether refixation of pay under F.R. 31 (2) in respect of a post in which a Government servant was not actually officiating at the time of enhancement of his substantive pay but would have officiated under the 'next below rule' but for his deputation to a still higher post.

It is clarified that the provisions of sub-rule (2) of F.R. 31 shall be applicable in these cases also.

The pay of the Government servant concerned shall be refixed under F.R. 31 (2) notionally in the post in which he would have continued to officiate but for his deputation to some other post or appointment in an officiating capacity to a still higher post. As and when the Government servant reverts to that post from deputation/higher post, the actual pay to be given to him on the date of reversion will be arrived at with reference to such notional pay.

[G.I., M.F., O.M. No. 2 (31)-E. III/61, dated the 12th July, 1961.]

(6) **Invoking F.R. 35 for denying automatic efficiency bar crossing.**—Doubts have been raised in the matter of fixation of pay under F.R. 31 in the following types of cases, namely—

(a) whether refixation of officiating pay under F.R. 31 (2) will be permissible in a case where the increment of a Government servant at a particular stage or the efficiency bar stage in the officiating post has been withheld for failure to pass a departmental examination;

(b) whether in cases where the refixation of pay under F.R. 31 (2) takes the pay of Government servant above the efficiency bar stage, such refixation should be allowed automatically even if the competent authority feels that the Government servant is not fit to cross the efficiency bar, for reasons other than failure to pass a departmental examination.

2. In respect of cases falling under paragraph 1 (a) above, even under the existing provisions of F.R. 31, the refixation of pay can be denied by invoking

Annexure-7

F.R. 31-A]

ANNEXURE 9 (2 Sheet)

133

PAY

provisions of F.R. 35. This is because of the fact that the refixation of pay under F.R. 31 (2) is also subject to the provisions of F.R. 35. However, F.R. 31 has been amended in this regard.

3. In regard to cases falling under paragraph 1 (b) above, it has been clarified in Order (3) above, that the refixation of pay above the efficiency bar stage will be automatic. However, in cases where the competent authority feels that such refixation should not be allowed for the reason that the Government servant concerned is not actually fit to cross the efficiency bar, the refixation of pay can be denied by invoking the provisions of F.R. 35 by issue of special orders in respect of each such case.

In cases where no such special orders are issued the position would be as stated in Order (3) above.

[G.I., M.F., O.M. No. 2 (49)-E. III/61, dated the 13th September, 1961.]

(7) **Provisions of F.R. 35 not to be invoked in cases of regular cadre promotion.**—See Government of India's Orders (3) below F.R. 35.

AUDIT INSTRUCTIONS

(1) The pay of a Government servant officiating in a post the pay of which is subject to increase upon the passing of an examination or upon the completion of a certain period of service is the pay which he would, from time to time, receive if he held the post substantively.

[Para. 10 (i), Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

(2) The pay of a Government servant officiating in a post the pay of which has been reduced with effect from the next succession thereto is the reduced pay.

[Para. 10 (ii), Chap. IV, Sec. I of Manual of Audit Instructions (Reprint).]

✓ F.R. 31-A. Notwithstanding the provisions contained in these rules, the pay of a Government servant whose promotion or appointment to a post is found to be or to have been erroneous, shall be regulated in accordance with any general or special orders issued by the President in this behalf.

GOVERNMENT OF INDIA'S ORDERS

(1) **Refixation of pay on de-confirmation.**—It has been decided that the following provisions shall govern the pay and increments of a Government servant whose promotion or appointment in a substantive or officiating capacity to a post is later found to be erroneous on the basis of facts.

✓ 2. The orders or notification of promotion or appointment of a Government servant should be cancelled as soon as it is brought to the notice of the appointing authority that such a promotion or appointment has resulted from a factual error and the Government servant concerned should, immediately on such cancellation, be brought to the position which he would have held but for the incorrect order of promotion or appointment.

In the case, however, of a Government servant who has been erroneously promoted and appointed to a post in a substantive capacity the procedure prescribed in the Ministry of Home Affairs Office Memo. No. 32/5/54-Ests. (A), dated the 24th November, 1954, (not printed) superseded by O.M. No. 12/2/67-Ests. (D), dated the 21st March, 1968, (extract given below) for de-confirming the Government

5

-25-

1 F.R. 30. Omitted.

1 F.R. 31. Omitted.

F.R. 31-A. Notwithstanding the provisions contained in these rules, the pay of a Government servant whose promotion or appointment to a post is found to be or to have been erroneous, shall be regulated in accordance with any general or special orders issued by the President in this behalf.

GOVERNMENT OF INDIA'S ORDERS

Refixation of pay on de-confirmation.—It has been decided that the following provisions shall govern the pay and increments of a Government servant whose promotion or appointment in a substantive or officiating capacity to a post is later found to be erroneous on the basis of facts.

The orders of notification of promotion or appointment of a Government servant should be cancelled as soon as it is brought to the notice of the Appointing Authority that such a promotion or appointment has resulted from a factual error and the Government servant concerned should, immediately on such cancellation, be brought to the position which he would have held but for the incorrect order of promotion or appointment.

In the case, however, of a Government servant who has been erroneously promoted and appointed to a post in a substantive capacity, the procedure prescribed in the Ministry of Home Affairs, Office Memo. No. 32/5/54-Ests. (A), dated the 24th November, 1954 (*not printed*), superseded by O.M. No. 12/2/67-Ests. (D), dated the 21st March, 1968 (extract given below) for de-confirming the Government servant in that post should be followed and only thereafter the Government servant concerned should be brought down to the position which he would have held but for the erroneous promotion/appointment by the issue of orders as mentioned above. Service rendered by the Government servant concerned in the post to which he was wrongly promoted/appointed as a result of the error should not be reckoned for the purpose of increments or for any other purpose in that grade/post to which he would not normally be entitled but for the erroneous promotion/appointment.

3. Any consequential promotions or appointments of other Government servants made on the basis of the incorrect promotion or appointment of a particular Government servant will also be regarded as erroneous and such cases also will be regulated on the lines indicated in the preceding paragraph.

4. Except where the Appointing Authority is the President, the question whether promotion/appointment of a particular Government servant to a post was erroneous or not should be decided by an authority next higher than the Appointing Authority in accordance with the established principles governing

1. Omitted by G.I., Dept. of Per. & Trg., Notification No. 1/10/89-Ests. (Pay-I), dated the 30th August, 1989, published in the Gazette of India, as GSR 679, dated the 16th September, 1989.

promotions/appointments. Where the Appointing Authority is the President, the decision should rest with the President and should be final. The Ministry of Home Affairs should be consulted in respect of promotions/appointments in the Service administratively controlled by that Ministry. In other cases also, the Ministry of Home Affairs may be consulted, if any point is doubtful.

5. Cases of erroneous promotion/appointment in a substantive or officiating capacity should be viewed with serious concern and suitable disciplinary action should be taken against the officers and staff responsible for such erroneous promotion. The orders refixing the pay should be issued expressly under FR 31-A, and a copy thereof should be endorsed to the Ministry of Finance (Department of Expenditure).

[G.I., M.F., O.M. No. F. 1 (2)-Est. III/59, dated the 14th March, 1963.]

EXTRACT OF G.I., M.H.A., O.M. No. 12/2/67-Ests. (D), DATED THE 21ST MARCH, 1968 AS MODIFIED BY G.I., DEPT. OF PER. & TRG., O.M. No. 18011/2/88-Ests. (D), DATED THE 9TH AUGUST, 1988

Subject:—Erroneous confirmation of Government servants—Procedure for cancellation.

It has been decided, in supersession of the instructions contained in this Ministry's O.M. No. 32/5/54-Ests. (A), dated the 24th November, 1954, on the above subject that the following procedure should be followed while cancelling orders relating to confirmation of Government servants which are later found to be erroneous:—

- (1) Confirmation can be cancelled, if the order of confirmation was clearly contrary to the statutory rules, and there is no power or discretion to relax the rules.
- (2) If the order of confirmation was made when there was no substantive vacancy and the confirming authority had no power to create post to which the officer was confirmed.
- (3) If the order of confirmation was made in error, e.g., naming wrong person — mistake in identity.

Orders of confirmation in the above-mentioned cases are void *ab initio* and the officer does not acquire any right to hold the post in which the order purported to confirm him. Provisions of Article 311 (2) of the Constitution are not, therefore, attracted and the procedure of "show cause notice" is not required to be followed before cancelling the order of confirmation.

2. In regard to the order of confirmation which was made in contravention of executive or administrative instructions, it has now been decided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official, which was passed in contravention of the existing rules/instructions whether statutory or administrative/executive, as otherwise, it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in

केन्द्रीय अधिकारी विविध अधिकारण
Central Administrative Tribunal

8 AUG 2001

गुवाहाटी न्यायपोट

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GOUWAHATI BENCH

52
Filed by
Advocate
G. K. Das
4/8/2001

DA NO 292/2000

Sri Hironmoy Ghosh.

.....Applicant

-VERSUS-

Union of India & ors

.....Respondents

Rejoinder to the Written Statement filed by the respondents.

- 1) That the applicant has received a copy of the WS and has gone through the same. Save and except the statements which are not categorically admitted herein below, may be treated as total denial.
- 2) That with regard to the statement made in para 1 of the WS the applicant offers no comment on it.
- 3) That with regard to the statement made in para 2 of the WS the applicant denies the correctness of the same and begs to state that persons similarly situated and even juniors are continuing in the posts without facing any reversion. The detailed particulars regarding such juniors have been discussed below while narrating para wise reply.
- 4) That with regard to the statement made in para 3 of the WS the applicant offers no comment on it.
- 5) That with regard to the statement made in para 4 of the WS the applicant denies the correctness of the same as same are contrary to the records and rules guiding the field. It is stated that promotion given to the applicant from the Senior Telecom

Supervisor, Phone (Sr. TS(F)) to the post of CTS(P), grade-4 on temporary basis (ad hoc), following the due process. It is further denied that some of the senior BCR Officials pointed out the promotion (ad hoc) given to the present applicant. It is mandatory for the official respondents to furnish such complain (if any) prior to issuance of any order acting on such complain. From the WS it is crystal clear that the complains were made on 3/12/98 and 5/4/99 but prior to issuance of the impugned order of reversion, same was not communicated to the applicant. Although, in the complain letter dtd 20/7/98 there has been mentioned in serial No 5 "Official concerned" but no copy has been served on him. That apart the official respondents relying solely on the complain without verifying the records more particularly the service book of the concerned employees vis a vis the applicant. The respondents have taken into consideration on incorrect gradation list which is yet to be circulated inviting representations for its correction.

The applicant also denies the correctness of statement that he has got no vested right for regular promotion, his such promotion is on ad hoc basis. It is stated that an ad hoc promotion followed by all the departmental norms entitled the persons for his permanent absorption subject to fulfilment of norms for the said higher post. Thus the present applicant having fulfilled all the required norms, is entitled to get his permanent absorption in the post of CTS(P). Needless to say here that while giving ad hoc promotion it is the duty of the employer to follow certain procedures meant for the same. The present ad hoc promotion of applicant in question is an ad hoc promotion following all the required norms and same cannot be cancelled basing on some complaint made by some interested circle.

The applicant craves leave of this Hon'ble Tribunal to

produce the relevant rules at time of hearing of the case.

6. That with regard the statement made in para 5 of the written statement the applicant denies the correctness of the same and begs to state that the comparision given by the respondents has got no relevency since the feeder cadre of the applicant as well as Sri Sukumal Ch. Das and Sanjib Sarkar are different applicant came from the cadre of Telephone Operator whereas said Sri Sukumal Ch. Das and Sri Sanjib Sarkar came from the cadre of Technician. On the other hand said Sri Sarkar who is senior to in Sri Das in the basic cadre of Technician has not been considered for such ad hoc promotion, contrary to that said Sri Sukumal Das is still continuing although he is junior to Mr. Sarkar.

The respondents without looking in to the roster point and without refering the case of the applicant to the circle office issued the order of reversion dated 21.6.2000 which is per-se illegal and depicts there total non application of mind.

The applicant craves leave of this Hon'ble Tribunal for a direction to the the respondents to produce the roster register and connected documents at the time of hearing of the case.

7. That with regard to the statement made in para 6 of the written statement the applicant denies the correctness of the same and begs to state that in the basic grade no senior person has been superseded by the applicant. From the comparision toatal it is crystal clear that H.P. Chakraborty having basic grade seniority No. 153 entered basic grade as T.O. on 20.9.62 and it is shown that on the same date he has been confirmed which is contrary to the relevant. As per the OA dated 5.12.84 and 24.2.84 it has been clearly spelt out the method and period of probation as follows :-

Direct Recruitment :-

A. To post with minimum of pay scale of Rs.2020/- (Pre-

revised scale) and above or to posts for which maximum age limit for recruitment is 35 years or not involving training is one year.

B. All other direct recruits and in cases where probation includes on job training is 2 years.

The respondents contrary to that confirmed Mr. Chakraborty's services on the date of entry which is also contrary to DG.P&T No.307/79/68 STB dated 27.11.68 wherein period of probation has been mentioned as 2 years for confirmation, said Sri Chakraborty's service was made permanent w.e.f 24.6.68 where as he acquired quaterpermanency w.e.f 1.7.66 which is per se illegal.

The person named in serial No. 2 has attained the age of superannuation and no longer in the service.

In case of Sri M.L. Dhar his date of entry in 25.8.64 whereas in the gradation list (Divisional) it has been shown to be confirmed w.e.f 20.5.64 . From the above it is clear that the respondents have not applied their mind in issuing the impugned order reversion.

A copy of the order dated 1.4.98 circulating the divisional gradation list is enclosed herewith and marked as ANNEXURE-RJ-1.

The applicant craves leave of this Hon'ble Tribunal for a direction to the respondents to produce the records including including the service book of Mr. M.L.Dhar, H.P.Chakraborty and H.Ghosh (applicant) at the time of hearing of the case.

From the above it is clear that the mandatory guidelines as mentioned above regarding confirmations of service in respect of Mr.Chakraborty as well as Mr.Dhar has not been followed. Had the rules been followed by the respondents as has been done in the case of present applicant, both Mr.Dhar and Mr. Chakraborty would

have been much junior to him.

It is stated the impugned order has been issued basing on the complain made by some of the officials and prior to issuing of the said impugned order the opportunity of hearing has denied to the present applicant. Everything has been done behind the back of the applicant and thus the said impugned order of reversion is a nullity in the eye of law.

It is further denied that the circular dt 8/9/99 has been issued clarifying the procedure for such promotion basing on which the impugned order has been issued. It is pertinent to mention here that the order dt 8/9/99 and it's subsequent clarification issued vide orde dt 30/12/99 and 2/6/2000 has been set aside and quashed by the Hon'ble Principal bench while allowing OA 425/2000 wherein similar question was involved.

The applicant inspite of his best affort could not collect the full text of the said judgement and orde dt 2/6/2000, however a copy published in the journel (Telecom) in it's July issue 2000 and the Telecom Bullaitin August issue 2000 where there has been a mention on the said judgement are annexed herewith and marked as Annexure-RJ-2&3.

- 8) That with regerd to the statement made in para 7 of the WS the applicant offers no comment on it.
- 9) That with regerd to the statement made in para 8 of the WS the applicant reiterates and reaffirms the statement made above and begs to state that since the order dt 8/9/99 and it's subsequent clearifications dt 30/12/99 and 2/6/2000 has been quashed by the Hon'ble Principal Bench in OA 425/2000 the question of following of the same is does not exist. It is also stated that the order dt 8/9/99 is also illegal in view of the judgement dt 2/6/2000.

The applicant also denies the correctness of the statement quoting the rules and the Govt. of India's orde regarding erroni-

ous promotion. From the facts narrated above it is clear that the ad hoc promotion given to the applicant was not erroneous at all, hence the above rules are not applicable in the present case. That apart from the respondents ought to have provided him an opportunity of hearing before issuance of the said order.

10) That with regard to the statement made in para 9 of the WS the applicant begs to state that the impugned order of reversion is an order punitive in nature casting stigma on him without affording him opportunity of hearing.

11) That with regard to the statement made in para 10 of the WS the applicant reiterates and reaffirms the statement made above as well as in the OA.

12) THat with regard to the statement made in para 11 of the WS the applicant begs to state that admittedly the respondents have issued the order of reversion with following the rules and same is violative of natural justice. It is further stated that the respondents themselves have admitted the fact that the impugned order of reversion has been issued on receipt of complaints and pursuant to so called LJCM meeting, but nothing was communicated to him prior to issuance of said impugned order so that the applicant could place his say in the matter.

13) That with regard to the statement made in para 12 of the WS the applicant reiterates and reaffirms the statement made above as well as in the OA.

Apart from the aforesaid reply the applicant states that the verification made by the declarant is not in proper form and therefore he prays for a direction from this Hon'ble Tribunal that a notice be issued to the declarant to explain the matter before the Hon'ble Tribunal.

VERIFICATION

I, Shri Hironmoy Ghose, son of Late Haripada Ghose, aged about 57 years, presently working as Chief Telephone Supervisor (P), Trunk Exchange, Silchar, do hereby solemnly affirm and verify that the statements made in the paragraphs 1, 2, 3, 4, 6
8, 10, 12, & 13 are true to my knowledge and those made in paragraphs 5, 7, and 9 are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 3rd day of JUNE, 2001.

Hironmoy Ghose

Govt. of India
Department of Telecommunication
Office of the Telecom District Manager: Silchar Telecom District
Silchar :: 788001.

No: E-9/GL/12

Dated at Silchar,
the 01st April '98.

To,

✓ SRI S.DER SDE (TRUNK) /SC
SRI D.DUTTA MAZUMDER, SDOP-I /SC
SRI S.P.CHAKRABORTY, SDOP/KARIMGANJ
SRI A.K.DAS, SDE (CABLE) /SILCHAR
SRI J.R.BHATTACHARJEE, SDOT/HAILANKANDHI
SRI D.DAS, SDE (GR.) /PATHARKANDHI
SRI R.K.MALLAH, SDOP-II /SILCHAR
SRI M.K.CHAKRABORTY, SDE (E-10B) /SILCHAR
SRI S.S.ENDOW, SDE (CONST) /SILCHAR
SRI R.D.MITRA, SDE (I) /SILCHAR
SRI A.K.NAG, SDE (GR.) /UDHERBOND
SRI B.B.NATH, SDOT /SILCHAR
SRI J.R.NATH, SDOT/KARIMGANJ
SRI D. PURKAYASTHA, SDOT/HAFLONG
SRI J.K.SINHA, SDE (ADMN) /SILCHAR

Sub:- Draft Gradation list of TOA(P) working under SILCHAR
SSA.

A Draft Gradation list of TOA(P) working under this
division is sent herewith for distribution among the TOA(P)
working under you.

Objection, if any received from any official should reach
this office positively on or before 20-04-98 for rectification.
If any objection reach this office after 20-04-98 will not be
entertained.

This may please be treated as MOST URGENT.



(N.K.ROY)
Sub-divisional Engineer (HRD)
O/O the T.D.M./SILCHAR

Contd....

(2)

SL NO.	Name of the official	Community	Status (Grade)	D.O.B	D.O.E.	Date of entry in the deptt.	Date of confirmation under present cadre	Working	Remarks
051.	SRI RANARIK CHAKRABORTY	OC	II	01-09-51	06-07-75	06-07-75	01-04-88	SDOT/HLK	TOA(G) Gr.-III w.e.f. 01-01-94
052.	SRI UPENDRA NAMASUDRA	SC	III	01-03-54	07-07-75	07-07-75	01-04-88	SDE (TRUNK)	
053.	SRI SEKHAR J. DEB	OC	II	01-02-54	16-07-75	16-07-75	01-04-88	SDE (TRUNK)	Rule-38 joined on 10-12-75
054.	SRI MOTILAL DHAR	OC	III	01-02-45	25-08-64	25-08-64	25-08-64	SDOT/KRM	TOA(G) Gr.-III w.e.f. 24-10-90
055.	MRS. MITRA DEB	OC	II	30-12-54	17-07-78	17-07-78	01-04-88	SDE (I) /SC	
056.	MRS. S.L.SINHA	OC	II	15-01-56	19-07-78	19-07-78	01-04-88	SDOT/HKF	TOA(G) Gr.-III w.e.f. 02-01-96
057.	SRI L.BAPUI	ST	III	17-04-58	19-07-78	19-07-78	01-04-88	SDOT/HLF	TOA(G) Gr.-III w.e.f. 02-01-96
058.	MRS S.ZATE	ST	III	17-01-59	19-07-78	19-07-78	01-04-88	SDE (TRUNK)	Rule-38 joined on 01-12-78
059.	SRI HARIPADA CHAKRABORTY	OC	III	01-03-42	20-09-62	20-09-62	01-03-66	SDOT/KRM	TOA(G) Gr.-III w.e.f. 01-12-90
060.	SRI SORAJ K. BHATTACHARJEE	OC	III	01-12-47	16-06-67	16-06-67	01-03-74	SDOT/KRM	Rule-38 joined on 01-12-78
061.	SRI R.C.PAUL	OC	II	01-08-50	01-09-73	01-09-73	01-04-88	SDOT/HFL	Rule-38 joined on 10-12-78
062.	SRI SUJIT KR. DAS	SC	II	15-06-51	07-02-71 (LM)	04-01-79	01-04-88	SDE (TRUNK)	TOA(G) Gr.-III w.e.f. 02-01-96
063.	SRI JYOTIRMAY ROY	SC	II	01-01-47	25-05-66 (LM)	04-01-79	01-04-88	SDE (TRUNK)	TOA(G) Gr.-III w.e.f. 01-12-90
064.	SRI B.K.PAUL	OC	III	01-10-43	05-10-65	05-10-65	01-03-69	SDOT/KRM	Rule-38 joined on 01-12-78
065.	SRI L.K.SARDEKAR	SC	II	01-05-45	07-01-72 (B.M)	06-09-79	01-04-88	SDOT/HFL	TOA(G) Gr.-III w.e.f. 01-07-91
066.	SRI J.K.MALAKAR	SC	II	27-11-52	01-07-77 (L.M)	19-05-80	01-04-88	SDOT/HLK	Rule-38 joined on 15-05-80
067.	MRS. MAYA CHAKRABORTY	OC	II	22-12-42	27-09-65	27-08-65	01-03-69	SDE (TRUNK)	Rule-38 joined on 03-09-80
068.	SRI BHARATOSH NATH	OC	II	01-06-46	12-01-72	12-01-72	01-03-74	SDOT/HLK	
069.	SRI RIDHYAPATI SINGH	OC	II	01-01-48	07-02-71 (L.M)	02-03-81		SDOT/HLK	
070.	SRI K.U.BARHUIYA	OC	I	03-02-54	05-05-81	05-03-81	01-04-88	SDOT/HLK	
071.	MRS. SHWETA CHAUDHURY	OC	I	28-02-61	22-04-82	22-04-82	01-04-88	SDOT/HLK	
072.	SRI DENINDRA SINGH	OC	I	31-06-58	21-04-82	21-04-82	01-04-88	TDM/SC	
073.	MRS. SHIPRA ROY	OC	I	01-01-61	21-04-82	21-04-82	01-04-88	SDOT/KRM	
074.	SMT SUJATA DAS-I	OC	I	01-01-59	21-04-82	21-04-82	01-04-88	SDE (I) /SC	
075.	SMT NIRUPAMA SEN	OC	I	19-12-61	21-04-82	21-04-82	01-04-88	SDOT/KRM	
076.	SMT SUKLA ENDOW	SC	I	01-01-59	21-04-82	21-04-82	01-04-88	SDE (I) /SC	
077.	SMT DEBAHUTI REB	OC	I	01-01-62	21-04-82	21-04-82	01-04-88	SDE (I) /SC	
078.	SMT ASHIMA DEBI	OC	I	01-05-61	21-04-82	21-04-82	01-04-88	SDOT/KRM	
079.	SRI S.CHOWDHURY	OC	I	01-16-61	21-04-82	21-04-82	01-04-88	TDM/SC	
080.	SMT MINATI DAS	SC	II	30-12-57	21-04-82	21-04-82	01-04-88	SDE (TRUNK)	
081.	SMT TAFATI NAG	OC	I	09-02-59	21-04-82	21-04-82	01-04-88	SDE (I) /SC	
082.	SMT N.BHATTACHARJEE	OC	I	11-01-60	06-11-82	06-11-82	01-04-88	SDOT/KRM	
083.	SMT LILA BHATTACHARJEE	OC	III	01-01-43	23-09-63	23-09-63	01-03-67	SDOT/KRM	Rule-38 joined on 18-04-83
084.	SRI SAIBUR RAHMAN	OC	I	05-10-53	25-08-75	25-08-75	01-04-88	SDOT/KRM	TOA(G) Gr.-III w.e.f. 21-10-90
085.	MRS JAYANTI BHATTACHARJEE	OC	I	21-01-63	22-08-79	22-08-79	01-04-88	SDE (I) /SC	Rule-38 joined on 11-07-83
086.	SRI SORAJ BHATTACHARJEE	OC	II	23-11-55	18-06-78	18-06-78	01-03-82	SDOT/HFL	Rule-38 joined on 06-09-86
087.	SMT MIWA DEB	OC	III	22-04-45	21-08-65	21-08-65	01-03-79	SDOT/HLK	Rule-38 joined on 14-02-87
088.	SRI S.K.SUTRADHAR	SC	III	01-18-49	29-10-76	29-10-76	01-04-88	SDOT/KRM	Rule-38 joined on 03-03-87
089.	MRS JAYANTI BHATTACHARJEE-II	OC	I	21-12-58	24-11-87	24-11-87	01-04-88	CGMT/GH	
090.	MRS S.PURKAYSTA	OC	I	21-11-59	30-11-87	30-11-87	01-04-88	CGMT/GH	
091.	SMT SWAPNA PAUL	OC	I	10-02-62	23-11-87	23-11-87	01-04-88	TDM/SC	
092.	SMT SIBANI CHAKRABORTY	OC	I	23-10-60	22-11-87	22-11-87	01-04-88	SDE (I) /SC	
093.	MRS RADHA RANI PAUL	OC	I	01-03-60	22-11-87	22-11-87	01-04-88	TDM/SC	
094.	SMT SHILA BISWAS	SC	I	01-12-62	22-11-87	22-11-87	01-04-88	CGMT/GH	
095.	MRS N.BHATTACHARJEE-II	OC	I	09-01-60	22-11-87	22-11-87	01-04-88	CGMT/GH	
096.	SMT SUJATA DAS-II	OC	I	05-03-61	24-11-87	24-11-87	01-04-88	TDM/SC	
097.	SRI D.K.NATH	OC	I	01-01-63	22-11-87	22-11-87	01-04-88	SDOT/KRM	
098.	SMT MANJUSREE CHAKRABORTY	OC	I	14-02-61	22-11-87	22-11-87	NOT CONF.	SDOT/KRM	
099.	SMT KALPITA DUTTA	OC	I	17-02-60	22-11-87	22-11-87	NOT CONF.	SDOT/KRM	

SL NO.	Name of the official	Community	Status (Grade)	D.O.B	D.O.E.	Date of entry in the depot	Date of confirmation under present cadre	Working	Remarks
001.	SRI SAILENDRA KR.DAS	SC	IV	01-05-42	14-03-63	14-03-63	01-03-66	SDE (TRUNK)	TOA (G) Gr.-IV w.e.f. 11-01-94
002.	SRI J.K.KAR	OC	IV	01-03-46	21-06-61	21-06-61	15-05-64	SDOT/KRM	TOA (G) Gr.-IV w.e.f. 01-01-98
003.	MRS S.R.DUTTA	OC	III	18-03-44	06-03-63	06-03-63	01-03-65	SDOT/KRM	TOA (G) Gr.-III w.e.f.24-10-98
004.	SRI PRABIR CH.DAS	OC	IV	01-05-43	03-03-63	03-03-63	01-03-66	SDOT/KRM	TOA (G) Gr.-IV w.e.f. 01-01-98
005.	SRI HIRONMOY GHOSH	OC	III	01-05-43	04-03-63	04-03-63	01-03-66	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.24-10-98
006.	SRI B.C.CHOUDHURY	OC	III	01-04-44	04-03-62	04-03-63	01-03-66	SDOP-I/SC	TOA (G) Gr.-III w.e.f.24-10-98
007.	SRI J.K.DEY	OC	III	01-02-41	06-03-63	06-03-63	01-03-66	SDOT/HLK	TOA (G) Gr.-III w.e.f.24-10-98
008.	SRI S.B.CHOUDHURY	OC	III	02-02-41	07-03-63	07-03-63	01-03-66	SDOT/HLK	TOA (G) Gr.-III w.e.f.24-10-98
009.	MRS SORHA CHAKRABORTY	OC	III	21-01-44	22-12-63	22-12-63	01-03-66	SDOT/HLK	TOA (G) Gr.-III w.e.f.24-10-98
010.	MRS. UMA BENARJEE	OC	III	01-10-42	07-03-63	07-03-63	01-03-67	SDE (I) /SC	TOA (G) Gr.-III w.e.f.24-10-98
011.	SRI HEMENDRA KR.DAS	OC	III	01-03-44	09-09-63	09-09-63	01-03-67	SDOT/KRM	TOA (G) Gr.-III w.e.f.24-10-98
012.	SRI P.K.KAR	OC	III	01-07-42	22-12-63	22-12-63	01-03-68	SDOT/HLK	TOA (G) Gr.-III w.e.f.24-10-98
013.	SRI B.C.NATH	OC	III	01-08-41	23-12-63	23-12-63	01-03-68	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.24-10-98
014.	SRI A.R.KHAN	OC	III	01-07-44	30-09-64	30-09-64	01-03-68	SDOT/KRM	TOA (G) Gr.-III w.e.f.24-10-98
015.	SRI B. DERNATH	OC	III	01-12-44	04-03-65	04-03-65	01-03-66	SDE (I) /SC	TOA (G) Gr.-III w.e.f.01-07-91
016.	SRI S.R.ROY	OC	III	19-12-44	10-06-65	10-06-65	01-03-68	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-07-91
017.	SRI B.M.CHAKRABORTY	OC	III	01-03-43	15-12-62	15-12-62	01-03-68	SDOT/HLK	Rule-38 joined on 12-07-65
018.	MISS MANJULA SEN	OC	III	(17-01-41)		23-08-65	23-08-65	01-03-68	SDOT/KRM
019.	SRI N.C.DUTTA	OC	III	01-05-46	04-05-62	04-05-62	01-03-72	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-07-91
020.	MRS P.GIRI	OC	II	30-03-46	26-07-64	26-07-66	01-03-69	SDE (TRUNK)	Rule-38 joined on 12-05-65
021.	SRI R.K.DAS	OC	III	01-02-47	29-07-64	29-07-66	01-04-89	SDOT/KRM	TOA (G) Gr.-III w.e.f.01-01-93
022.	SRI K.L.NATH	OC	III	29-02-44	31-07-65	31-07-66	01-03-71	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-01-93
023.	SRI ADHAR CH. DAS	OC	III	01-08-44	19-10-65	19-10-66	01-03-72	SDOT/KRM	TOA (G) Gr.-III w.e.f.01-01-93
024.	MRS ANIMA CHOWDHURY	OC	III	01-01-35	21-08-67	21-08-65	01-03-69	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-07-91
025.	MRS SANTI BHATTACHARJEE	OC	III	31-01-46	01-05-67	01-05-67	01-03-72	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-07-93
026.	SRI M.U.BARMHUIYA	OC	III	01-03-43	01-05-67	01-05-67	01-03-72	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-07-93
027.	SRI S.K.MAZUMDAR	OC	III	25-03-46	05-05-67	05-05-67	01-03-72	SDE (I) /SC	TOA (G) Gr.-III w.e.f.01-07-93
028.	SRI SALIL PURKAYASTHA	OC	III	01-10-42	04-05-63	04-05-63	01-03-73	SDOP-I/SC	TOA (G) Gr.-III w.e.f.24-10-98
029.	SRI R.R.ACHARJEE	OC	III	01-04-41	13-06-60	13-06-60	01-03-63	SDUT/KRM	TOA (G) Gr.-III w.e.f.24-10-98
030.	SRI ANUJ KR.DAS	OC	III	01-02-45	22-08-65	22-08-65	01-03-73	SDOP/KRM	TOA (G) Gr.-III w.e.f.01-07-91
031.	SRI P.R.CHAKRABORTY	OC	III	17-08-66	10-08-67	10-08-65	01-06-73	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-07-91
032.	SRI S.K.DUTTA	OC	III	01-01-45	17-05-67	17-05-67	16-06-73	SDUP-I/SC	TOA (G) Gr.-III w.e.f.01-07-93
033.	MRS SHIPRA CHOWDHURY	OC	II	27-02-48	05-02-72	05-02-72	01-03-76	TDM/SC	Rule-38 joined on 24-08-72
034.	SRI R.DESAMUKH	OC	II	01-05-46	13-08-72	13-08-72	01-03-76	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-07-93
035.	SRI SUBHAS CH. DAS	OC	III	09-09-42	04-09-63	04-09-63	01-03-73	SDE (I) /SC	TOA (G) Gr.-III w.e.f.01-07-93
036.	SRI B.R.NATH	OC	III	01-09-41	21-09-62	21-09-62	01-03-67	SDE (E-10B)	Rule-38 joined on 01-07-73
037.	SRI L.K.CHAKRABORTY	OC	II	01-02-44	12-06-62	16-03-73	01-03-76	SDOT/KRM	TOA (G) Gr.-III w.e.f.01-01-94
038.	MISS SARITA SEN	OC	II	01-02-51	21-08-73	21-08-73	01-04-88	SDE (I) /SC	TOA (G) Gr.-III w.e.f.01-01-94
039.	SRI M.HUSSAIN	OC	II	13-12-53	22-08-73	22-08-73	01-04-88	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-01-94
040.	SRI KIRENDRA CH.DAS	SC	III	01-11-44	27-08-73	27-08-73	01-03-76	SDE (I) /SC	TOA (G) Gr.-III w.e.f.01-01-94
041.	SRI SUBRATA CHAKRABORTY	OC	II	28-05-54	22-08-73	22-08-73	01-04-88	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-01-94
042.	SRI R.K.CHAKRABORTY	OC	II	19-08-52	11-04-74	11-04-74	01-04-88	SDOT/HLK	TOA (G) Gr.-III w.e.f.01-01-94
043.	SRI ALOKESH ROYCHOWDHURY	OC	II	06-03-55	13-04-74	13-04-74	01-04-88	SDOP-I/SC	TOA (G) Gr.-III w.e.f.01-01-94
044.	SRI S.B.DEY	OC	II	01-01-52	15-04-74	15-04-74	01-04-88	SDOT/HLK	TOA (G) Gr.-III w.e.f.01-01-94
045.	SRI SUBHAS CH. PAUL	OC	II	07-05-49	24-05-75	24-05-75	01-04-88	SDOT/KRM	TOA (G) Gr.-III w.e.f.01-01-94
046.	SRI R.R.BHATTACHARJEE	OC	II	31-10-51	16-05-75	16-05-75	01-04-88	SDOT/KRM	TOA (G) Gr.-III w.e.f.01-01-94
047.	MRS. SHILA SARKAR	OC	II	30-12-52	19-05-75	19-05-75	01-04-88	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-01-94
048.	SRI RANENDRA DEB	OC	II	31-08-55	19-05-75	19-05-75	01-04-88	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-01-94
049.	MRS. MAYA ROY	SC	III	31-03-53	21-05-75	21-05-75	01-04-88	CGMT/RH	TOA (G) Gr.-III w.e.f.01-01-94
050.	MRS. SUDIPTA DUTTA	OC	II	31-02-53	03-07-75	03-07-75	01-04-88	SDE (TRUNK)	TOA (G) Gr.-III w.e.f.01-01-94

Grade IV reversions quashed

CAT Principal Bench order

O.A.No. 425/2000 dated 2nd June, 2000 (Extracts)

This application is made against the order dated 11.2.2000 (Annexure A-9) wherein the applicants have been reverted to their substantive grade of BCR Grade III from the Gr-IV.

5.2 This Tribunal in OA 1455/91 has directed as under:-

"That the employees who may be senior to the applicants in the scale of Rs. 1600-2600 and who may already be given the scale of Rs. 2000-3200 at the cost of the senior in basic grade by any different interpretation of the BCR scheme, may in the discretion of the respondents, instead of being reverted, be considered for promotion to the pay scale of Rs 2000-3200 by suitable adjustment in the number of posts by upgradation if necessary."

It is clear from the above direction that the matter was left to the discretion of the respondents. Based on these directions the respondents themselves issued letter dated 13.12.97 allowing continuance of these applicants by creating supernumerary posts. *This Tribunal order was specifically for those who had already been promoted under BCR schema. Before issue of the order dated 13.12.97, the respondents knew very well that the Tribunal's order relates to those who had already been promoted in the scale of 2000-3200 by incorrect interpretation of BCR schema by the respondents. There could not be change in the position with regard to the administrative problem, if any, be-*

tween the years 1997 to 2000. The respondents issued the letter dated 31.12.97 with full facts available with them.

5.3 That the applicants were senior to those granted benefit of BCR schema on completion of 26 years service reckoned from basic grade is an admitted fact.

We also find that no show cause notice was issued before reverting the applicants from the grade which they were holding for the last about 10 years.

5.4 It is also seen that BCR promotions were given to those who had completed 26 years service in basic grade on 1.1.90. These persons have completed 36 years of service. Obviously, some of them would have retired or would be retiring within a few years, thus creating the vacancies in the Grade - IV. It is also seen that most of the applicants have a few years for superannuation. In addition, additional vacancies would have arisen or shall arise due to retirement/promotion of other Grade IV employees. Therefore, additional financial burden, if any, would be limited, to a few years only.

5.6 In view of the above discussions, we are of the view that the action of the respondents in reverting the applications by the impugned orders dated 12.2.2000, is not in order. Accordingly, the impugned orders dated 30.12.99 and dated

12.2.2000 are hereby quashed. The order of the respondents dated 13.12.97 shall continue to be operative.

7.0 The OA is accordingly allowed with the above directions. No order as to costs.

Sd/ (Sh H.O.Gupta) (Smt.Utkalini Swaminathan)
Member (A) Member (J)

Contd. from 68 page

Appeal to Com. Namboodiripad

that our struggle is in the common interest of all to provide quality service at affordable price. This can only be done by pinning down the Government in the process of negotiations especially when the task has been entrusted to a Group of Ministers.

In the Telecom sector, broad based unity cannot be achieved without restoring unity in E-3. Your efforts to form a Linestaff union failed as common workers will not agree with such tactics. We have avoided precipitating a crisis in T-3 and Admin. Unions or splitting your strongholds in Bengal, Komla, NE and Assam. It is in this background that your strike call has caused serious harm to the movement as common workers feel greatly confused and thus handicapped. Please take note of it.

In view of these developments and compulsions of the situation, I once again appeal to you give up your one point agenda and help in restoring unity. I assure that all of you will be welcomed back with full honour as after all the most important issue is to make united efforts to defend the onslaught on the Telecom sector.

Looking forward to a fruitful response. ■

NATIONAL TELECOM BULLETIN

JOURNAL OF
NATIONAL UNION OF TELECOM EMPLOYEES GROUP C
D-9, TELEGRAPHS PLACE, GOLE MARKET, NEW DELHI-110 001.
Ph.: 3347675, FNTO : 3723202, Fax 3347675

Vol.8 No.1

Editor : Thomas John.K
Publication Secretary : D.D. Mistry

AUGUST, 2000

Editorial:

DESTROYING

BHARAT SANCHAR NIGAM

The Government's Decision to opening the Long distance Service to private operators is the third stroke to de-stabilise the DTS\ proposed Corporation. The TRAI's earlier two decisions (i) to reduce the ISD/STD traffic and (ii) slashing the call rate from fixed telephone to Mobile has already weaken the financial position of the DTS to the tune of more than four thousand cores. Both the above decisions were taken to facilitate the corporate managements and the Multinational controlled Telecom operators at the cost of the Nation.

In 1995, the Government had open the basic telephone area to the private operators. But they did not show any interest in creating the infra-structure for providing basic telephone services leaving a handful of cities. There also they have failed to full fill their statutory obligation to provide telephone connection in the rural areas to the tune of 10% of their total connections. The government not only failed to penalise them, but on the contrary encouraged them by giving concessions in license fee.

It is unfortunate that, when an exercise on converting the DTS into a corporation is in full swing, Government has taken the unwarranted decision to opened-up the Long distance service to the private operators from 15th August 2000. The long distance service is the life line of Telecom system which brings 3/4th revenue to the DTS and this depletion of revenue is a major stroke in financial viability of the DTS or the proposed Bharat Sanchar Nigam. We appeal to the government and to the High power Minister's committee to reconsider this decision, in the interest of the nation and of the 80% non commercial and non industrial telephone customers, who are being cross subsidized by DTS, from the income earned from long distance traffic.

1. **Mr R.N. Goyal Secretary:**
Mr R.N. Goyal, member Telecom commission is elevated to the newly created post of Secretary, DTS (operations). We wish him all success in this new assignment.

2. BSNL SHAPED:

The exercise on Corporatisation of DTS is in the final stage. It is indicated in the Group of Ministers meeting that, the Bhart Sanchar Nigam, will come into existence mostly by 1st October 2000.

3. **FWC, FNTO AT NEW DELHI:**
The Federal Working committee of FNTO will meet in August at New Delhi to chalk-out plan to face the corporatisation of DTS as well as to analyse the trade union structure in the proposed corporation.

4. **MTNL PAY SCALES:**
PSU pay scales for Gr. C&D staff of MTNL is appoved. Minimum Benefit is Rs. 3000 to Rs. 5,000/- per month.

FNTO LETTER TO HON. MINISTER

No. FNTO : DMN/200

Dated: N.D. 6.7.2000

Sub: ISSUES RELATED TO CORPORATISATION

We are happy that you have been appointed as the Chairman for the group of Ministers to deal with the Corporatisation to Telecom.

Though the Federations have submitted a list of issues with regards to Financial Viability, Job Security, Pension, Pay Scales etc. for consideration of the Government, FNTO Wants to pin point certain aspects for the special attention of the G.O.M. as some important decisions may have to be taken deviating from the normal rules due to the extra-ordinary situation created where the entire department is being converted into a Public Sector with its larger workforce which has to increase. The existing orders which were issued to be applicable to individual or a group of employees moving from Govt. department to Corporation do not suit to this condition and may have to be relaxed to embrace whole lot of Telecom Workers to be taken into the Corporation alleviating their fears and apprehensions.

Keeping the above in view we are making broadly the following suggestions/demands.

FINANCIAL VIABILITY

1. A portion of the Telecom Assets be retained by Corporation for its expansion.
2. Corporation may be given free hand to launch value added services and to compete in international communication once it is opened up.

JOB SECURITY

1. The existing staff including part time, casual etc. be awarded permanancy before entering into corporation and the contract labour be regulated as per law and given priority while recruitment.
2. We want that the Corporation should be 100% state-owned. However in case of disinvestment the Job Security including the responsibility to pay pension to the existing employees by Government should be protected. (The existing statute be amended suitably to guard such provision even when the Govt's stake is reduced below 50%)

PENSION

1. Government pension scheme may be extended to all the existing employees in Corporation.
2. At least a portion of casual, part time, RTP Service be counted for pension so that none of the existing employee is left out without pension.
3. Commutation of pension be restored.
4. Pension paying authority may be earmarked without any ambiguity.

PAY AND PERKS

1. Pay scales and other allowances be awarded on par with other A1 Corporation and a reasonable amount may be paid as interim relief to be adjusted in future scales.
2. Share as per dues on book-value be distributed to staff.

TRAINING AND ABSORPTION

1. All those who are qualified for promotional posts be given training on warfooting.
2. A detailed scheme for skill-building be got prepared and approved.
3. On completion of Training, all Qualified Officials be absorbed in the restructured cadre irrespective of the vacancies available.

All TAP/TTA etc. who are qualified in the screening tests may also be promoted to JTC after by creating outsider vacancies/creation of additional posts or through personal upgradation.

CORPORATIFICATION OF DTS

Memorandum submitted by the 3 Federations (NFTE, FNTO, BTEF) to the Group of Ministers for the meeting on 2nd August, 2000.

1. Need of corporatisation?

Almost all unions and mass workers do not share Government's view on corporatisation.

A service provider which earns revenue surplus of more than Rs. 70,000 crores, on corporatisation will be burdened with corporate taxes. Add to this, Government's decision to open up long distance trunk traffic to the private sector will have a deleterious effect on its resources. All this will stall the expansion of the services. The Department will not have funds to meet even the cost of maintenance and provide services to rural and backward areas which are unremunerative. Thus, depletion of resources available will not allow it to fulfil Government's commitment to the people's ~~spirit of the~~ National Telecom Policy, both of 1994 as well as 1999, to provide telephone of world ~~standard~~ at affordable price on demands.

Proposal for exemption from taxes is not an all-time solution. The Government's determination to hasten disinvestment seems to be the only justification for corporatisation. There is genuine apprehension that the funds generated by disinvestment, instead of being utilised for the much needed expansion, will be used for servicing of foreign debts and covering up the Government's fiscal deficit.

The proposed Corporation ~~will not~~ fall sick due to expenditure on excess staff, the cost of services as we have the latest technology. Due to ban of recruitment since 1983, the staff-telephone ratio has fallen from 120 per thousand lines to 20 and even less. Almost all the officials presently in service will retire within the next 20 years.

The difference between keeping DOT as a government department and its corporatisation, is the fact that while Government has to find resources to fulfil its social responsibility to the people, after corporatisation, it has to depend on disinvestment of its Capital.

Therefore, the Government should decide whether the corporation will survive financially or not. The interest of telephone users who pay from their own pocket and people in villages and far-off areas are well protected.

DISINVESTMENT

We feel that disinvestment will not improve the financial health of the Corporation as the market response will not be attractive in the background of the prevailing financial health of the national economy and of DOT.

Moreover, after disinvesting gross 50% of government's share, the Corporation will stand privatised. In an industry which earns about Rs. 7,000 crore (partly due to tax exemption) and ploughs back the earnings for development, need not be made sick, making it impossible to survive.

CORPORATISATION

Without diluting or giving up our views on the need of corporatisation, we request you to keep out views in mind in case corporatisation is unavoidable.

Its structure/status be defined.

As Bharat Sanchar Nigam will be a government corporation, it should be created by an Act of Parliament.

Bharat Sanchar Nigam (BSN) is being organised to separate policy making from operative functions. We would like government to honour this commitment both in letter and in spirit. Therefore, in the background of convergence of technologies, the service providing authority be merged with some other Ministry, preferably with the Ministry of Information Technology so

that once again restructuring is not required and the officers and staff adjust with the new developments in technology.

Unlike other corporations which are service providers like Banks, Insurance, Food/Fertilisers etc., the Telecom Corporation will have to absorb the ever changing technology. Therefore, its failure like the Telecom Commission with the private operators on the one hand and providing services in the villages and backward areas.

PRIVATISATION

Privatisation of public utility and essential services like Posts, Telecom, Schools, Hospitals etc. will not be politically expedient. However, in case the Government disinvests more than 49% of its stakes, i.e., 2% extra, under the existing rules, the Government may not honour its commitment on payment of pension and job security.

Mahanagar Telephone Nigam Limited (MTNL) and Videsh Sanchar Nigam Limited (VSNL) are awaiting such disinvestment. While most of the officials in VSNL have opted for one time 100% conversion, the employees in MTNL will suffer, including those who have opted for PSU pension, as the pension scheme will not be applicable in the private sector.

Disinvestment in other PSUs will not be covered by such a decision as they are not entitled to government pension as order of 5.7.1989 are not applicable. In their case the private operators will contribute to CPF along with the employees.

Therefore, we do not accept any direct or indirect method of depriving the staff of their pension, especially the optees of government pension to which they are entitled under the government rules on superannuation. As government will be a party to the management; it should ensure pension etc.

Private employer has to deposit his share of the CPF under the law. Therefore, rules be framed to the effect that his contribution is paid to the Government as in his case of foreign service contribution. If there is some shortfall, it should be made good by the Government in lieu of VRS.

Similarly, in the case of those who have opted for PSU pension, the Government can modify the rules to say that PSU scheme will continue to apply to officials transferred to private sector by directing the Commissioner Provident Fund to adjust their CPF.

PENSION

Keeping in view Government's determination to corporatise the DTO, we adopted a pragmatic attitude to ensure that even in the worst situation the workforce is not put to any financial loss or face retrenchment or denial of terminal benefits.

It is most unfortunate that the Department of Pensions, has persistently ignored pension issues and continues to delay its settlement. DOPT has not met staff side National Council as yet.

Most of the officials in DTO have put in more than 17 years of service due to ban on recruitment since 1983. Those to year or less service pending retirement are also note. Others with less than 10 years of service are not eligible to PSU pension. Therefore only Govt. pension as available.

Although the VSNL and Airport Authority of India were constituted in 1986, yet their pensionary claims were settled only in 1989 by a decision taken in the JCM National Council as conveyed in D.O.P. & PW O.M. No. 4/18/87 - P & PW (D) dated 5.7.1989. It gave them option to draw pension from the Government on superannuation or pro rata pension from Government and for the remaining period from the PSU.

It was on the staff side initiative that decision was taken to deposit gratuity and money on account of 100% conversion with the government in GPF treating it as interest accruing from GPF. After seven years, the Income Tax Department is insisting on levying income tax

on the amount, ignoring the fact that the amount was kept in GPF account. Income from interest on GPF is exempted from income tax. It is unfair to levy income tax on this amount. Moreover, we were not told about it. Therefore, Income tax exemption should be given.

Pro rata pension is not of much advantage to Group C and D employees. However, we have sought some modifications.

JOB SECURITY

Provision in para 5 of the DOPT order of 5.7.1989 is satisfactory. Efforts of the Department of Pensions to wriggle out of the commitment is not acceptable. It should be extended to staff even after disinvestment.

In 1989, there were no indications of retrenchment. Therefore, there were no proposals to face the contingency. In any case, as far as DOT is concerned, the Staff-telephone ratio is greatly reduced from 120 in 1983 to 20 or less. As such, we will be satisfied with restoration of the provisions contained in para 5 of the 1989 orders.

OTHER ISSUES

There are other issues like earned leave, half pay leave, GPF, Group Insurance etc. As the staff is being transferred en-masse, the approach should be different from the one taken in the case of an individual leaving government service to seek employment elsewhere. These claims be transferred.

Even in respect of LTC, it is proposed that if an official has not utilised the last LTC during last year he may be allowed to avail of its within 6 months of joining the Corporation.

OPTION

When a Government Department as a whole is being corporatised, option for government service has become meaningless as it will result in transfer to surplus cell and later retirement.

PROPOSAL

Therefore, the option should be under, viz., Option for govt. service

Option for govt.

Option for PSU

a) Same Circle

b) Other parts of the country under Rule 38

The Staff - telephone ratio has been greatly reduced and decision to undertake fresh recruitment is delayed because of rationalisation of cadre and notification of new recruitment rules. Therefore, before recruitment from outside is resorted to, the existing staff be allowed to seek transfer to the Circle/SSA of their choice under Rule 38.

Without effecting reversion

Absorption in the cadre of Telecom Mechanic will be difficult as there is a long waiting list. Rules of recruitment of Telecom Mechanics have been framed. It is to be clarified that the waiting list of the qualified RMs and other Group D officials will be valid in view of the new recruitment rules.

Therefore, as a part of convention, the Department should allowed their absorption in their respective cadres without effecting promotion prospects of those awaiting absorption.

Acceptance of the claims of Lineman for Pay Scale at par with Postmen pay scale should solve the problem to a great extent as they will be placed in the pay scale of Rs. 3050-4590 instead of Rs. 3200-85-4900.

The 5000 officials who had opted for government service will be eligible for another option on conversion of the DTS into a corporation. As a special case, they may be allowed to opt

for MTNL Mumbai if they like to stay in Mumbai city.

7. PENDING ISSUES

(Finance)

In the background of Government's Policy to corporatise the DTO, the Federation have been making persistent efforts of settle the various long pending demands so that they are not arbitrarily closed before corporatiasation. Some of them are small but they are important for individuals or category of staff. Shri Paswan had entrusted the task of sorting them out and setting them to Member (Finance). A list of 52 such items was submitted to him. Unfortunately, the need to start the new set-up without irritation and the urgency to settle them has not been appreciated.

There are four categories of pending issues, viz.

- Those arising out of 5th CPC's recommendations;
- Arbitration awards and issues pending reference to the Board of Arbitration;
- Denial of benefit of various orders;
- Issues peculiar to DOT.

Issues arising out of 5th CPC's recommendations.

- Telecom employees have been denied the benefit of a specific recommendation like Grade IV for Telecom Mechanics.
- Unjustified discrimination has been made between the pay scale of Linemen and Postmen. Acceptance of the demand will greatly help in removing the bottleneck in respect of qualified and trained officials for the cadre of Telecom Mechanic and promotion of group D.
- Telecom Attendant : A pay scale was not prescribed for the new cadre. An ad hoc arrangement is being made by placing them in the pay scale of Linemen which has been declared a dying cadre.
- Acceptance of the CPC's recommendation cannot be postponed and left for settlement by the Corporation. There will be no repercussions on other cadre as they are a specific recommendations. We have already indicated that the pay of the officials be notionally fixed with effect from 1.1.96 and actual payment made from September 1999 when settlement of some issues took place.

5. Anomalies

Government has decided to refer the anomalies that have remained unsettled in the National/Department Council to an arbitrator outside the JCM. Neither the recommendations of the Departmental Council have been accepted nor have they been referred to arbitration so far, including those on which there is disagreement. Even an arbitrator has not been appointed so far.

- Appeal made against lift operator award be withdrawn as it will not be possible to pursue the case.
- Another award dt. 31.1.88 in favour of maintenance staff of civil wing given for similar staff in CPWD be implemented.
 - OTA rates : The award is not being implemented in conformity with the new pay scales.
- Denial of benefits of various orders:
 - Supreme Court order on Grade IV. DOT is avoiding fixing pay of senior officials under FR 22.
 - Pay fixation under FR 22 (C) is disallowed to restructured cadres while untrained officials get it for BCR.
 - Pay fixation under FR 35 is denied in Himachal.
 - DOT orders on training and appointment of restructured cadres is not being implemented in many Circles including MTNL.

Benefit of officiating pay is denied to Restructured Staff, Sr TO, TTA and Phone Mechanics.

Trained LIs, Cable Splicers of 12 and 24 years instead of 16 and 26 years, has not been accepted on the plea that the former was introduced by a Cabinet decision. But no effort has been made to seek Cabinet approval for effecting of its earlier decision. Under the JCM scheme, such a decision can be modified after a 5 years.

Rationalisation of structure

Efforts to rationalise the cadre structure for upgrading skills/recruitment of staff compatible

18

with technological changes and facing competition with the operators, have not proved fruitful. Thus, optimum utilisation of workforce is evaded.

b) Changes in administrative set-up

Administrative changes to satisfy the needs of the consumers and ensure efficiency have been avoided. Centralisation of Trunk Exchanges has created problem of surplus staff remains unutilised.

Proposals for simultaneous decentralisation of administrative set-up for commercial dealings by providing a system to "Single Window Delivery" at consumer centres is not introduced.

c) Posting of technical staff in villages is avoided as relief is given to staff shifting to cities and not to villages.

10. Recognition

Almost no Federation/union of Group C and D staff is recognised as the outcome of the verification conducted in 1995 was not accepted under political pressure.

Despite Supreme Court decision that Telecom is an industry, recognition under the industrial laws has not been granted. We have to form unions on industrial basis.

It is therefore requested that some provisional arrangement be made to enable us to reorganise the unions on industrial pattern and seek recognition. Directive be issued to the unions to set up industrial unions within a specified time-frame to get ad hoc recognition. Facilities of the existing unions may be withdrawn.

11. Victimisation/Disciplinary cases

It is requested that as a gesture of goodwill, punishments given on account of trade union activities. Similarly, instructions be issued to disciplinary cases those involving/corruption/moral turpitude.

12. Pay Scales

From the date the Corporation is formed, IDA pay scales be introduced as has been done in the case of MTNL. With a view to avoid delay, while insisting on principle of equal work for those who join BTN, we do not seek further modification for the time being.

Similarly, pending adoption of rules, procedures, promotion scheme etc. by the proposed Corporation, DTO/Government rules will continue to apply for three months or till such time as new dispensation is introduced.

NEWS OF INTEREST

TELECOM CONSULTANT:

The Government has appointed M/s A.F. Ferguson a foreign Company as consultant to suggest way and means for corporatising the department of Telecom Services. This consultant also will suggest ways for making the Bharat Sanchar Nigam (BSNL) financially viable. The report is expected by end of August 2000.

Supreme Court case on Free Telephones:

The public Interest litigation filed against giving Free Telephones to serving employees by Mr. H.D. Shourie of "common cause" is admitted and notice is served on the government. However no stay is granted. Hon. Minister assured that Department will defend the cause of workers in the court. Because of high expenditure and paucity of funds NUTE/FNTO is not in position to implead as a party in the case.

REVERSION OF GRADE IV PROMOTION QUASHED.

Hon. Principal Bench of Central administrative Tribunal, has allowed the OA 425/2000 filed against the DOT order No. 22-6/94-TE.2 (Vol.III) dated 30-12-99 reverting the applicants to Grade III from Grade IV, vide its order dated 2/6/2000. Department is yet to endorsed this judgement.

JTO recruitment rule challenged:

The NUTE Gr. C has challenged the JTO recruitment rule 1999 before the Principal Bench, CAT, New-Delhi. The case is admitted and notice is served on the department. The first hearing will be held on 28th August 2000. Case No. OA 1282/2000

RESULTS OF JTO SCREENING TEST

The results of JTO screening test 2000 is declared only in Delhi and Channai Telephones. The Union has already represented before the authorities to declare the results without any delay. Actions for finalisation of the results are under progress.

Poor JAO part-I results:

The results declared so far in different circles are poor and few candidates are declared

pass in the examination. Our Union/FNTO has taken up the case with DOT for reviewing the results and doing justice to the employees.

NUTE G.R.C Committee Meet :

The sub-committee of NUTE Gr. C on Organisational, financial and disciplinary matters held on 8,9 July at Delhi. The committee reviewed different aspects connected to Union and shocked to see that many branches are not remitting quota to CHQ. It is once again requested that all Branches should remit their upto date quota to CHQ Financial Secretary without any delay. Shri RCP Singh, Shri Vallinayagam, Shri V.N. Sarin and General Secretary participated in the meeting.

**NO TELECOM BULLETIN TO BRANCHES IN QUOTA ARREARS
WORLD EXECUTIVE OF UNION NETWORK INTERNATIONAL**

The 1st world executive of Union Network International (PTTI) was held at Edinburgh, U.K. from 18th July to 20th July 2000. The Major discussions were on Campaigns and Organising, Organising in the Network economy, Trade Union Development, Sectors Programme etc. Important resolutions were passed on following points.

- Business convergence and concentration in New economy.
- OECD Guidelines for Multinationals and making them work.
- UN Social Submit.
- Basic Human right threatened by deregulation and Liberalisation.
- Utilising workers capital - making pension funds for Unions.
- WTO negotiations on services- Unions must have a voice.
- Defecting the digital divide etc.

The meeting was presided by Br. Kurt van Haaren President and Br. Philip Jennings. (G.S.) and Br. Philip Boyer (D.G/S) etc. lead the discussions. The General Secretary, NUTE Gr.C Mr. Thomas John, who is also a member of the UNI world Executive attend the meeting.

The present Regional Secretary of Union Network International, Asian region is Mr. Christopher Ng, Singapore and Br. Basil De Silve, Srilanka, is the Executive Secretary.

GROUP OF FIVE MINISTERS MEETING

The high power Ministerial committee constituted for solving the Corporation related issues met the staff side no 2.8.2000. Shri Ramvilas Paswan, (Communications) Shri Murasoli Maran (Industries) Shri Murli Manohar Joshi (HRD) Shri S.N. Jethai (Labour) along with the Cabinet Secretary and large Number of Officers attended the meeting. The Staff federation placed its apprehensions on Pension, Job Security, working conditions, pending problems etc. before the Ministers group. They assured that all these problems will be settled and they will meet again the staff side for 2nd round of discussion. (The detailed memorandum is printed elsewhere).

MEETING WITH MEMBER FINANCE

The internal committee headed by Shri Prasad, Member finance met the staff side on 1st Aug and intimate the latest position of the staff problems pending. Staff Side expressed its strong disappointment on non settlement of important items like FR-22 C benefits on BCR promotions. The following items are settled.

Permission for limited recruitment in cadre of Drivers/TTA etc. the following new posts are sanctioned. JTO: 11071 TTA: 5471, Drivers : 597 Stenographer : 390 RMS : 3975

Incentive Money for Phonogram Operators: Minimum call reduced to 100 from 200 units.

Merger of isolated category for OTBP\BCR promotions: orders under issue.

ISSUE COULD NOT BE RESOLVED

1. ABSORPTION OF PRE-RESTRUCTURED CADRE WHO COULD NOT PASS
2. Benefit of FR-22C on OTBP\BCR Promotions (3) Changes in promotion policy to Grade IV. (4) Merger of Sr. TOA (P) Sr. TOA(TL) and Sr. TOA(TG) (5) concessional Telephone to serving employees (6) Counting past service for Cable Splicer (7) Redeployment of staff (9) Absorption of Sr. TOAs TTAs (10) Duties of left over staff in pre-restructured cadre.

Edited, Printed & Published by Thomas John K. General Secretary, Owned by National Union of Telecom Employees Group-C, and Published from : D-9, Telegraphs Place, Gole Market, New Delhi-110 001, Printed at Vandana Print & Co. 1885, Gali Koliyan, Darya Ganj, New Delhi-110 002. Phone : 3262747