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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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01/07/2015  
SECTION OFFICER (JUDL.)

FORM NO. 4  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :  
ORDERSHEET

1. ORIGINAL APPLICATION No : 222 / 2009

2. Transfer Application No : -----/2009 in O.A. No.-----

3. Misc. Petition No : -----/2009 in O.A. No.-----

4. Contempt Petition No : -----/2009 in O.A. No.-----

5. Review Application No : -----/2009 in O.A. No.-----

6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Shri Ishwari Prasad Sarmah

Respondent (S) : Union of India

Advocate for the : Mr. S. Sarmah  
{Applicant (S)} Mr. H.K. Das

Advocate for the : -----  
{Respondent (S)} BSNL

Notes of the Registry

Date

Order of the Tribunal

this application is in form  
is filed in P. A. No. 50/-  
deposited vide 10/10/09  
No. 396/408425  
Dated 1.10.09

Dy. Registrar  
26/10/09

26.10.09

Copy of the Application  
not submit with envelope  
for issue notices to the  
Respondents No 1 to 7. Copy  
not forward to the for CGSC  
with under taking to  
serve a copy to the d/h for  
for the BSNL. Extra charge  
for excess Respondent No.  
6 & 7 not deposited.

26/10/09

27.10.2009

Mr.H.K.Das, learned counsel for  
Applicants seeks some time to place on record  
the final order passed in Writ Petition (C)  
No.3282/2007 (Annexure-10).

We may note that Mr.B.C.Pathak,  
learned counsel for BSNL, on advance notice,  
contended that earlier vide order dated  
26.05.2006 in Writ Petition (C) No.620/2004  
(Annexure-8) the Hon'ble Gauhati High Court  
while disposing of said writ petition has clearly  
observed that directions issued therein "may  
not be extended by the respondent/authorities  
concerned to anyone other than the present  
petitioners". Later on suppressing this aspect  
Writ Petition (C) No.3282/2007 was preferred,  
which was withdrawn on completion of  
selection process. Be that as it may, learned  
counsel for Applicants is allowed to place on  
record the final order passed in W.P.(C)  
No.3282/2008.

List on 10.11.2009.

Member(A)

Member (J)

O.A. No. 222 of 2009

10.11.2009

M.A. No. 112 of 2009 for joining together is allowed.

Learned counsel for the Applicants contends that as per judgment and order passed by Hon'ble High Court in WP (c) No. 3282 of 2007 along with M.P. 2836 of 2007 dated 30<sup>th</sup> October, 2008, only eleven successful candidates of the Screening Test held on 15.07.2007 as per Recruitment Rules of TTA, 1998 (as per vacancies against the year 1998-1999) were required to be appointed. But 20 candidates were sent for TTA induction training by orders dated 10.12.2008 and 19.12.2008. By present O.A. 22 applicants seek extension of the directions of above said judgment, who could not participate in the concerned examination. It was contended that when 20 persons, instead of 11 candidates, could be appointed in derogation of directions of Hon'ble High Court, applicants are also entitled to promotion to said post.

In view of the above Admit. Issue notice to the Respondents, who are directed to file their reply within four weeks time.

Shri B.C. Pathak, learned counsel for BSNL present in court accepts notice on behalf of respondents. Thus service is complete.

List this matter on 11.12.2009.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

Service Completed.

No. WTS filed

10.12.09

11.11.09

Mr. H.K. Das  
Advocate for  
the Applicant  
filed an Affidavit  
in the Court on 10.11.09.  
Copy served.

11/11/09

H.K. Das

Issue notice to the  
Respondents

12/11/09

Mukesh & order  
accepted  
Pathak  
13/11/09

/pb/

Service

O.A. No. 222-2009 (222 of 2009)

11.12.2009

M.A. No. 112 of 2009 has been allowed vide order dated 10.11.2009 and registry should not show the same in the cause list.

Learned counsel for the applicant pointed out that name of applicant in the cause list has been shown wrongly. Similarly it is stated by the counsel for the Respondents that his name is also not shown (figure) in the cause list in present case. Registry to note that appropriate name of the applicant and advocate for the respondents is shown.

On the request of counsel for the Respondents adjourned to 07.01.2010.


  
(Mukesh Kumar Gupta)  
Member (J)

/PB/

7.1.2010

Enabling the Respondents to file reply as prayed for. Case is adjourned to 22.1.2010.

  
Madan Kumar Chaturvedi  
Member (A)

  
(Mukesh Kumar Gupta)  
Member (J)

/m/

22.01.2010

On the request of proxy counsel for respondents two weeks time is allowed <sup>to file reply</sup> as prayed for.

List on 12.2.2010.

  
(Madan Kr. Chaturvedi)  
Member (A)

  
(Mukesh Kr. Gupta)  
Member (J)

/pg/

6-1-2010  
NO W/S filed.  
km

NO W/S filed.  
22.1  
21.1.2010

NO W/S filed.  
m  
11.2.2010



O.A. 222/09

12.02.2010

List the matter on 08.03.2010 along with O.A.

(Madan Kumar Chaturvedi)  
Member (A)

08.03.2010

Mr B.C.Pathak states that he is appearing for all the respondents except respondent No.1 which is otherwise a formal party. It is stated that reply has been filed with copy to the applicant but the same is not on case record. Registry is directed to place a copy of the same on the case record.

List on 1.4.2010 for hearing.

(Mukesh Kr. Gupta)  
Member (J)

/pg/

01.04.2010

None for the applicant. Adjourned to 28.4.2010.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kr. Gupta)  
Member (J)

/pg/

28.04.2010

On the request of Mr H.K.Das, learned counsel for the applicant, Mrs M.Das and Mr B.C.Pathak, learned counsel for the respondents list on 17.5.2010.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kr. Gupta)  
Member (J)

/pg/

8.3.2010

Affidavit has been filed by Respondent No.1 through Mrs. M. Das, for copy of the same to be served on the applicant by Respondent Nos 2 to 7 through Mr B.C. Pathak. Copy not served. 8/3/2010.

w/s filed.

27.4.2010

17.05.2010

Proxy counsel for Applicant prays for time for filing rejoinder. We notice that sufficient time has already been granted to Applicants to file rejoinder but needful has not been done. Though the matter is listed for final hearing, one more last and final opportunity is being granted to them to file rejoinder failing which they will forfeit the right to do so.

List the matter on 08.06.2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

/pb/

08.06.2010

Pleadings are complete with filing of rejoinder, which has been filed only on 7<sup>th</sup> June 2010. In the circumstances, Mr. B.C. Pathak, learned counsel for Respondent Nos. 2-7 seeks and allowed time to peruse the same.

List on 21<sup>st</sup> June 2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

/PB/

21.06.2010

Proxy counsel for respondents prays for adjournment.

List on 30.06.2010.

(Mukesh Kumar Gupta)  
Member (J)

/bb/

No rejoinder

filed

int. 2010/06/04 10:12:00 AM

7.6.2010

7.6.2010

Rejoinder has been  
filed by the Applicant  
Copy served.

7/6/2010

int. 2010/06/04 10:12:00 AM  
(A) to (J)

(A) to (J)

The case is ready  
for hearing.

29.6.2010

O.A. No. 222/2009

30.06.2010

On the persistent request made by Mr. B.C. Pathak, learned counsel for the respondents, adjourned to 12.07.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

12.07.2010

Proxy counsel for Applicant prays for adjournment stating that Mr. H.K. Das, learned counsel for Applicant has some personal difficulty.

List on 14<sup>th</sup> July 2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/pb/

O.A. 222/2009

03.08.2010

Judgment pronounced in open court  
kept in separate sheets.

For the reasons recorded separately

O.A is disposed of.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/pg/

Received order copy  
dtd 3.8.10. for  
Mrs. M. Das. S. case  
Kleka  
9.8.10.

Received copy  
of the order dtd 3.8.10  
for the applicant -  
H/S (Hridip K. Das)  
9/8/10

10.8.2010

Judgment/Order  
under sent to the A/S  
for issuing in need.  
1913 to 1920 No 16-8-2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 222 of 2009.

DATE OF DECISION: 03-08-2010.

Shri Ishwari Prasad Sarma & Others.

.....Applicant/s

Mr H. K. Das

.....Advocates for the  
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mrs M. Das, Sr.C.G.S.C for Respondent No.1 &  
Mr B.C.Pathak, for respondents 2-7.

.....Advocate for the  
Respondent/s

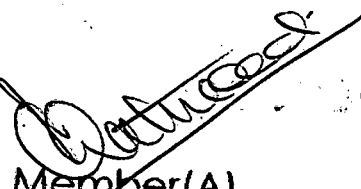
CORAM

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)

THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No ☒
2. Whether to be referred to the Reporter or not ? Yes/No ☒
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No ☒

Judgment delivered by

  
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 222 of 2009.

DATE OF DECISION : THIS, THE 3rd DAY OF AUGUST, 2010.

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)  
HON'BLE MR. MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Sri Ishwari Prasad Sarma,  
S/O Sri Balaram Sarma,  
Telephone Mechanic,  
O/o Sub-Divisional Engineer, Mobile,  
Task Force, Assam
2. Sri Pabitra Mazumdar,  
S/O Sri Krishna Kanta Mazumdar,  
Telephne Mechanic  
O/O Sub-Divisional Engineer,  
Installation, Task Force, Assam
3. Sri Jihan Gohain,  
S/o Late Phuleswar  
Gohain, Telephone Mechanic,  
O/O Sub-Divisional Officer,  
phones, Dibrugarh, Assam
4. Sri Khitish Borpatro Gohain,  
S/O late Satya Borpatro Gohain,  
Telephone Mechanic,  
O/O Sub-Divisional Engineer,  
Cable, Task Force, Assam
5. Sri Bipul Hazarika,  
S/O Sri Umesh Chandra Hazarika,  
Telephone Mechanic,  
O/O Sub-Divisional Engineer,  
GR, MHT, Assam.
6. Sri Bharat Bhowal,  
S/O Late Suresh Ch. Bhowal,  
Telephone Mechanic,  
O/O Sub-Divisional Engineer, Mobile,  
Task Force, Assam
7. Sri Singheswar Borah,  
S/O Sri Lankeswar Borah,  
Telephone Mechanic  
O/O Sub-Divisional Engineer,

GR, Digboi, Assam

8. Sri Akshay Sarkar,  
S/O Late Jogesh Sarkar,  
Telephone Mechanic,  
O/O Sub-Divisional Engineer,  
GR, MHT, Assam
9. Md. Joliluddin Ahmed,  
S/O late Samaruddin Ahmed,  
Telephone Mechanic,  
O/O Sub-Divisional Engineer, Cable  
Dibrugarh, Assam
10. Sri Gobinda Mondal,  
S/O Late Nagindra Ch. Mondal, Telephone  
Mechanic, Sub-Divisional Officer,  
Telecom, Dibrugarh, Assam
11. Sri Dilip Mazumdar,  
S/O Late Hiralal Mazumdar,  
Telephone Mechanic  
O/O Sub-Divisional Engineer, Mobile  
Dibrugarh, Assam
12. Sri Mihir Sikdar,  
S/O Late Birendra Nath Sikdar,  
Telephone Mechanic,  
O/O Sub-Divisional Officer  
Phones, Dibrugarh, Assam
13. Md. Azgar Ali,  
S/O Late Bajuruk Ali,  
Telephone Mechanic,  
O/O Sub-Divisional Officer,  
phones, Guwahati
14. Sri Nabin Ch. Baishya,  
S/O late Puspa Ram Baishya,  
Telephone Mechanic  
O/O Sub-Divisional Officer, phones  
Guwahati, Assam
15. Sri Ajoy Prasad,  
S/O late Jagdish Prasad,  
Telephone Mechanic,  
Sub-Divisional Officer, phones,  
Guwahati.
16. Sri Surya Deo Roy, S/O Sri Pawitra Roy,  
Telephone Mechanic, Sub-Divisional Officer,

Phones, Guwahati, Assam

17. Sri Karuna Kanta Das,  
S/O Sri Fatic Ch. Das,  
Telephone Mechanic,  
Sub-Divisional Officer,  
phones, Guwahati
18. Md. Janmil Ali,  
S/O late Dhanial Ali, Telephone  
Mechanic, Sub-Divisional Engineer,  
phones, Nalbari, Assam
19. Md. Ayub Ali, S/O late Chamser Ali,  
Telephone Mechanic,  
O/O Sub-Divisional Engineer,  
phones, Barpeta
20. Mrs. Kalpana Saikia, W/O Khirode Saikia,  
Telephone Mechanic, Sub-Divisional  
Engineer, phones, Tinsukia
21. Sri Binanda Ram Kalita,  
S/O Late Daya Ram Kalita,  
O/O Sub-Divisional Officer,  
Phones, Ulubari  
Guwahati-7
22. Sri Mehboob Ali, Telephone Mechanic,  
O/O Sub-Divisional Officer,  
Phones, Fancy Bazar, Guwahati, Assam

..... Applicants

By Advocate Mr H.K. Das

•Versus•

1. Union of India,  
Represented by the Secretary,  
Department of Telecommunications,  
Ministry of Communications,  
Government of India, New Delhi-1
2. Bharat Sanchar Nigam Limited,  
Represented through the Chairman-cum  
Managing Director,  
Registered office Sanchar Bhawan,



New Delhi-1

3. The Assistant Director General (DE),  
Dak Bhawan, BSNL, Sanchar Marg,  
New Delhi-1
4. The Chief General Manager (Telecom),  
Assam Circle, Administrative Building  
Panbazar, Guwahati-1
5. The General Manager (Telecom)  
Kamrup Telecom District, Guwahati-1
6. The Chief General Manager (Task Force),  
NE Telecom Region,  
Guwahati-3.
7. The Deputy General Manager Z(Admn),  
O/O Chief General Manager,  
Assam Telecom Circle,  
Panbazar, Guwahati-1.

.....Repondents

Mrs. M.Das, Sr.C.G.S.C. for Respondent No.1 &  
Mr.B.C.Pathak, for Respondents 2-7.

### ORDER

#### MR MADAN KUMAR CHATURVEDI, MEMBER(A)

Applicants in this case seek promotion to the post of Telecom Technical Assistant (TTA for short) as has been done in respect of 9 persons as indicated in Sl.No.12 to 20 of the merit list of the examination held on 15.7.2007 and consequential service benefits.

2. The applicants are working as Telecom Mechanic/Phone Mechanic in various Sub-Divisional Offices of the Bharat Sanchar Nigam Limited (for short BSNL) under the Assam Telecom Circle. All the applicants became Phone Mechanic/Telecom Mechanic in the year 1993 and 1994 pursuant to screening test. The next promotional post of

the applicants is TTA. The respondents circulated Recruitment Rules of TTAs 1998 providing for certain criteria for promotion to the Phone Mechanics/Telecom Mechanics to the post of TTA. As per the Recruitment Rules of TTAs 1998 Telecom Mechanics having completed 5 years of service as Phone Mechanic/Telecom Mechanics are eligible to be considered for promotion to the post of TTA under 40% departmental quota. Therefore all the applicants claimed eligibility as on 1999 for promotion to the vacant posts of TTA.

3. Mr H.K.Das, learned counsel appeared on behalf of the applicants. It was alleged that in spite of the instruction issued by the DOPT, respondents failed to convene the screening and the DPC year wise in the Assam Telecom Circle. On the other hand incumbents and similarly situated persons like applicants in the N.E. Telecom Circle were screened on 4.3.2000 and results were declared on 27.9.2000. Accordingly they got the benefit of promotional post of TTA whereas this benefit was denied to the applicants. Due to inaction on the part of the respondents DPC was not held for several years for promotion to the post of TTA. Meanwhile the Recruitment Rules of 1998 got modified by the Recruitment Rule 2001. Vide notification dated 27.7.2001, it was stipulated that Phone Mechanics having 10+2 are only eligible for promotion to the post of TTA under 40% departmental quota earmarked for departmental candidates as per the subsequent Recruitment Rule of 2001 and the screening was fixed on 24.2.2002. Thereafter on 12.2.2002 order was issued by which screening test was postponed for seeking some clarification. Thereafter, without taking

*d*

into consideration the date of availability of the vacancies the communication dated 12.7.2004 was issued by which respondents proposed to fill up the 67 vacancies in the Assam Circle as per the Recruitment Rules of 2001.

4. Mr Das further submitted that being aggrieved by such illegal action on the part of the respondents some of similarly situated Phone Mechanics of Assam Telecom Circle approached before the Hon'ble Gauhati High Court by way of filing WP(C) No.620/04 (Shri Ambikka Bezbaruah vs. Union of India & Ors.). Hon'ble High Court was pleased to pass an interim order directing respondents to keep 11 posts of TTA in the Assam Circle vacant. Finally, the Hon'ble Court on 26.5.06 after hearing the parties was pleased to dispose of the said petition directing the respondents to consider the cases of the petitioners therein for promotion to the post of TTA by holding examination in terms of the Recruitment Rules of 1998. The respondents after the order of the Hon'ble High Court allowed the petitioners of WP(C) 620/04 to submit their applications for screening test of TTAs schedule to be held on 15.7.2007 for filling up the vacancies pertaining to the year 1999 on the basis of Recruitment Rule of 1998. However, the respondents confined the said consideration solely to the petitioners of WP(C) No.620/04 denying consideration of other similarly situated persons like the applicants who were also eligible for promotion to TTA in the Assam Circle.

5. Mr Das stated that being aggrieved by such discriminatory action on the part of the respondents another set of Telecom Mechanics

similarly situated with the applicants who were eligible for getting considered for promotion to the post of TTA in respect of vacancies surfaced in the year 1999 approached the Hon'ble Gauhati High Court by filing W.P(C) No.3282/07 (Krishna Pradhan & Ors. Vs. Union of India & Ors.) for consideration of their cases for promotion to the post of TTA as has been done in the case of petitioners of WP(C) 620/2004. Hon'ble High Court passed an interim order dated 28.6.2007 allowing the petitioners of the WP(C) 3282/07 to participate in the screening test on 15.7.2007 and accordingly all petitioners of WP(C) 3282/07 appeared in the screening test on 15.7.2007.

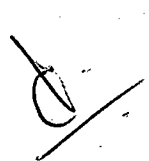
6. On 12.3.2008 respondents filed an additional affidavit in AP(C) 3282/07 wherein it was stated on oath that there are only 11 vacancies of TTA left out of the 67 vacancies in the Assam Telecom Circle. Accordingly result of 20 candidates were declared who appeared in the screening test held on 15.7.07. As per the additional affidavit candidates from Sl.No. 1 to 11 were sent for induction training and accordingly promoted to the post of TTA.

7. Thereafter General Manager, BSNI, issued an order dated 18.12.08 by which 9 candidates i.e. incumbents from Sl.No. 12 to 20 of the merit list were sent for induction training of TTA without considering the case of the applicants. The Divisional Engineer (Admn) issued a communication sending the names of 9 candidates for induction training for promotion to the cadre of TTA as per the Recruitment Rules of 2001 and promoted them to the post of TTA against the vacancies surfaced after 1999. Mr Das stated that the

applicants who have come into the zone of consideration as per the Recruitment Rules of 2001 acquired right to be considered for promotion to the post of TTA after 1999. However, the respondents in a most illegal, arbitrary and discriminatory manner curtailed the right of the applicants for getting promotion to the post of TTA.

8. Mr M.Deka, learned proxy counsel on behalf of Mr B.C.Pathak appeared before us. It was submitted that a group of employees filed W.P(C) No.620/04 before the Hon'ble Gauhati High Court with prayer to hold a screening test under 40% quota for the post of TTA as per TTA Recruitment Rules 1998. The said petition was contested by BSNI. After hearing the parties Hon'ble High Court was pleased to pass the final judgment and order on 26.5.2006 directing the respondents to hold a screening test in terms of Recruitment Rules of 1998 for promotion to the post of TTA and the said exercise was to be completed within a period of 4 months from the date of the order. The Corporate office, New Delhi examined the matter and took a decision to go for further judicial review of the order dated 26.5.2006. Accordingly a Writ Petition was prepared along with an application for condonation of delay. Meanwhile Contempt Petition No. 637/06 was filed before the High Court for non implementation of the order dated 26.5.2006. Reason of delay was explained. In the meantime condonation petition came up for hearing. It was heard and notice was directed to be issued and steps to be taken within 3 days, failing which it was ordered that the petition as well as the appeal shall stand dismissed without any further reference to the Court. Although these steps were taken same

could not be effectuated inadvertently due to the lapse on the part of the Advocate's Clerk. Resultantly the matter was automatically dismissed. On that it was decided to implement the order dated 26.5.2006 passed in WP(C) 620/04 where the question of implementation was limited to only 11 petitioners. All necessary arrangements for holding the screening test on 15.7.2007 was notified. In the meantime another 10 employees approached the High Court through another WP(C) 3282/2007 and prayed that they be allowed to appear in the screening test for promotion to the post of TTA scheduled to be held on 15.7.2007 subject to further orders that may be passed in the said Writ Petition. As a result BSNI has no other option but to allow the petitioners in WP(C) 3282/07 along with the petitioners of WP(C) 620/04. The petitioners of WP(C) 3282/07 filed a case before the High Court praying for declaration of the result of the screening test. By an order dated 1.8.2007 High Court directed the BSNI to place the result before the Court and to indicate as to whether BSNI had any objection if the results of the petitioners be declared and further action as may be deemed necessary to be taken. Thereafter, another group of employees (two of them are applicants in the present OA at Sl.2 and 19) have come out with a joint petition on 17.9.07 claiming legitimate opportunity to be screened for promotion to the post of TTA before the declaration of the result. In the meantime entire recruitment rules were amended and had been brought into existence considering the pace of development of science and technology to suit the modern technological developments and to bring in proper qualified person with



specialised knowledge to do specialized jobs. Pursuant to the new Telecom Policy 1999 Government decided to corporatize the services of Telecom and accordingly formed a company in the name & style of Bharat Sanchar Nigam Limited (for short BSNL). The said company came into existence with effect from 15.9.2000 and all the assets and liabilities of the erstwhile DOT was transferred to BSNL with effect from 1.10.2000. On 27.9.2000, the DoT instructed the different Chief General Managers of all Telecom circles to hold screening test for promotion of Senior TOA/TTA but the said decision was cancelled on 5.12.2000. TTA Recruitment Rules 1998 and the TTA (Amendment Rules) 1999 are the statutory rules made under Article 309 of the Constitution of India while the TTA Recruitment Rules 2001 has been made by the Board of Directors of the BSNL. According to TTA Recruitment Rules 1998 the eligibility criteria from the feeder grade Telecom Mechanic is 5 years but the TTA (Amendment) Rules 1999 has changed the said criteria and fixed the eligibility criteria as 10+2 standard pass certificates with 5 years regular service as Telecom Mechanics. The vacancies are distributed as 50% for direct recruitment, 10% by way of absorption and rest 40% promotion through departmental limited examination. But this amended provision could not be placed and argued in WP(C) 620/04. All the petitioners in WP(C) 620/04 who have been able to pass the screening test held on 15.7.2007 could be accommodated to undergo training and subsequent promotion to the post of TTA as the judgment and order dated 26.5.2006 has attained the finality. As the number of candidates in the WPC

No.620/04 had come down to 10 after the death of one of the petitioners, one vacancy could be made available for the petitioners in the WPC No. 3282/2007. On the aforesaid factual backdrop it was stated that respondents BSNI, was able to accommodate only 11 candidates from both the aforesaid WPCs. As the Hon'ble High Court judgment was beyond the scope of the aforesaid TTA (Amendment) Rules, 1999, some 9 additional posts occurred thereby enabling the BSNI, to accommodate as many as 20 candidates who were declared successful in the screening test, which was done accordingly.

9. According to learned counsel the decision of the Hon'ble High Court is rendered, per incuriam, as the existence of the TTA (Amendment) Rules 1999 could not be placed/argued by either of the side. Judgment per incuriam cannot lay down any ratio to be followed subsequently as a precedent. As the aforesaid judgments are hit by doctrine of sub-silento which cannot be regarded as law declared having binding effect.

10. We have heard rival submissions, perused the pleadings and other materials placed on record. There is no dispute on the point that the controversy posed in this OA was the subject matter of plea before the Hon'ble High Court. High Court after considering the arguments adjudicated the issue as under :

"Bearing in mind the fundamental principle governing promotion of a Government servant, when I turn to the Rules of 2001, what becomes evident is that the Rules of 2001 is prospective in nature. Hence, the Rules of 2001 cannot divest the petitioners of their rights, which the petitioners have already acquired under the Rules of 1998. As a corollary thereto, it is not difficult to hold that on




completing the eligibility criteria under the Rules of 1998, since the petitioners became eligible for consideration for promotion to the posts of TTA, their cases cannot be considered in terms of the minimum qualifications, which have been imposed by the Rules of 2001; rather, the cases of the petitioners ought to have been considered for promotion in terms of the Rules of 1998. While the Rules of 2001 made 10+2 standard certificate as the minimum educational qualification for promotion to the post of TTA, the Rules of 1998, read with the Rules of 1991, make it clear that a Telephone Mechanic/Tele Communication Mechanic, having passed 10<sup>th</sup> standard examination and having put in five years of regular service in the cadre of Telephone Mechanic/Tele-Communication Mechanic, is eligible for consideration for promotion to the post of TTA. When the petitioners had attained the requisite eligibility criteria for the purpose of being considered for promotion to the post of TTA before the Rules of 2001 came into force, their cases ought to have been considered in terms of the Rules of 1998, when their turn for being considered for promotion had arisen. (emphasis supplied).

11. By no stretch of imagination the aforesaid decision can be treated as given per incuriam. It was not given in ignorance of the terms of a statute or of a rule having the force of a statute. The doctrine of per incuriam is limited to decisions which are given in ignorance of some inconsistent statutory provision of some authority binding on the Court concerned. In the case of *Mumleshwar Prasad vs. Kanahaiya Lal*, AIR 1975 SC 907, 910 it was held that the doctrine of per incuriam cannot be extended to cases which were merely not fully argued or which appear to take a wrong view of the authorities or to misinterpret a statute. 'Incuria' literally means 'carelessness'. In practice per incuriam appears to mean per ignoratium. English Courts have developed this principle in relaxation of the rule of stare decisis. Latin expression per incuriam means through inadvertence. If the decision

has been given in ignorance or forgetfulness of some inconsistent statutory provision of some authority binding on the Court that has resulted in reasons which are apparently and demonstrably unsustainable, the Court may be left with no option but to treat such decision *per incuriam* and not a binding decision. A decision having been rendered *per incuriam* or having passed *sub silentio* is not considered as a binding precedent. But if the provision of the Act was noticed and considered before the conclusion arrived at, the decision cannot be termed as *per incuriam*.

12. A decision passes *sub silentio*, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the court or present to its mind. The court may consciously decide in favour of one party because of point A, which it considers and pronounces upon. It may be shown, however, that logically the court should not have decided in favour of the particular party unless it also decided point B in his favour but point B was not argued or considered by the court. In such circumstances, although point B was logically involved in the facts and although the case had a specific outcome, the decision is not an authority on point B. Point B is said to pass *sub silentio* (Salmond on Jurisprudence, 12<sup>th</sup> edition). Precedents *sub silentio* (in silence) and without argument are of no moment. This rule has ever since been followed. One of the chief reasons for the doctrine of precedent is that a matter that has once been fully argued and decided should not be allowed to be reopened. It is in consonance with the state policy that



law suits be not protracted otherwise great oppression might be done under the colour and pretence of law.

13. Adverting to the facts of the present case we find that Hon'ble High Court has considered rules of 1998 as well as rules of 2001. The ratio which is laid down in the judgment is that the rules of 2001 cannot divest the petitioners of their rights which the petitioners have already acquired under the rules of 1998. This is the guiding principle for deciding the issue. It is a binding precedent. It is not open for the respondents to take a contrary view. We therefore, direct the respondents to prescribe the syllabus for holding screening test in terms of rules of 1998 and the applicants who have already acquired rights under the rules of 1998 cannot be divested of their rights by fresh rules. Therefore, they should be considered by the respondents in terms of rules of 1998 for promotion to the post of TTA. The whole exercise so directed shall be completed within a period of 4 months from the date of the receipt of the copy of this order. Whatever decision is reached on the question of promotion of the applicants by the respondents concerned shall be communicated, in writing to the applicants concerned.

With the above direction and observation O.A stands disposed of. No order as to costs.

  
(MADAN KUMAR CHATURVEDI)  
ADMINISTRATIVE MEMBER

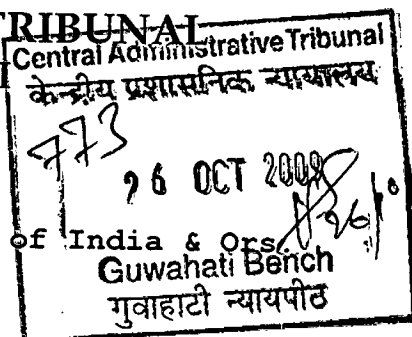
  
(MUKESH KUMAR GUPTA)  
JUDICIAL MEMBER

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI**

OA No. 222 of 2009

Sri Ishwari Prasad Sarma & Ors. - Vs - Union of India & Ors.

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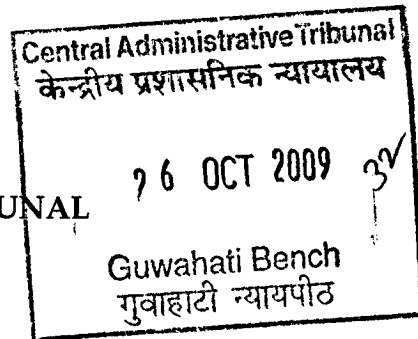


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 23. W/S by R. No. 2 to 7 \*\*\*\*\* — 91 — 139.  
 I hereby undertake  
 to serve a copy  
 upon Mr. B. C. Pathak, SC, BSNL.  
 during the course of this day.  
 Ref: Order — 140-153 — 26.10.09.  
 Filed by  
 His Highness Dal.  
 Advocate — 26.10.09.  
 Recd. for R. No. 1  
 26/10/09  
 at,

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA No. 222 of 2009

Sri Ishwari Prasad Sarma &amp; Ors. - Vs - Union of India &amp; Ors.

S Y N O P S I S

That the applicants are presently working as Telecom Mechanic/Phone Mechanic in various Sub- Divisional offices of the Bharat Sanchar Nigam Limited ( in short BSNL) under the Assam Telecom Circle. All the applicants became Phone Mechanic/Telecom Mechanic in the year 1993 and 1994 pursuant to screening test. The next promotional post of the applicants is Telecom Technical Assistant (in short TTA). The respondents circulated recruitment rule in the name and style "Recruitment Rules of TTAs 1998" providing for certain criterions for promotion of the Phone Mechanics/ Telecom Mechanics to the post of Telecom Technical Assistant (in short TTA). As per the "Recruitment Rules of TTAs' 1998" Telecom Mechanics having completed 5 (five) years of service as Phone Mechanics/Telecom Mechanics are eligible to be considered for promotion to the post of TTA under 40 % departmental quota. Therefore, all the applicants are eligible and well within the zone of consideration as on 1999 for promotion to the vacant posts of TTA.

That in spite of the instructions issued by the DOPT the respondents failed to convene the screening and the DPC year wise in the Assam Telecom Circle. On the other hand incumbents and similarly situated persons like applicants in the N.E. Telecom Circle were screened on 04.03.2000 and the results were declared on 27.09.2000 and accordingly they are enjoying the benefits of promotional posts of TTA whereas same has been denied to the applicants. It is due to such inaction on the part of the respondents the DPC was not held for several years for promotion to the post of TTA.

That in the mean time the Recruitment Rule of 1998 got modified by the Recruitment Rule' 2001 which was notified by the notification dated 27.07.2001. The respondents by the said notification have stated that Phone Mechanics having 10+2 are only eligible to get the promotion to the post of TTA under 40% departmental quota [Annexure- 2]. Thereafter, on 12.12.01 [Annexure- 5] the respondents have issued a communication proposing to hold screening test for promotion to the cadre of TTA against the 40% quota earmarked for departmental candidates

Central Administrative  
केन्द्रीय प्रशासनिक न्यायालय  
26 OCT 2009  
33  
Recruitment Bench  
Guwahati  
न्यायपीठ

resorting to the subsequent Recruitment Rule i.e. the Rule of 2001 and fixed the screening on 24.02.02. The screening was almost at the final stage when the respondents issued another order 12.02.02 [Annexure- 6] by which the screening was postponed on the ground of seeking some clarification. However, it is unfortunate that the respondents took years together to collect those clarifications. Thereafter, the respondents without taking into consideration the fact of the date of availability of the vacancies as well as the recruitment rule prevailing at that relevant point of time issued the impugned communication dated 12.07.04 by which the respondents proposed to fill up the 67 (sixty seven) vacancies in the Assam Circle through the Recruitment Rules of 2001. The law is well settled that the vacancies surfaced in a particular year are to be filled up by the recruitment rules prevailing at relevant point of time.

That being aggrieved by such an illegal action on the part of the respondents some of the similarly situated Phone Mechanics of Assam Telecom Circle to the applicants approached the Hon'ble Gauhati High Court by way of filing WP(C) No. 620/04 [Ambika Bezbaruah & Ors. -vs- U.O.I & Ors.]. The Hon'ble High Court was pleased to pass an interim order directing the respondents to keep 11 posts of TTA in the Assam Circle vacant. Finally, the Hon'ble Court on 26.05.06 after hearing the parties to the proceeding at length was pleased to dispose of the said writ petition directing the respondents to consider the cases of the petitioners therein for promotion to the post of TTA by holding examination in terms of the Recruitment Rules of 1998. The respondents after the order of the Hon'ble High Court allowed the petitioners of WP(C) No. 620/04 to submit their applications for screening test of TTAs schedule to be held on 15.07.07 for filling up of the vacancies pertaining to the year 1999 on the basis of the Recruitment Rule of 1998. However, it is worthwhile to mention here that the respondents committing gross illegality confined the said consideration solely to the petitioners of WP(C) No. 620/04 denying consideration of other similarly situated persons like the applicants who are also eligible for getting considered for promotion to the post of TTA in the Assam Circle.

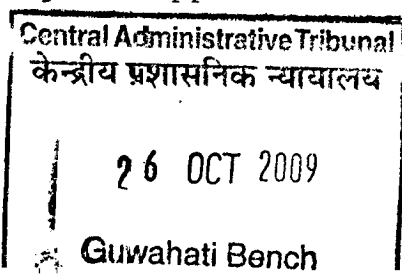
That being aggrieved by such discriminatory action on the part of the respondents another set of Telecom Mechanics similarly situated to the applicants herein, who were eligible

for getting considered for promotion to the post of TTA in respect of the vacancies surfaced in the year 1999 approached the Hon'ble Gauhati High Court by way of filing WP(C) No. 3282/07 [Krishna Pradhan & Ors. -vs- U.O.I & Ors.] for consideration of their cases for promotion to the post of TTA as has been done in the case of the petitioners of WP(C) No. 620/04. The Hon'ble High Court passed an interim order dated 28.06.07 allowing the petitioners of the WP(C) No. 3282/07 to participate in the screening test scheduled to be held on 15.07.07 [Annexure- 8] and accordingly the petitioner of WP(C) 3282/07 appeared in the screening test on 15.07.07. It is pertinent to mention here that the respondents on 12.03.08 filed an additional affidavit in WP(C) 3282/07 wherein the respondents made statement on oath that there are only 11 (eleven) vacancies of TTA left out of the 67 vacancies in the Assam Telecom circle. Accordingly, the results of 20 candidates were declared who appeared in the screening test held on 15.07.07. As per the additional affidavit candidates from Sl. No. 1 to 11 were sent for induction training and accordingly promoted to the post of TTA.

That thereafter the General Manager, BSNL surprisingly issued an order dated 18.12.08 causing serious discrimination to the applicants by which 9 (nine) candidates i.e. incumbents from Sl. No. 12 to 20 of the merit list, were sent for induction training of TTA without considering the cases of the applicants. Accordingly, the Divisional Engineer (Admn), BSNL issued a communication sending the names of said 9 candidates for induction training selected for promotion to the cadre of TTA as per the Recruitment Rules of 2001 and promoted them to the post TTA against the vacancies surfaced after 1999. It is stated that the applicants who have come into the zone of consideration as per the Recruitment Rules of 2001 has got the right to be considered for promotion to the vacant posts of TTA surfaced after 1999. However, the respondents in a most illegal, arbitrary and discriminatory manner curtailed the right of the applicants for getting considered for promotion to the post of TTA.

Therefore, being aggrieved by such an illegal and arbitrary action on the part of the respondents the applicants having no other alternative have approached this Hon'ble Tribunal by way of filing the instant original application for redressal of their grievances. Hence the present original application.

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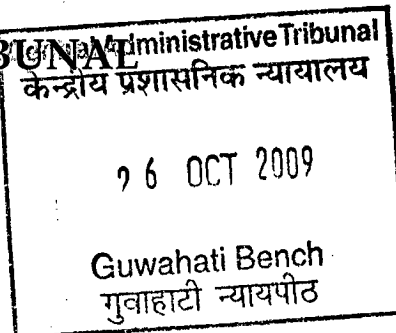


Filed by  
Hdip Kr Das.  
26.10.09  
Advocate

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## GUWAHATI BENCH :: GUWAHATI

OA No. 222 of 2009

LIST OF DATES

1993 & 94 The applicants became Phone Mechanic/Telecom Mechanic pursuant to screening test.

1999 The applicants became eligible for getting considered for promotion to the post of Telecom Technical Assistant (in short TTA). Although the applicants became eligible for promotion to the post of TTA in the year 1999 the respondents flouting all norms of DOPT did not convene the year wise DPC in the Assam Telecom Circle in spite of there being sufficient number of vacancies and the applicants had to face stagnation in their service. It is worthwhile to mention here that during 2000-01 promotion process in the cadre of TTA has been completed all over the country excluding Assam Telecom Circle. It is stated that the in the N.E. Telecom Circle interview as well as Screening Test were held on 04.03.2000 and results of such Screening Test was declared on 27.09.2000 promoting 29 Phone Mechanics similarly situated to the applicants to the post of TTA and presently they are enjoying the promotional post of TTA.

21.01.99 The respondents circulated the 'Recruitment of 1998' providing promotional avenues to the Phone Mechanics/Telecom Mechanics working in BSNL. As per the Recruitment Rule Telecom Mechanics having completed 5 (five) years of service as Phone Mechanics are eligible to be considered for promotion to the post of TTA under 40 % departmental quota. [ANNEXURE- 1] [Page-19]

27.07.01 The respondents issued the notification by which the 'Recruitment of Rule of 1998' was modified by 'Recruitment Rule of 2001'. As per the modified recruitment rule Phone Mechanics having 10+2 are only eligible to get the promotion to the post of TTA under 40% departmental quota. [ANNEXURE- 2] [Page-27]

02.03.00 Admit card issued to one Sri Sukanta Sarma, phone mechanic, N.E. Telecom Circle towards screening test



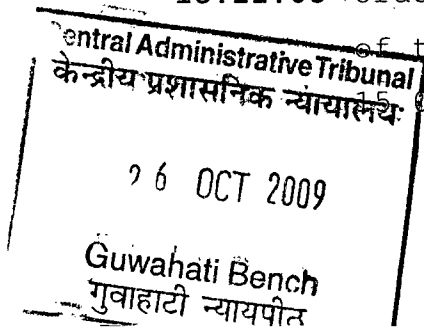
held for promotion to the post of TTA.

3] [Page-33]

- 27.09.00 Communication by which the results of screening test declared for promotion to the post of TTA in the N.E. Telecom Circle. [ANNEXURE- 4] [Page-34]
- 12.12.01 Communication issued by the respondents proposing to hold the screening test on 24.02.02 as per the Recruitment Rule of 2001 under the 40% quota earmarked for departmental candidates. [ANNEXURE- 5] [Page-36]
- 12.02.02 Communication issued by the respondents postponing the screening test on a flimsy ground of taking clarification and unfortunately on this occasion also the promotion process did not succeed. [Annexure- 6] [Page-41]
- 12.07.04 Communication issued by the respondents without taking into consideration the fact of date of availability of vacancies as well as the Recruitment Rule prevailing at that point of time, proposing to fill up the 67 (sixty seven) vacancies surfaced in the year 1999 in the Assam Telecom Circle through the Recruitment Rule of 2001. [Annexure- 7] [Page-42]
- 2004 Being aggrieved by the order dated 12.07.04 some Phone Mechanics of the Assam Telecom Circle similarly situated to the applicants herein approached the Hon'ble Gauhati High Court by way of filling WP(C) No. 620/04 [Ambika Bezbaruah & Ors. -vs- U.O.I & Ors.]. The Hon'ble High Court at the motion stage was pleased to pass an interim order directing to keep 11 posts of TTA in the Assam Circle vacant.
- 26.05.06 Order of the Hon'ble High Court passed in WP(C) No. 620/04 directing the respondents to consider the cases of the petitioners therein for promotion to the post of TTA by holding examination in terms of the Recruitment Rule of 1998. [Annexure- 8] [Page-46]
- 2006 Contempt Case No. 637/06 was filed by the petitioners of WP(C) No. 620/04 for non compliance of the order dated 26.05.06 of the Hon'ble High Court.
- 14.06.07 Communication issued by the respondents towards holding of screening test for promotion to the cadre of TTA on the basis of the Recruitment Rule of 1998 as per the

direction of the Hon'ble Gauhati High Court passed in WP(C) No. 620/04. It is stated that the respondents causing serious discrimination and illegality confined the aforesaid consideration to the petitioners of WP(C) No. 620/04 denying consideration of other similarly situated persons eligible for getting considered for promotion to the post of TTA in the Assam Telecom Circle. [Annexure- 9] [Page-56]

- 2007 Being aggrieved by the aforesaid discrimination on the part of the respondents another set of Telecom Mechanics of Assam Telecom circle who were well within the zone of consideration for promotion to the post of TTA against the vacancies surfaced on 1999 approached the Hon'ble Gauhati High Court by way of filling WP(C) No. 3282/07 [Krishna Pradhan & Ors. -vs- U.O.I & Ors.] praying for similar benefits.
- 28.06.07 Interim order passed by the the Hon'ble High Court in WP(C) No. 3282/07 directing the respondents to allow petitioners therein similarly situated to the applicants to participate in the screening test scheduled to be held on 15.07.07 with further directing that such participation will be subject to the out come of the pending writ proceeeding. [Annexure- 10] [Page-57]
- 06.07.07 Order issued by the respondents allowing the petitioners in WP(C) No. 3282/07 similarly situated to the applicant to appear in the screening test scheduled to be held on 15.07.07. [Annexure- 11] [Page-59]
- 14.09.07 Order of the Hon'ble High Court pursuant to which the results of the screening test were placed before the Hon'ble Court in sealed cover.
- 12.03.08 Additional affidavit filed by the respondents in WP(C) No. 3282/07 disclosing the vacancy position and admitting that there were only 11 vacancies of TTA available to be filled up as per the Recruitment Rule of 1998. [Annexure- 12] [Page-63]
- 18.11.08 Order issued by the respondents declaring the results of the screening test of 20 (twenty) candidates held on 15.07.07 for promotion to the cadre of TTA as per the

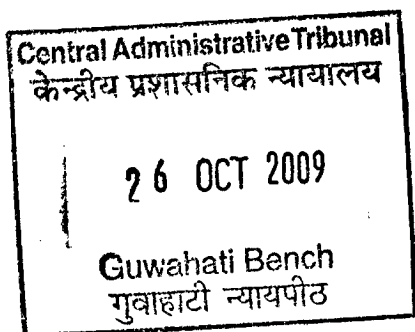


Recruitment Rule of 1998 as per merit. [Annexure- 13]  
[Page-68]

12.12.08 Communication issued by the 7<sup>th</sup> respondent to the Principal, Regional Telecom Training Center, Guwahati forwarding names of 11 (eleven) candidates for induction training for filling up of the 11 vacant posts of TTA as per the Recruitment Rules of 1998. Accordingly, the said candidates successfully completed the induction training and joined their promotional posts of TTA. [Annexure- 14] [Page-69]

18.12.08 Communication issued by the 7<sup>th</sup> respondent to the General Manager, Kamrup causing serious discrimination to the applicants by which names of 9 (nine) persons, similarly placed like the applicants and whose could not occupy the 11 vacant posts, were sent for induction training for TTA and singled out the applicants herein. [Annexure- 15] [Page-71]

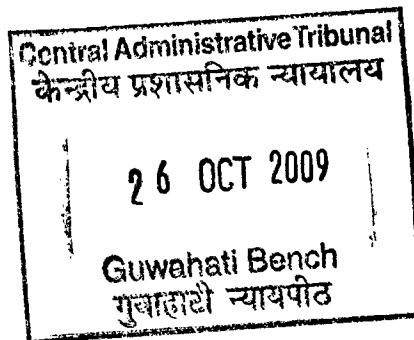
19.12.08 Communication issued by the Divisional Engineer (Admn), BSNL sending names of blue eyed 9 (nine) similarly situated persons for induction training held on 22.12.08 at RTTC, Guwahati denying consideration of case of the applicants who are well within with in the zone of consideration for promotion to the post of TTA. [Annexure- 16] [Page-73]



\*\*\*\*\*

Filed by  
Hidip K. Das  
26.10.09.  
Advocate

Tibam Gohelin



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10

7. Sri Singheswar Borah, s/o Sri Lankeswar Borah, Telephone Mechanic, O/o Sub-Divisional Engineer, GR, Digboi, Assam.

8. Sri Akshay Sarkar, s/o late Jogesh Sarkar, Telephone Mechanic, O/o Sub-Divisional Engineer, GR, MHT, Assam.

9. Md. Joliluddin Ahmed, s/o late Samaruddin Ahmed, Telephone Mechanic, O/o Sub-Divisional Engineer, Cable, Dibrugarh, Assam.

10. Sri Gobinda Mondal, s/o late Nagindra Ch. Mondal, Telephone Mechanic, Sub-Divisional Officer, Telecom, Dibrugarh, Assam.

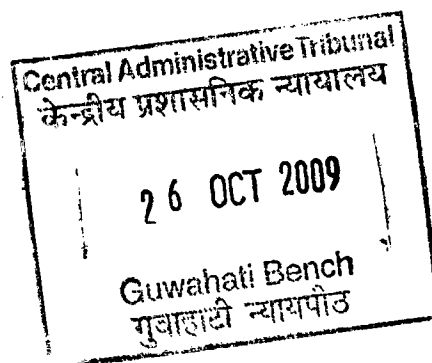
11. Sri Dilip Mazumdar, s/o late Hiralal Mazumdar, Telephone Mechanic, O/o Sub-Divisional Engineer, Mobile Dibrugarh, Assam.

12. Sri Mihir Sikdar, s/o late Birendra Nath Sikdar, Telephone Mechanic, O/o Sub-Divisional Officer, Phones, Dibrugarh, Assam.

13. Md. Azgar Ali, s/o late Bajuruk Ali, Telephone Mechanic, O/o Sub-Divisional Officer, Phones, Guwahati.

14. Sri Nabin Ch. Baishya, s/o late Puspa Ram Baishya, Telephone Mechanic, O/o Sub-Divisional Officer, Phones, Guwahati, Assam.

Jiban Gohain



15. Sri Ajoy Prasad, s/o late Jagdish Prasad, Telephone Mechanic, Sub-Divisional Officer, Phones, Guwahati.

16. Sri Surya Deo Roy, s/o Sri Pawitra Roy, Telephone Mechanic, Sub-Divisional Officer, Phones, Guwahati, Assam.

17. Sri Karuna Kanta Das, s/o Sri Fatic Ch. Das, Telephone Mechanic, Sub-Divisional Officer, Phones, Guwahati.

18. Md. Janmil Ali, s/o late Dhanila Ali, Telephone Mechanic, Sub-Divisional Engineer, Phones, Nalbari, Assam.

19. Md. Ayub Ali, s/o late Chamser Ali, Telephone Mechanic, O/o Sub-Divisional Engineer, Phones, Barpeta.

20. Mrs. Kalpana Saikia, w/o Khirode Saikia, Telephone Mechanic, Sub-Divisional Engineer, Phones, Tinsukia.

21. Sri Binanda Ram Kalita, s/o late Daya Ram Kalita, O/o Sub-Divisional Officer, Phones, Ulubari, Guwahati- 7.

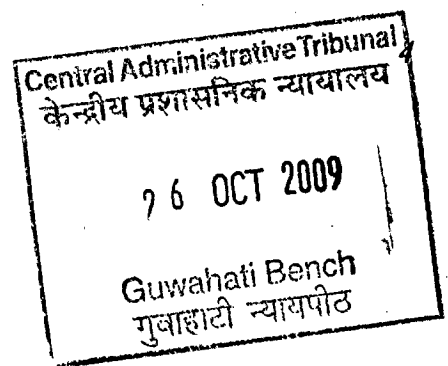
22. Sri Mehboob Ali, Telephone Mechanic, O/o Sub-Divisional officer, Phones, Fancy Bazar, Guwahati, Assam.

**APPLICANTS**

**-Versus-**

1. Union of India  
Represented by the Secretary,  
Department of Telecommunications,  
Ministry of Communications, Government  
of India, New Delhi- 1.

*Jibam Gohain*



2. Bharat Sanchar Nigam Limited, Represented through the Chairman-cum - Managing Director, Registered office Sanchar Bhawan, New Delhi-1.
3. The Assistant Director General (DE), Dak Bhawan, BSNL, Sanchar Marg, New Delhi- 1.
4. The Chief General Manager (Telecom), Assam Circle, Administrative Building, Panbazar, Guwahati - 1.
5. The General Manager (Telecom) Kamrup Telecom District, Guwahati - 1.
6. The Chief General Manager (Task Force), NE Telecom Region, Guwahati - 3.
7. The Deputy General Manager (Admn), O/o Chief General Manager, Assam Telecom Circle, Panbazar, Guwahati- 1.

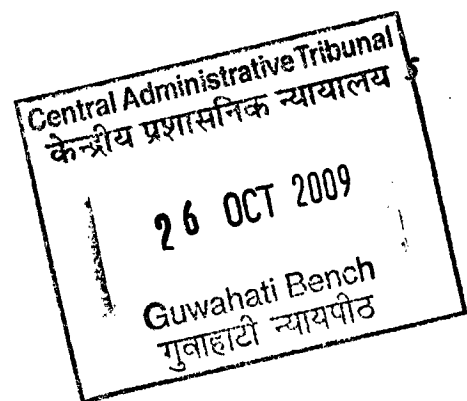
**RESPONDENTS**

**DETAILS OF APPLICATION**

**1. PARTICULARS OF THE ORDER(S) AGAINST WHICH THE APPLICATION IS MADE:**

The present application is directed against the illegal and arbitrary action on the part of the respondents in denying consideration of the applicants cases for promotion to the post of Telecom Technical Assistant (in short TTA) as has been done to other similarly situated persons.

*Jibam Gohain*



## 2. JURISDICTION OF THE TRIBUNAL:

The applicants further declare that the subject matter of the instant application is well within the jurisdiction of the Hon'ble Tribunal.

## 3. LIMITATION:

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

## 4. FACTS OF THE CASE:

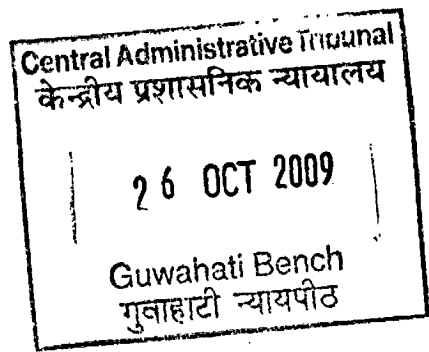
4.1 That the applicants are presently working as Telecom Mechanic/Phone Mechanic in various Sub- Divisional offices of the Bharat Sanchar Nigam Limited ( in short BSNL) under the Assam Telecom Circle. Though the applicants were initially recruited by the Telecommunication Department, subsequently the Bharat Sanchar Nigam Limited (A Govt. of India Enterprise) has taken over all the assets and liabilities of the Telecom Department along with the employees. All the Group- C and D employees of erstwhile Telecom Department have already been absorbed in the BSNL.

4.2 That the applicant begs to state that the respondents to provide promotional avenues to the Phone Mechanics/ Telecom Mechanics working in the BSNL, time to time has been issuing recruitment rules. The Director of BSNL, circulated recruitment rules dated 21.01.1999 which has been termed as "Recruitment Rules of TTAs' 1998". The 1998 Recruitment Rules provide for certain criterions for promotion of the Phone Mechanics/ Telecom Mechanics to the post of Telecom Technical Assistant (in short TTA). As per the said criterion Telecom Mechanics having completed 5 (five) years of service as Phone Mechanics are eligible to be considered for promotion to the post of TTA under 40 % departmental quota.

A copy of the said Recruitment Rules of 1998 is annexed herewith and marked as **ANNEXURE-1**.

*Jibam Gohain*





4.3 That the said Recruitment Rule of 1998 got modified by the Recruitment Rule' 2001 which was notified by the notification dated 27.07.2001. The respondents by the said notification have stated that Phone Mechanics having 10+2 are only eligible to get the promotion to the post of TTA under 40% departmental quota.

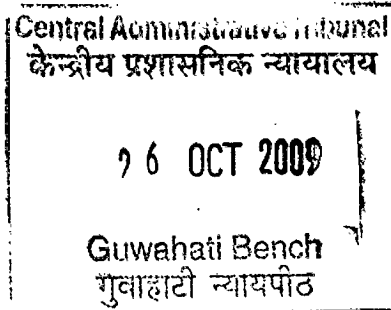
A copy of the Recruitment Rules of 2001 is annexed herewith and marked as **ANNEXURE- 2**.

4.4 That the applicants beg to state that all of them became Phone Mechanic/ Telecom Mechanic in the year 1993 and 1994 pursuant to Screening Test and by the year 1999 they became eligible for getting considered for promotion to the post of TTA.

4.5 That the applicants beg to state that the as per the instructions issued by the DOPT, Government of India, the respondents should have convened DPC at regular interval each year for both existing and anticipated vacancies. However, in the instant case since 1999 no attempt was made by the respondents to convene DPC in the Assam Telecom Circle in spite of there being vacancies. Therefore, as a result of such inaction the applicants who became eligible for promotion to the post of TTA in the year 1999 had to face stagnation.

4.6 That the applicants beg to state that during the year 2000-01 promotion process in the cadre of TTA has been completed all over the country excluding Assam Telecom Circle though there were sufficient number of vacancies and adequate number of eligible persons were available for such promotion. In this connection it is worthwhile to mention here that in the N.E. Telecom Circle interview as well as Screening Test were held on 04.03.2000 and results of such Screening Test was declared on 27.09.2000. In the said process 29 Phone Mechanics were declared successful and presently they are enjoying the promotional post of TTA. Therefore, the applicants who are similarly situated to that of the Phone Mechanics (now TTA) of N.E. Telecom Circle are denied with the similar treatment by the respondents on the

*Itban Gohain*



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ground of not holding of screening test which is at the lapse of the respondents.

To demonstrate the fact of holding of screening test in the N.E. Circle, the applicants beg to place the admit card issued to one Sri Sukanta Sarma, Phone Mechanic, N.E. Telecom Region and the communication dated 27.09.2000 declaring the result of such screening test for TTA. Therefore, it is clear that except Assam Circle screening test for TTA has been held all over the country and the Phone Mechanics similarly situated to the applicants before this Hon'ble Court are presently enjoying the promotional posts of TTA.

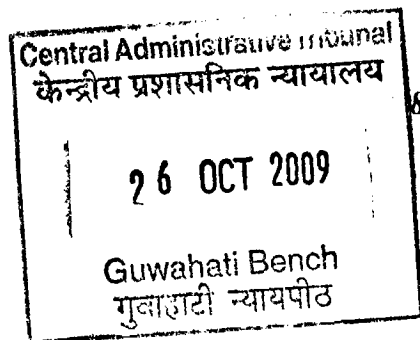
Copies of the Admit Card dated 02.03.2000 and the letter dated 27.09.2000 are annexed herewith and marked as **ANNEXURE- 3 and 4.**

**4.7** That the applicants beg to state that the respondents taking into consideration the subsequent Recruitment Rule i.e. the Recruitment Rule of 2001, proposed to hold screening test for promotion to the cadre of TTA against the 40% quota earmarked for departmental candidates and to that effect a communication dated 12.12.2001 was issued fixing the date of examination as 24.02.02. The process for examination was almost at the final stage and preparation was accordingly made but surprisingly enough the said examination was postponed vide order dated 12.02.2002 on the plea of seeking certain clarifications. It is very unfortunate that the respondents took years together to collect those clarifications.

Copies of the letter dated 12.12.2001 and 12.02.2002 are annexed herewith and marked as **ANNEXURE- 5 and 6.**

**4.8** That the applicants beg to state that the respondents without taking into consideration the fact of the date of availability of the vacancies as well as the recruitment rule prevailing at that relevant point of time issued the impugned communication dated 12.07.04 by which the respondents proposed to fill up the 67 (sixty seven) vacancies in the Assam Circle through the Recruitment Rules of 2001. The law is well settled that the vacancies surfaced in a particular year are to be filled

*Jiban Gohain*



up by the recruitment rules prevailing at relevant point of time. Hence, in the instant case the stand of the respondents in filling up of the 67 (sixty seven) vacancy of the year 1999 by the Recruitment Rules of 2001 is illegal and unjustified.

A copy of the communication dated 12.07.04 is annexed herewith and marked as **ANNEXURE-7**.

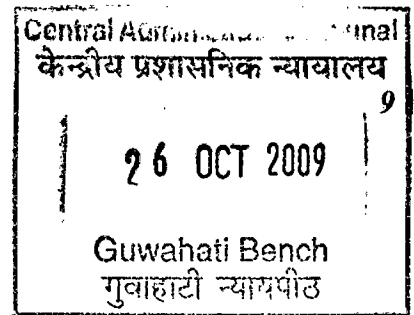
**4.9** That the applicant begs to state that being aggrieved by such an illegal and arbitrary action on the part of the respondents some of the Phone Mechanics of the Assam Telecom Circle had approached the Hon'ble Gauhati High Court by way of filling WP(C) No. 620/04 [Ambika Bezbaruah & Ors. -vs- U.O.1 & Ors.]. The Hon'ble High Court was pleased to pass an interim order directing the respondents to keep 11 posts of TTA in the Assam Circle vacant. Finally, the Hon'ble Court on 26.05.06 after hearing the parties to the proceeding at length was pleased to dispose of the said writ petition directing the respondents to consider the cases of the petitioners therein for promotion to the post of TTA by holding examination in terms of the Recruitment Rules of 1998.

A copy of the judgment and order dated 26.05.06 is annexed herewith and marked as **ANNEXURE- 8**.

**4.10** That the respondents immediately after receipt of the said judgment and order dated 26.05.06 allowed the petitioners therein to submit their applications for screening test of TTAs schedule to be held on 15.07.07 for filling up of the vacancies pertaining to the year 1999 on the basis of the Recruitment Rule of 1998. To that effect the respondents have issued a communication dated 14.06.07 forwarding the service particulars of the petitioners of the WP(C) No. 620/04 for such examination/test.

It is worthwhile to mention here that the respondents committing gross illegality confined the said consideration solely to the petitioners of WP(C) No. 620/04 denying consideration of other similarly situated persons eligible for

*Tibam Gohain*



getting considered for promotion to the post of TTA in the Assam Circle.

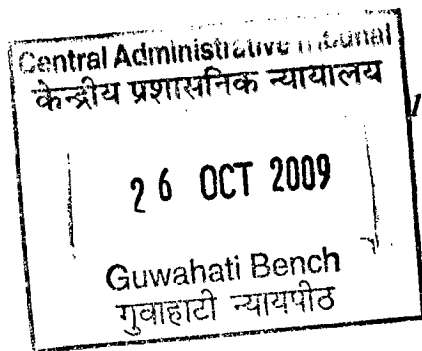
A copy of the communication dated 14.06.07 is annexed herewith and marked as **ANNEXURE-9**.

4.11 That being aggrieved by such discriminatory action on the part of the respondents another set of Telecom Mechanics similarly situated to the applicants herein, who were eligible for getting considered for promotion to the post of TTA in respect of the vacancies surfaced in the year 1999 approached the Hon'ble Gauhati High Court by way of filing WP(C) No. 3282/07 [Krishna Pradhan & Ors. -vs- U.O.I & Ors.] for consideration of their cases for promotion to the post of TTA as has been done in the case of the petitioners of WP(C) No. 620/04. The Hon'ble Gauhati High Court while entertaining the matter at the motion stage was pleased to issue Rule with an interim direction to allow the petitioners of the WP(C) No. 3282/07 to participate in the screening test scheduled to be held on 15.07.07 and however, the Hon'ble Court made it clear that such participation will be subject to the outcome of the pending writ proceeding. It is worthwhile to mention here that in the mean time the petitioners of the WP(C) No. 620/04 filed a Contempt Case No. 637/06 for non implementation of the judgment and order dated 26.05.06 passed in WP(C) No. 620/04. The respondents taking into consideration the order of the Hon'ble High Court have issued an order dated 06.07.2007 by which the petitioners of the WP(C) No. 3282/07 were allowed to appear in the Screening test scheduled to be held on 15.07.07.

A copy of the order dated 28.06.07 passed in WP(C) No. 3282/07 and order dated 06.07.07 are annexed herewith and marked as **ANNEXURE-10 and 11**.

4.12 That the respondents causing gross discrimination to the applicants have allowed all the similarly situated persons to appear in the screening test on 15.07.07. Therefore, pursuant to the order of the Hon'ble high Court dated 14.09.07 the

Jibam Gohain



results of the screening test were placed before the Hon'ble Court in sealed cover.

**4.13** That the applicants beg to state that the respondents filed an additional affidavit in WP(C) No. 3282/07 showing the vacancy position of the TTA as well as answering the fulfillment eligibility criterion of the petitioners of WP(C) No. 3282/07 under the Recruitment Rule' 1998. The respondents in the said additional affidavit while showing the vacancy position made statement on oath that as of that date there are only 11 vacancies left to be filled up as per the Recruitment Rules of 1998.

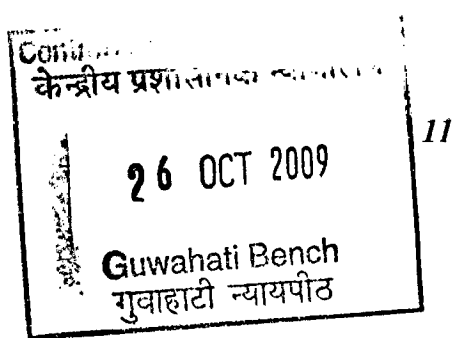
A copy of the additional affidavit-in-opposition is annexed herewith and marked as **ANNEXURE- 12.**

**4.14** That the applicants beg to state that the respondents thereafter declared the results of 20 candidates who appeared in the Screening Test held on 15.07.07 for promotion to the cadre of TTA on the basis of Recruitment Rule of 1998 in order of merit.

A copy of the result sheet is annexed herewith and marked as **ANNEXURE- 13.**

**4.15** That the applicants beg to state that as per the additional affidavit-in-opposition filed by the respondents in WP(C) 3282/07 there were only 11 (eleven) posts of TTA left to be filled up as per the Recruitment Rules of 1998. Therefore, after declaration of results the 11 posts are to be filled up from serial no. 1 to 11 of the result sheet [**Annexure- 13**]. Accordingly the 7<sup>th</sup> respondent issued a communication dated 12.12.08 to the Principal, RTTC, Guwahati sending the names of 11 (eleven) selected candidates for induction training for filling up of the 11 vacant posts of TTA as per the Recruitment Rules of 1998. Therefore, the said 11 (eleven) candidates successfully completed the induction training and joined their promotional posts of TTA.

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A copy of the communication dated 12.12.08 is annexed herewith as marked as **ANNEXURE-14.**

**4.16** That the 7<sup>th</sup> respondents causing serious discrimination to the applicants issued a communication under No. Rectt-3/102/2007/39 dated 18.12.2008 to the General Manager, Kamrup by which 9 (nine) persons have been sent for induction training of TTA without considering the cases of the applicants. These 9(nine) persons are the Phone Mechanics who could not occupy the 11 (Eleven) posts as indicated by the respondents meant for 1998 recruitment rules.

A copy of the communication dated 18.12.2008 is annexed herewith and marked as **ANNEXURE-15.**

**4.17** That the applicants beg to state that the Divisional Engineer (Admn), BSNL issued a communication sending the names of 9 candidates for induction training selected for promotion to the cadre of TTA as per the Recruitment Rules of 2001. It is stated that the applicants who are similarly situated to the said 9 candidates should also have been considered for promotion to the cadre of TTA as per the recruitment rules of 2001. The respondents causing gross discrimination restricted the consideration to the blue eyed 9 (nine) persons and send their names for the induction training. However, no opportunity was given to the applicants to appear in the screening test as well as the applicants are denied from their right to get considered for promotion which has resulted stagnation in their service career. It is stated that some of the applicants herein are also senior to those nine persons.

A copy of the communication dated 19.12.2008 is annexed herewith and marked as **ANNEXURE-16.**

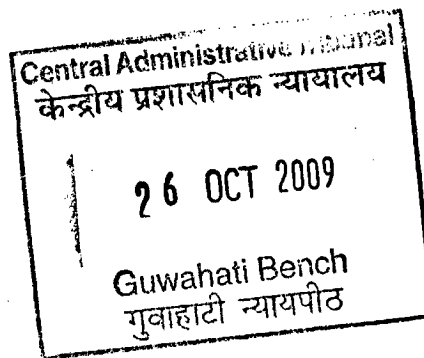
**4.18** That the applicants beg to state that it was the categorical stand of the respondents in the writ proceeding that the total number of vacancy in the Assam Circle in the different SSA (Secondary Switching Area) were 67 (sixty seven) which are

*Tibani Gokain*

to be filled up as per the Recruitment Rules of 1998. Thereafter, out of 67 vacancies 11 vacancies were kept vacant pursuant to the interim order passed by the Hon'ble Court in WP(C) No. 620/04 and the remaining 56 vacancies were filled up illegally as per the Recruitment Rules' 2001. In the mean time the Hon'ble High Court while disposing of the pending writ proceedings gave direction to fill up the 11 vacancies as per the Recruitment Rules of 1998 because the vacancies surfaced before the coming of the Recruitment Rules of 2001. Accordingly, 11 vacancies were filled up as per the Recruitment Rules' 1998. Therefore, 67 numbers of vacancies as on 06.02.1999 were filled up and no more vacancy left under 1998 recruitment rules. Therefore, the Telephone Mechanics having the eligibility has got the Constitutional right to get consideration for promotion to the vacant posts of TTA surfaced after 06.02.1999 as has been done in case of others. Alternatively the respondents ought not to have filled up the remaining 56 posts as per the recruitment rules of 2001 taking into consideration the law laid down by the Hon'ble High Court. Hence the applicants who have come into the zone of consideration as per the Recruitment Rules of 2001 has got the right to be considered for promotion to the vacant posts of TTA surfaced after 06.02.1999. Admittedly the respondents have illegally filled up the 56 nos. of vacancies earmarked under Recruitment Rules of 1998, by invoking the Recruitment Rules of 2001. But surprisingly the respondents causing serious discrimination to the applicants selected 9 persons i.e. candidates from serial No. 12 to 20 of the result sheet [Annexure- 13], who could not be promoted due to non availability of vacancy and sent their names vide order dated 19.12.2008 for induction training. The order dated 19.12.2008 also states that the said 9 persons will be appointed against the vacant posts surfaced after 1999 as per the Recruitment Rules of 2001.

4.19 That the applicants beg to state that after the successful completion of the induction training the respondents promoted the said 9 (nine) Telephone Mechanics to the posts of TTA against the vacancies surfaced after 1999 and as per the Recruitment Rules of 2001. In this connection it is noteworthy

Jibon Gohain



to mention here that the respondents have never called for the candidature of the present applicants who are also similarly situated like that of the other 9 as well as the writ petitioners of the Writ Petitions Nos, 3282/07 and 640/04. Therefore, the respondents acting in a discriminatory manner have debarred the applicants from getting considered for promotion to the posts of TTA at par with the aforesaid 9 (nine) persons against the vacancies surfaced after 1999. Hence, the action of the respondents in denying consideration of the applicants for promotion to the posts of TTA against the vacancies surfaced after 1999 is discriminatory and is in clear violation of Article 14 and 16 of the Constitution of India.

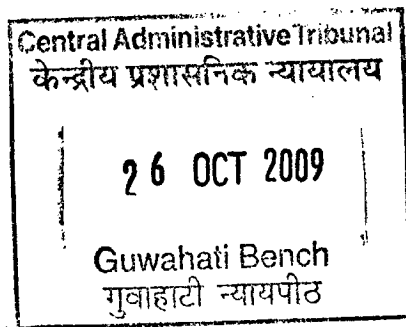
The applicants in spite of their best effort could not collect the promotion orders of the 9 persons and hence they crave leave of this Hon'ble Court for a direction the respondents to produce the promotion orders of the said 9 (nine) officials at the time of hearing of the case.

**4.20** That the applicants beg to state that they are not challenging the promotion of the said 9 (nine) persons. The applicants are only praying for similar relief that has been granted to the 9 (nine) officials mentioned in the order dated 19.12.08 and consider their cases for promotion to the posts of TTA. Therefore, the said 9 officials have not been made party respondents in the present original application. It is stated that the applicants have not made any challenge to the promotion orders of the 9 persons rather they have sought for a similar consideration of their cases.

**4.21** That in view of the aforesaid facts and circumstances of the case it is has become clear that the respondents causing gross discrimination to the applicants promoted the persons from serial No. 12 to 20 of the merit list [Annexure- 13] filling the vacancies surfaced after 1999 as per the Recruitment Rules of 2001. The respondents being model employer ought not to have resorted to such discriminatory action. The respondents while filling up the vacancy earmarked after 1999 by promotion should have considered all the eligible Telephone Mechanics. Therefore, the respondents causing gross discrimination are denying the

*Liban Gohain*





similar benefits to the applicants. Hence the present case is a fit case wherein the Hon'ble Tribunal may be pleased to pass an interim order directing the respondents to consider the cases of the applicants for granting similar benefits by promoting them to the posts of TTA notionally during the pendency of the present original application. The applicants have made out a prima facie case of discrimination, illegality and arbitrariness on the part of the respondents. The balance of convenience is in favour of the applicants for such an interim order. They would also suffer irreparable loss and injury if the interim order sought for is not passed by the Hon'ble Tribunal.

4.22 That the applicants demanded justice from the respondents which has been denied to them.

4.23 That the applicants have no other alternative or any other efficacious remedy and the remedy sought for, if granted, shall be adequate, just and proper.

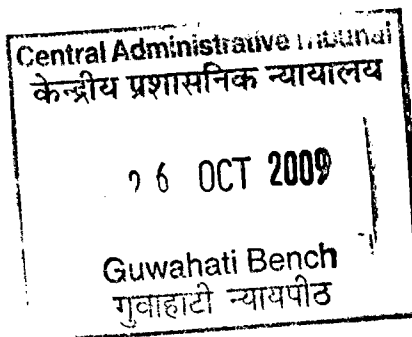
4.24 That the applicant files this application bonafide for securing the ends of justice.

#### **5. GROUNDS FOR RELIEF(S) WITH LEGAL PROVISIONS:-**

5.1 Because the action of the respondents in not considering the cases of the applicants at par with the 9 officials is a clear case of discrimination and is in clear violation of Article 14 and 16 of the Constitution of India. Hence on this ground alone the present original application deserves to be allowed.

5.2 Because after the filling up of the 11 posts of TTA in Assam circle as per the Recruitment Rules of 1998 pursuant to the direction of the Hon'ble High Court, the entire vacancy as on 06.02.1999 were filled up. Any vacancy surfaced after 1999 will have to be filled up by holding separate Departmental Competitive Examination by giving opportunity to all the eligible Telephone Mechanics. However, in the instant case the respondents causing serious discrimination debarred the

*Jiban Gohain*



applicants from getting similar treatment and sent serial No. 12 to 20 of the result sheet [Annexure- 11] for induction training and considered their cases for promotion to the post of TTA for the vacancies surfaced after 1999 and promoted them accordingly. Hence, action of the respondents is discriminatory and the applicants being similarly situated are entitled for similar relief.

5.3 Because the order of the Hon'ble High Court dated 30.10.08 very clearly stated that the vacant 11 (eleven) posts are to be filled up by taking both the groups as one group as per the Recruitment Rules of 1998 strictly in accordance with the inter se merit. Therefore, after filling up of the 11 (eleven) posts by serial No. 1 to 11 of the merit list [Annexure- 11], the grievance of the persons appearing from serial No. 12 to 20 has become infructuous. The respondents can not carry their performance in the Departmental Competitive Examination held in 15.07.07 for filling up of the vacancy surfaced after 1999 which has to be as per the Recruitment Rules of 2001. The respondents committing gross illegality instead of holding fresh Departmental Competitive Examination giving opportunity to the applicants carried the performance of the persons from serial No. 12 to 20 for filling up of the vacant post surfaced after 1999 which is discriminatory and is in clear violation of Article 14 and 16 of the Constitution of India. Hence, on this ground alone the present original application deserves to be allowed granting similar benefits to the applicants.

5.4 Because as per rules holding the field the vacancies surfaced after 1999 has to be filled up as per the Recruitment Rules' 2001 by holding separate Departmental Competitive Examination giving opportunity to all eligible Telephone Mechanics. However, in the instant case the respondents promoted the persons from sl. No. 12 to 20 of the merit list of the Examination held in 15.07.07 as per the Recruitment Rules of 1998. Hence, in such a peculiar fact situation the applicants being similarly situated are eligible for getting similar relief.

Jiban Gohain

26 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

5.5 Because the Hon'ble High Court while issuing notice of motion in WP(C) no. 620/04 was pleased to grant liberty to the respondents that the pendency of the petition shall not be a bar for the respondents to hold the Screening Test/Limited Departmental Competitive Examination for consideration of the petitioners and other similarly situated persons for promotion to the post of TTA in Assam Telecom Circle for the vacancies surfaced as on 06.02.1999. Therefore, taking into account the same proposition the respondents while filling up of the vacancies surfaced after 1999 by promotion quota can not deny the right of consideration of the eligible similarly situated Telephone Mechanics. Hence, on this ground alone the applicants are entitled for similar treatment.

5.7 Because from the sequence of events it is clear that the respondents are denying the similar benefits as has been extended to the similarly situated Telephone Mechanics. Hence on this ground alone the present original application deserves to be allowed.

The applicant craves leave of the Hon'ble Court to advance more grounds both legal and factual at the time of hearing of this case.

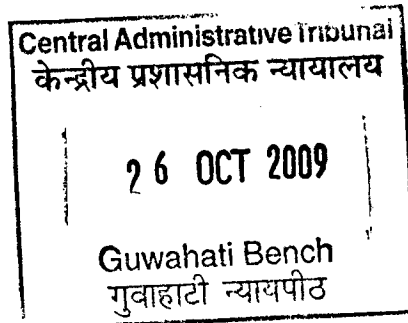
**6. DETAILS OF THE REMEDIES EXHAUSTED:**

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

**7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

The applicant further declares that he has not filed any application, writ petition or suit regarding the grievances in respect of which this application is made, before any other court or any other bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

Jiban Gohain



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8. RELIEF(S) SOUGHT FOR:

8.1. To direct the respondents to promote the applicants to the post of TTA as has been done in case of the 9 persons more particularly as indicated in serial No. 12 to 20 of the merit list [Annexure- ~~11~~ <sup>13</sup>] of the Examination held in 15.07.07 w.e.f. from the date on which they have been given effect of such promotion including all the consequential service benefits including arrear salary, seniority etc.

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8.2 Cost of the application.

8.3 pass any such order/orders as Your Lordships may deem fit and proper.

9. INTERIM ORDER PAYED FOR:

To direct the respondents to do all the needful in preparing the list of eligible officers including the applicants and to proceed further in conducting the test and training etc. for promotion to the post of TTA as has been done to the similarly situated 9 (nine) persons.

10. The application is filed through Advocates.

11. PARTICULARS OF THE IPO:

(I)	IPO No.	: 39-408425
(II)	Date of Issue	: 1-10-09
(III)	Issued from	: G.P.O
(IV)	Payable at	: Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

...Verification

Jibam Goherin



**VERIFICATION**

I, Sri Jiban Gohain, s/o late Phuleswar Gohain, Telephone Mechanic, O/o Sub-Divisional Officer, Phones, Dibrugarh, Guwahati, Assam, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.1, 4.5, 4.12, 4.18, 4.19, 4.20, 4.21, 4.22, 4.23 and 4.24 are true to my knowledge, those made in paragraphs 4.2, 4.3, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.13, 4.14, 4.15, 4.16 and 4.17 being matters of records are true to my information derived there from and the grounds urged are as per legal advice. I have not suppressed any material fact and I am authorized by the co-applicants to sign this verification.

And I sign this verification on this the 25<sup>th</sup> day of October, 2009 at Guwahati.

*Jiban Gohain*

**APPLICANT**

UNIDENTIFIED NO. 1, 1-1-53



भारत का विज्ञापन  
The Gazette of India

[illegible]

No. 6] NEW DELHI, SATURDAY, FEBRUARY 6, 1999/MAGHA 17, 1920

इस भाग में भिन्न प्रत्ययों की जाती है जिससे कि यह भाग संज्ञाओं को बनाता है।

॥ ॐ नमो भगवते वासुदेवाय ॥

Report Page 18 is given to the Part in order that it may be filed as a separate compilation.

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भाइत अग्रिम, मी संसलम (रक्षा मन्त्रालयी) कें छानकए कीर केन्द्रीय बाधकारीय (सां राग्य से प्रशामती पां छानकए) द्वारा सिध के अस्तित्व, धनप, और जारी किए गए साधारण संधिधिक नियम (जिनमें साधारण प्रकार के आदेश, उप नियम आदि सम्मिलित हैं)

General Statutory Rules (including Orders, Bye-laws etc. of a general character) issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Central Authorities (other than the Administration of Union Territories)

11910 11911

{ ୪୦ ୦୫୨୧୦ ୧୨୦୧୧୧ }

ମାଟି ମିଳନ, ଧାନ ଖାଦ୍ୟ, ୧୦୦୦

[illegible]

प्रश्न संख्या १७७७ :— (१) इस विषयों का तद्विषय गांधी जी द्वारा गांधीजी महाराज भर्ती विषय, १९७७ ई.

५-१०-१९७२ (२) - श्री राजाजय सिंह प्रसाद (सम) की तारीख की मर्यादा होगी।

[illegible][illegible]

၂. နယ်လွှာ၊ နယ်စပ်၊ နယ်စပ်

[illegible]

(74) विमान अगले पक्ष या आगोष्ठी में जाकर जाने पर प्राप्ति अधिकतम १० दिवस पश्चात् है.

191 GI/99

(413)

**Central Administrative Tribunal**  
**केन्द्रीय प्रशासनिक न्यायालय**

26 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायाधीश

**Attested**

(PART III--SBC)

[illegible][illegible]

(ii) शिक्षकों के सीधी भर्ती वाले जिले पर विशेष ध्यान देकर प्रशिक्षण योजना के अनुसार विहित प्रमाणित

[illegible]

(III) सीधे शर्त बिना, यह प्रमाणित किया जाये कि अनाथों की संख्या में वृद्धि हो रही है।

[illegible]

उन्हें जेलखंड करके इन विषयों के किसी 'उपसंहार' की प्रतीति नहीं देना चाहते।

8. व्यावृत्ति :- इस विषयों की कोई प्रणाली तो सरकार ने राष्ट्रीय में छूट और अन्य विधायकों पर प्रभाव नहीं डालेगी, जिसका केन्द्रीय सरकार और राज्य सरकारों में समन्वय-समय पर निकाले जाएंगे, अतः इनके सम्बन्ध में अनुसूचित जातियों को अनुसूचित जनजातियों, गुरुपूर्व तीर्थिकों और अन्य विशेष वर्गों के सम्बन्धों में भी अनुसूचित माना जायेगा।

। ॐ नमः

प्र.सं.	प्रश्न	उत्तर
1	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
2	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
3	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
4	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
5	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
6	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
7	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
8	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
9	श्री श्री गणेशाय नमः	श्री गणेशाय नमः
10	श्री श्री गणेशाय नमः	श्री गणेशाय नमः

7

५२ (चा. १)  
 तपस्वीजी साहूयक  
 १०२४५\*  
 साधारण केन्द्रीय  
 समाजवादिता  
 ४८००-१२६-  
 ७००० ६,  
 भाग्यवती हॉल  
 १८ और २७ वर्ष की बी. ए.  
 लगभग ३१-३-०८ लगभग केन्द्रीय  
 की तिय के  
 अर्थसा  
 \*कार्यकार के  
 प्राप्ति मर  
 गरिबतम फिया  
 ना सफता है।

(कैसीय सरकार द्वारा जारी किए गए अनुबंधों मा अंशों की शतमान विभागीय धन्यधियों के लिए सामान्य धन्यधियों की बावत भिन्निक करने) 40 वर्ष तक और अनुगृहित जाति/अनुगृहित जनजाति के धन्यधियों को दायर गिरित करके 45 वर्ष तक की जा गुरुती है। ऊपर भावनीमा धन्य पिछे वर्ग के धन्यधियों की बावत भी तीन वर्ष तक भिन्निक की जा सकती है । )

[illegible]

**Central Administrative Tribunal**  
**केन्द्रीय प्रशासनिक न्यायालय**

26 OCT 2009

**Guwahati Bench**  
গুৱাহাটী ন্যায়পীঠ

गुवाहाटी डेपॉट  
गुवाहाटी न्यायपीठ



**Guwahati Bench**  
**গুৱাহাটী ন্যায়পীঠ**

जे, भी, गीत, महामत्ता मिशेषता साधारण (एक ही).

# MINISTRY OF COMMUNICATIONS

Department of Telecommunications

New Delhi, the 25th January, 1999

R. 42.—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the Telecom Technical Assistant Recruitment Rules, 1991, the President hereby makes the following rules, regulating the method of recruitment to the post of Telecom Technical Assistant in the Department of Telecommunications, namely:

1. Short title and commencement.—These rules may be called the Telecom Technical Assistant Recruitment Rules, 1998.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Number of posts, classification and scale of pay.—The number of the said posts, its classification and the scale of pay attached thereto shall be as specified in columns 1 to 4 of Schedule I annexed to these rules.

3. Method of recruitment, age limit, qualifications, etc.—The method of recruitment, age limit, qualifications and other matters relating to the said post shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualification.—No person,—

- who has entered into or contracted a marriage with a person having a spouse living, or
- who, having a spouse living, has entered into or contracted marriage with any person,

shall be eligible for appointment to the said post:

Provided that the Central Government may, if satisfied that such marriage is permissible under the

personal law applicable to such person and party to the marriage and that there are grounds for so doing, exempt any person from operation of this rule.

5. Bond and training—

- All candidates provisionally recruited against the vacancies for direct recruitment shall execute a Bond for a period of five years from the date of their appointment as Telecom Technical Assistant in the Department.
- The candidates selected both against the direct recruitment quota of vacancies and departmental promotion quota of vacancies shall, before their appointment as Telecom Technical Assistant, shall undergo the prescribed training successfully as per the training plan laid down by the Department.
- During the period of training, the direct recruit Telecom Technical Assistant will be entitled to stipend (including allowance) as decided by the Department from time to time.

6. Service under Territorial Army/Signal Unit.—All candidates (both direct recruit and departmental) shall, if so required, be liable to serve in the Territorial Army/Signal units as provided in the Territorial Army Act, 1948 (56 of 1948) and the rules made thereunder.

7. Power to relax.—Where the Central Government is of the opinion that it is necessary or expedient to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules in respect of any class or category of persons.

8. Saving.—Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, Other Backward Classes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

## SCHEDULE I

Name of the post	Number of posts	Classification	Scale of pay
1.	2.	3.	4.
Telecom. Technical Assistant	13,249* approx. As on 31-3-98 *Subject to variation dependent on workload.	General Central Service, Group 'C' Non-Chartered, Non-Ministerial.	Rs. 4,500-125,7,000.

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Whether selection by merit or selection-cum-seniority or non-selection post

Age limit for direct recruits

Whether benefit of addition of service is admissible in Rule 30 of the Central Pension Rules, 1972

Not Applicable

Between 18 and 27 years.

Not applicable

(Relaxable for departmental candidates upto 40 years in respect of general candidates and upto 43 in respect of Scheduled Caste/Scheduled Tribes candidates in accordance with instructions or orders issued by the Central Government. The upper age limit is also relaxable by three years in respect of Other Backward Class candidates).

Note :-

The crucial date for determining the age limit shall be the closing date of receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Nagaland, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir State, Lushai and Jaintia District and Pongl sub-division of Chumbi District of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep).

Educational and other qualification required for direct recruits

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees

Period of probation, if any

Three years Engineering Diploma in Telecommunications Engineering/Electronics Engineering/Electrical Engineering/Radio Engineering/Computer Engineering/Instrument Technology or its equivalent from a recognised Institution.

No

Two years

Method of recruitment. Whether by direct recruitment or by promotion or by deputation/absorption and percentage of vacancies to be filled by various methods

In case of recruitment by promotion/deputation/absorption, grades from which promotion/deputation/absorption to be made

By absorption/promotion failing which by Direct recruitment

By absorption/promotion from amongst the following categories of officials.

Category-1 through Walk-in

(1) Phone Inspectors/Transmission Assistants/Wireless Operators/Auto Exchange Assistants

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ad, New Delhi-110061  
Delhi-110051, 1999

(2) Group 'C' employees borne on regular establishment of Telecom Engineering wing of the department and possessing a minimum qualification of 3 years Engineering Diploma in Telecommunications Engineering/Electronics Engineering/Radio Engineering/Computer Engineering/Instrument Technology or its equivalent from any Technical Institute recognised by the Central Government after 10 Standard.

(3) Technicians who have 10+2 qualifications or equivalent qualifications.

(4) Technicians holding 2 years ITI Diploma certificate after matriculation.

Category-II through Qualifying screening test

(1) Technicians other than the Technicians covered by sub-categories (2), (3) and (4) of category I.

(2) Telecom Mechanics with 5 years of regular service in the grade.

Category-III through competitive examination

(1) Senior Telecom Operating Assistants.

(2) Telecom Operating Assistants.

(3) Telecom Mechanic.

Note 1.

The vacancies shall first be filled by candidates of category-I through walk-in. The unfilled vacancies after providing for Category I candidates shall be filled by candidates of category II through qualifying screening test. After providing for qualifying screening test category candidates, the remaining unfilled vacancies shall be filled through competitive examination and if the vacancies will remain unfilled, the same would be filled by direct recruitment. Select list for purpose of training will be prepared as per note 2.

Note 2.

The select list shall be prepared for the purpose of training before absorption/promotion in the following order:

(i) Officials belonging to senior cadre would be placed enbloc above those placed in the junior cadre, without upsetting the existing seniority in their respective cadres.

(ii) The seniority among the cadres having equivalent pay scale would be determined on the basis of length of service in the respective grade without upsetting the existing inter-cadre seniority in the respective cadre.

Note 3.

Telecom Technical Assistant (TTA) will be Secondary Switching Area under the unit of recruitment shall be the respective Secondary Switching Area (SSA), and the regular service rendered in which SSA shall be taken into consideration.

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Note 4. The seniority on appointment of candidates in the cadre of Telecom Technical Assistant shall be determined on the basis of post training marks.

Departmental Promotion Committee exists whether its composition	Circumstances in which UPSC is to be consulted in making recruitment
13	14
Group 'C' Departmental Promotion Committee consisting of the following officers :—	Not applicable
1. One Officer not below the rank of Divisional Engineer. —Chairman	
2. Two officers not below the rank of Sub-Divisional Engineer. —Members.	

[No. 7-51/97-NCG]

J. B. JAIN, Asstt. Director Genl. (ST-C)

With the approval of UPSC, the recruitment to the post of are hereby readministered.

Printed by the Manager Govt. of India Press, Ring Road, New Delhi-110064 and Published by the Controller of Publications, Delhi-110054, 1999

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68

# भारत संचार निगम लिमिटेड



भारत संचार निगम लि.

## BHARAT SANCHAR NIGAM LIMITED

PUBLISHED BY THIRD CELL OF BSNL

**Recruitment Rules of Telecom Technical Assistants (TTAs)**  
Issue No.: 1

New Delhi, Friday, July 27, 2001/Shrawan 05, 1923

1. Short title and commencement. -

- i) With the approval of BSNL Board the following rules regulating the method of recruitment to the post of Telecom Technical Assistants in BSNL are hereby made, namely:
- ii) These rules may be called the Telecom Technical Assistants (TTAs) Recruitment Rules, 2001.
- iii) They shall come into force on the date of their issue by the Company.

2. Definition: In these Rules unless the context otherwise requires,

- (i) Company: Means the Bharat Sanchar Nigam Limited (A Govt. of India Enterprise) having its Registered Office at Sanchar Bhawan, New Delhi.
- (ii) Board: Means the Board of Directors of the Company and includes in relation to the exercise of powers any Committee of the Board/Management or any Officer of the Undertaking to whom the Board delegates any of its power.

Attested

*[Signature]*

10/10/01

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Application: These Rules shall apply to the posts as specified in Column of the Schedule annexed to these Rules.

4. Number of posts, classification and scale of pay. - The number of the said post, its classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of Schedule annexed to these rules.

5. Method of recruitment, age limit, qualifications, etc. - The method of recruitment, age limit, qualification and other matters relating to the said post shall be as specified in column 5 to 14 of the said Schedule.

6. Disqualification. - No person, -

- a) who has entered into or contracted a marriage with a person having a spouse living, or
- b) who having a spouse living, has entered into or contracted marriage with any person,

shall be eligible for appointment to the said post :

7. Bond and training -

- i) All candidates recruited against the vacancies for direct recruitment shall execute a Bond in the format as specified by the Company to serve in BSNL for a period of five years from the date of their appointment as Telecom Technical Assistant, in the proforma as prescribed by the Company.
- ii) The candidates selected both against the direct recruitment quota of vacancies and departmental promotion quota of vacancies shall have to successfully undergo training as per the training plan laid down by the Company before their appointment as Telecom Technical Assistant.
- iii) During the period of training, the direct recruit Telecom Technical Assistant will be entitled to stipend (training allowance) as decided by the BSNL from time to time.

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26 OCT 2009

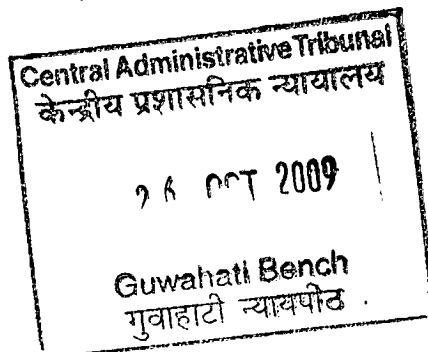
Guwahati Bench  
गुवाहाटी न्यायपीठ

Service under the Territorial Army:- A Telecom Technical Assistant, who has not completed the age of forty years if so required, will be liable to serve in the Territorial Army subject to the provisions of Section 6 A of the Territorial Army Act, 1948 (58 of 1948) and the rules made there under.

9. Saving - Nothing in these rules shall affect reservations, relaxation of age limit and other concession required to be provided for the Scheduled Castes, Scheduled Tribes, Other Backward Classes. Ex-servicemen and other special category of persons in accordance with the orders issued by the Central Government from time to time in this regard.

10. Initial constitution:-

- (i) All officials holding the posts of Telecom Technical Assistant on regular basis or have been selected for the post of Telecom Technical Assistant but not yet appointed in the erstwhile DOT/DTS/DTO before commencement of these rules and those who have been absorbed in Bharat Sanchar Nigam Limited shall be deemed to have been appointed as Telecom Technical Assistant in BSNL.
- (ii) The continuous regular service of officials referred to in sub-rule 10(i) above before the commencement of these rules shall count for the purpose of probation, qualifying service of promotion, confirmation and pension.



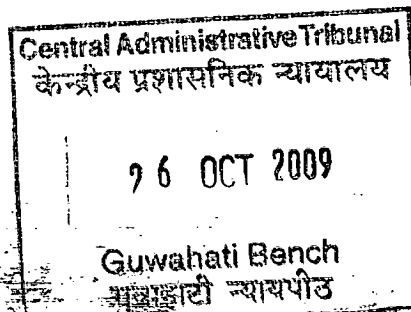


SCHEDULE

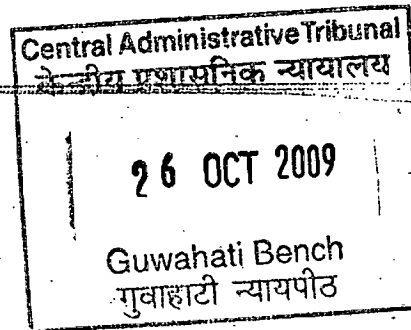
Name of posts	Number of posts	Classification	Scale of pay	Whether selection by merit or selection-cum-seniority or non-selection post	Age limit for Direct Recruits	Whether benefit of added years of service admissible	Educational and other qualification required for Direct Recruit.
1	2	3	4	5	6	7	8
Telecom Technical Assistant (TTA)	13249* (as on) 31.3.98 *(Subject to variation dependent on workload)	Non-Executive	IDA pay scale of BSNL corresponding to the CDA scale of Rs.4500-125-7000	Not applicable	Between 18 and 27 Years (Relaxed for departmental candidates up to 40 years in respect of general candidates and up to 45 years in respect of Scheduled Caste/Scheduled Tribes candidates in accordance with instructions or orders issued by the Central Government. The upper age limit is also relaxable by three years in respect of other backward class candidates). Note:- The crucial date for determining the age limit shall be the closing date of receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Nagaland, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir state, Leh and spiti District and Panzi sub division of Chamba District of Himachal Pradesh, Andaman and Nikobar Island or Lakshadweep).	Not applicable	Three Years Engineering Diploma in Telecommunications Engineering / Electronics Engineering / Electrical Engineering / Radio Engineering / Computer Engineering / M.Sc. (Electronics) from a recognized institution/university.

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Whether age and educational qualification prescribed for direct recruits will apply in the case of promotees	Period of probation, if any	Method of Recruitment whether by direct recruitment or by promotion or by deputation/absorption and percentage of posts to be filled by various methods.	In case of recruitment by promotion/deputation/ transfer grades from which promotion/deputation/transfer to be made	If a Departmental Promotional Committee exists, what is its composition.(For considering confirmation of direct recruits).
9	10	11	12	13
No	Two years for direct recruits	<p>a) 50% by Direct Recruitment,</p> <p>b) 10% by Absorption,</p> <p>c) 40% by promotion through Limited Departmental Competitive Examination.</p>	<p>(A) Absorption from amongst the following Group 'C' employees, namely:-</p> <p>i) Phone Inspector/ Transmission Accounts/ Wireless Operators/ Auto Exchange Assistant.</p> <p>ii) Employees become on regular establishment of Telecom, Engineering Wing of the Department and possessing a minimum qualification of 3 year's Engineering Diploma in Telecommunications Engineering/ Electronics Engineering/ Electrical Engineering/ Radio Engineering/ Computer Engineering/ M.Sc. Electronics from any recognized Technical Institution/ University after 10<sup>th</sup> standard</p> <p>iii) Technicians having 10+2 qualification or equivalent qualification.</p> <p>iv) Technicians holding 2 years ITI diploma certificate after matriculation.</p> <p>(B) Promotion:-</p> <p>Through limited Departmental competitive examination from amongst the following Group 'C' employees of Telecom Engineering.</p> <p>(a) i) Telecom Operating Assistant (TOA) with Five years regular service or ii) Senior Telecom Operating Assistant (Sr. TOA) with five years regular service (including the service rendered as Telecom Operating Assistant), holding 10+2 standard certificate or equivalent,</p> <p>(b) i) Telephone Mechanics holding 10+2 standard certificate or equivalent, and ii) Technicians, other than Technicians referred to in item 'A' relating to absorption above, with 5 years' regular service in the respective cadres.</p>	<p>Group 'C' Departmental Promotion Committee consisting of the following officers:</p> <ol style="list-style-type: none"> <li>1. One officer not below the rank of Divisional Engineer, - Chairman.</li> <li>2. Two officers not below the rank of Sub-Divisional Engineers-Members</li> </ol>



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9	10	11	12	13
			<p>Note.1. For promotion officials will be selected for training on the basis of the marks obtained in the limited departmental competitive examination.</p> <p>Note.2. Select list shall be prepared for the purpose of training before absorption in the following order, namely;</p> <p>i) The officials working in the higher grade would be placed en bloc above those working in lower grade.</p> <p>ii) The officials working in same pay scale, having longer length of service would be placed above those having lesser length of service.</p> <p>Note.3. Telecom Technical Assistant (TTA) will be Secondary Switching Area (SSA) cadres and the unit of recruitment shall be the respective Secondary Switching Area (SSA).</p> <p>Note.4. The seniority on appointment of candidates in the cadre of Telecom Technical Assistant shall be determined on the basis of post-training marks in their respective quota.</p> <p>Note.5. Unfilled post in the quota of absorption will be filled by promotion.</p>	

No. 250-41/2001-Pers.-III

Sd/-  
(J.B.JAIN)  
Asstt. Director General (Pers.-III)  
Tel.No.: 3310401, 3032223

DEPARTMENT OF TELECOMMUNICATIONS  
DEPARTMENT OF TELECOMMUNICATIONS

ADMIT- CARD

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

1. Shri SUKANTA SHARMA
2. Designation PHONE MECHANIC
3. Roll No. NETC-04/ST
4. Centre of EXAM - SHILLONG/DIMAPUR/AGARTALA
5. He will bring his own pen/pencils. He will be supplied with answer books, blotting papers & ink by the Supervising Officer of the Centre.
6. The Admit Card should be produce to the Supervising Officer of the Centre of the Examination while entering in the Examination Hall.
7. The following is the time table of the Examination :

Paper	Subject	Day & Date	Hours
I	Screening Test for Telecom. Tech. Asstts.	Sat. 4th March, 2000	10.00 AM to 12.30 Noon

*(Signature)*  
(S.S. SOM)

Asstt. Director (EXAMS)  
O/O the C.G.M.T.NEC., Shillong

1. Signature of the Candidates in presence of the attesting officer.
2. Signature of the attesting officer with designation.

*(Signature)*  
27/3/2000  
J.C. Datta, Engineer  
Fault Repair & Service  
ETN Exchange, Shillong

RANEE/

Attested  
*(Signature)*  
Advocate

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Annexure-4

FAX COPY

DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE CHIEF GENERAL MANAGER N.E. TELECOM CIRCLE  
SHILLONG-793001.

EC-41/DE/ITA/S.TEST/2000

Dated, Shillong the 29<sup>th</sup> Sept., 2000.

Subject :- Announcement of result for Screening Test for T.T.As.  
held on 4th March, 2000.

The following candidates at ANNEXURE-'A' have been  
declared qualified in the Screening Test for Telecom Technical  
Assistants which was conducted on 4th March, 2000.

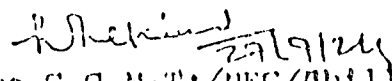
Spelling mistake, if any, may be corrected before  
communicating the result.

  
(G.H. CHYNE)

Asstt. General Manager (Admin.)  
O/o the Chief General Manager Telecom,  
N.E. Circle : Shillong.

Copy for information and necessary action to :-


- 1-5. The G.M.T.D.BH/IMP/AGT/ITH/AZL./
6. The T.D.M.DIMAPUR.
- 7-8. The A.D.T.(HRD)/(ESTT). C.O.Shillong.
9. The G.M.M.(ETN)/Shillong.
10. All Union Circle Secretaries.
11. The A.D.G.(DE)D.O.T./ND.-01.

  
O/o the C.O.N.T./NEC/Shillong.

LANEE/

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
26 OCT 2000  
Guwahati Bench  
गुवाहाटी न्यायपीठ

Attested

  
Advocate

Sr. No.	Name & designation	Roll No.	Grade
001.	SUKANTA BHARMA, P/M	NETC-04/ST	SC
002.	JAI PRAKASH BIRCH, P/M	" -10/ST	SC
003.	BISHWANATH RAY, P/M	" -12/ST	SC
004.	NANDA B. BIRCHA, P/M	" -15/ST	SC
005.	ARUNKANTI TARAFDER, P/M	" -23/ST	SC
006.	BHADRESWAR GOGOI, P/M	" -26/ST	SC
007.	AMAL MALAKAR, P/M	" -28/ST	SC
008.	KH. NABAKISHOR BIRCH, P/M	" -29/ST	SC
009.	UMESH CH. DEBNATH, P/M	" -31/ST	SC
010.	BACHINDRA DEBNATH, P/M	" -32/ST	SC
011.	NITAI SUKLA BAIDYA, P/M	" -33/ST	SC
012.	BANKAR BHOWMIK, P/M	" -36/ST	SC
013.	SWAPAN DEBNATH, P/M	" -37/ST	SC
014.	RABINDRA KR. DAS, P/M	" -38/ST	SC
015.	ANIL D. PURKAYASTHA, P/M	" -41/ST	SC
016.	BUDHANOSHU B. DEB, P/M	" -42/ST	SC
017.	MONTOSH KR. SAHA, P/M	" -45/ST	SC
018.	DIPANKAR CHAUDHURI, P/M	" -46/ST	SC
019.	BENOY KRISHNA DEY, P/M	" -47/ST	SC
020.	DINESH CH. DEBNATH, P/M	" -48/ST	SC
021.	SRIBENI M. DAS, P/M	" -49/ST	SC
022.	RATAN KR. ROUTH, P/M	" -51/ST	SC
023.	KALPANA MOY CHOWDHURY, P/M	" -67/ST	SC
024.	JANMIJOY NATH, P/M	" -68/ST	SC
025.	AMAL CHAKRABORTY, P/M	" -71/ST	SC
026.	KIRU TUNOI, TECH.	" -73/ST	SC
027.	MD. IMCHIM ALI, TECH.	" -70/ST	SC
028.	DIYAMAL MAZUMDAR, TECH.	" -81/ST	SC
029.	RAMJI PRASAD ROY, P/M	" -21/ST	SC

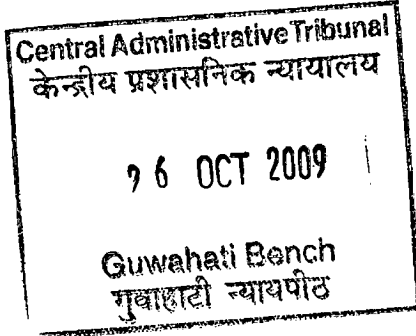
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

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गुवाहाटी

12-11-2000

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ANNEXURE-5

ANNEXURE-5.

BIHAR SAUGAR NIGAM LIMITED

(A Govt. of India Enterprise)

OFFICE OF THE GENERAL MANAGER (BSNL)

KAMRUP TELECOM DISTRICT, GUWAHATI-781007

NO. GMT/EST-395/Exam TTA/01-02/128 Dated at Guwahati 12.12.01.

To,

1-2) The Area Manager Telecom (East/West)

3-4) The DCM(F&A) Instalation.

5) The Director, Finance & Accounts O/o the GM (BSNL), Guwahati

6) The PA (E) to GM(BSNL), Guwahati-781007

7-19) The Dta Exit1/(Exit-I) I/(Exit-IV)/Admn/Operation/Planning

/F JOB/OCE Panbazar, Drepur

9-20) The Chief Accounts Officer (Cash/TRA:O/o the GM (BSNL) Ghy

21-66) The All SDE/SDO/SDOI under Kamrup SSA

67) The PRO O/o the GM(BSNL), Guwahati.

68-69) The Commercial Officer (I/R) O/o the GM(BSNL) Guwahati

70) The ADDI, O/o the GM(BSNL), Guwahati

71-75) The The Accounts Officer, O/o the GM(BSNL), Guwahati

76) The Junior Accounts Officer, O/o the GM(BSNL), Guwahati

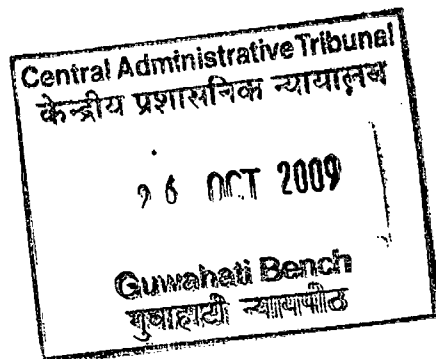
Sub:- Limited Departmental Competitive Examination for promotion to the cadre of Telecom Technical Assistant (TTA) against 10% of vacancies.

Ref:- C.O Letter No. PCTE 370025 dated 26/11/01

Attested

*[Signature]*  
Advocate

As per C.O Letter No. PCTE 370025 dated 26/11/01 the first Limited Competitive Examination for promotion to TTA under TTA Recruitment Rules 2003 will be held in Assam Telecom Circle



as per the below noted programme.

PROGRAMME.

Paper	Day & Date	Time (IST)
Paper-I (Electrical, Electronics and Communication)	Sunday, 24th February 2001	9.00 A.M to 12 Noon
Paper-II (Departmental Practice)	- do	2.00 PM to 5.00 PM

2. The Examination will be conducted as per syllabus prescribed under BSH Letter No.250/70/2001 Pres III dated 17/10/2001 circulated under this office letter No.6H1/EST-395/Exam/TTA/01-02/128 dated 3rd December 2001.

3. Eligibility:- Following Group C employees of the Telecom Engineering are eligible to appear in the limited competitive examination.

a) I) Telecom Operating Assistant (TOA) with 5 years regular service or,

(II) Senior Telecom Operating Assistant (Sr.TOA) with 5 years regular service (including the service rendered as TOA), holding 10+2 standard Certificate or equivalent.

b) I) Telecom Mechanic including 10+2 certificate or equivalent with 5 years regular service to the cadre.

II) Technician with 5 years service who do not possess 10+2 standard Certificate/Diploma Certificate.



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4. Head of the Units are requested to give it wide publicity for information of all employees including those who may be on deputation, leave, training etc. and invite the applications from the eligible officials.

5. Applications received from the officials should be forwarded to this office positively before 31/01/2002. Applications received after the last date of submission of application will not be accepted.

Sd-/-

(R. Dutta Choudhury)

Sub Divisional Engineer (Admn)

Copy to :

1-4) Service Union

5) Notice Board

Sd-/-

For GM (BSNL), LTD, Guwahati.

BHARAT SANCHITR NIGAM LIMITED

(A Govt. Of India Enterprise)

OFFICE OF THE GENERAL MANAGER (BSNL)

KAMRUP TELECOM DISTRICT : GUWAHATI-781007

No. GMT/ST-395/Exam/TIA/01-02/128

Date: at Guwahati the, 12<sup>th</sup> Dec'2001

The Area Manager Telecom(East/West)

The D.C.M. &amp; A. Installation

The Director, Finance &amp; Accounts, O/o the GM(BSNL), Guwahati

The PA(E) to GM(BSNL), Guwahati-781007

The Director, Telecom (I/II/III/IV/Admn./Operation/Planning/

TDD/OCB/Installation/OCB Disput)

The Chief Accounts Officer(Cash/RA) O/o the GM(BSNL), Guwahati.

The All SDE, SDOT under Kamrup SSA., North.

The PRO, O/o the GM(BSNL), Guwahati

The Commercial Officer(I/II) O/o the GM(BSNL), Guwahati

The ADOL, O/o the GM(BSNL), Guwahati

The Accounts Officer, O/o the GM(BSNL), Guwahati.

The Junior Accounts Officer, O/o the GM(BSNL), Guwahati.

Sub: Limited Departmental Competitive Examination for promotion to the cadre of Telecom Technical Assistant(TTA) against 10% quota of vacancies.

Ref: C.O. letter No. Rectt-3/80/5, Dtd. 26-11-2001

As per C.O. Letter No. Rectt-3/80/5, Dtd. 26-11-2001, The first Limited Competitive Examination for promotion to TTA under TTA Recruitment Rules, 2001 will be held in Assam Telecom Circle as per the below noted programme.

## PROGRAMME

Paper	Day & Date	Time(IST)
Paper-I (Electrical, Electronics And Communication)	Sunday, the 24 <sup>th</sup> February 2002	9.00 A.M to 12.00 Noon.
Paper-II (Departmental Practice)	-do-	2.00 PM to 5.00 PM

2. The Examination will be conducted as per syllabus prescribed under BSNL letter No. 250/71/2001-Rec III Dated 17-10-2001 circulated under this office letter No. GMT/ST-395/Exam/TIA/01-02/128 Dtd. 3<sup>rd</sup> Dec 2001.

3. Eligibility:- Following Group 'C' employee of the Telecom Engineering are eligible to appear in the limited competitive examination

- (a) (i) Telecom Operating Assistant (TOA) with 5 years regular service, or  
(ii) Senior Telecom Operating assistant (Sr. TOA) with 5 years regular service (including the service rendered as TOA), holding 10+2 standard Certificate or equivalent.

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- (b) (i) Telecom Mechanic holding IOI 2 standard Certificate or equivalent, with 5 years regular service to the cadre.
  - (ii) Technician with 5 years service who do not possess IO + 2 standards Certificate / Diploma Certificate.
4. Head of the Units are requested to give it wide publicity for information of all employees including those who may be on deputation, leave, training etc and invite the application from the eligible officials.
  5. Applications received from the officials should be forwarded to this office positively before 31/01/2002. Applications received after the last date of submission of applications will not be accepted.

( R. Dutta Chowdhury )  
Sub-Divisional Engineer (Admin.)

Copy to:-

- 1-4) 1 Service Union;  
5) 12 Notice Board.

Sd/-  
For GM(BSNI), LTD, Guwahati.

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
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22/11/01 ANNEXURE-6

Bharat Sanchar Nigam Limited  
[A Govt. of India Enterprise]  
[Departmental Examination Branch]

Dak Bhavan  
Sansad Marg  
New Delhi-110001

No.7-18/2001-DE

Dated the 12<sup>th</sup> February, 2002

To

All Chief General Managers Telecom Circles,  
Chief General Manager Chennai/Kolkatta Telephones,  
Chief General Manager Mtee., NTR, New Delhi.

Sub: Postponement of the Ltd. Departmental Competitive Examination for  
TTAs against 40% quota.

\*\*\*\*\*

Sir,

Attention is invited to this office letter of even number dated 1.11.2001 regarding holding of Ltd. Deptl. Competitive Examination for TTAs under 40% quota as per new Recruitment Rules circulated by BSNL. Clarifications have been/are being sought by different circles with regard to eligibility and other qualifications etc for the above said examination. Although some of these have been clarified, there are still certain issues which remain to be clarified, in the absence of which it may not be advisable to conduct the above said examination.

2. In view of the above, it has been decided to postpone the above said examination wherever the same have not yet been held until further orders. Fresh dates would be communicated in due course.

DGM-A

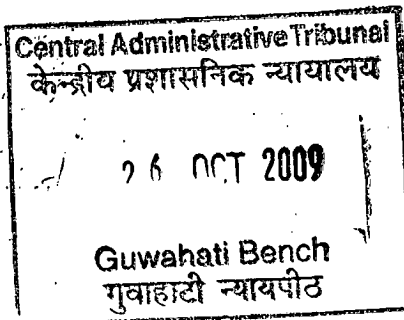
Yours faithfully,

*N. Venugopalan*

[N. Venugopalan]

Asstt. Director General [DE]

Tel/FAX: 011/3716504



Attested

*H. S.*  
H. S. S. S.

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BHARAT SANCHARNIGAM LIMITED  
(A Govt. of India Enterprise)  
OFFICE OF THE GENERAL MANAGER (BSNL)  
KAMRUP TELECOM DISTRICT :: GUWAHATI-781007.

ANNEXURE -78  
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No: GMT/EST-375/Exam(Loose)/03-04/18 Dated at Guwahati the 12<sup>th</sup> July 2004

To

- 1-3) The DGM(P&A) / Finance / (New Service)  
4-5) The Area Manager Telecom(East/West)  
6-18) The All DEs under Kamrup SSA E-10 B, PNB.

Sub: Pre Qualifying test of Entry level i.e 10+2 or equivalent for appearing in limited Departmental Competitive examination for TTAs against 40% Quota to be held on 14<sup>th</sup> Sep'04.

Ref: Circle Office letter No. Rectt-3/80/26. Dtd 03-07-2004.

With reference to the above the undersigned is directed to intimate that the Pre Qualifying test of Entry level i.e 10+2 or equivalent for appearing in limited Departmental Competitive examination for TTAs against 40% Quota will be held on 14<sup>th</sup> Sep'04 as per programme noted below:-

Day & Date	Subject	Maximum Marks	Time
Tuesday, the 14 <sup>th</sup> September 2004	Section - I General Knowledge/ General English	50	10 AM to 12:30 PM
	Section - II General Science & Mathematics	50	
	Section - III Departmental Practice	50	
	Total	150 marks	

2 Eligibility conditions and Syllabus for the same is enclosed herewith.  
3 All the Unit Officers are requested to give it wide publicity for information of all employees  
4 including those who may be on leave, training etc and invite application from the eligible  
5 officials.

6 Last date for submission of application is 25<sup>th</sup> July 2004.

7 The conditions will have the option to answer the question in Hindi or in English only. The  
8 answering of question partly in Hindi and partly in English will not be permissible.

9 Applications through the Head of Unit Office within the closing date and complete in all respect  
10 will only be entertained.

11 It is the responsibility of the Head of the Unit Office to bring it to the notice of all concerned,  
12 collect application and forward them within the stipulated date.

Encl: (No. 250-76/2001-Pers-III)

Sub - Divisional Engineer (Admin.)  
B 2453918 / 2030578 (M)

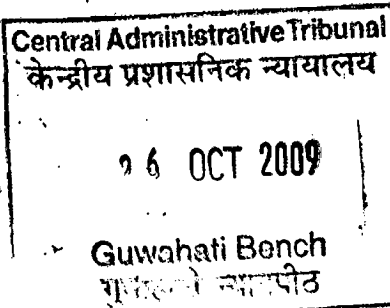
Copy to:

- 1-3) The CAO(TR-I) / (TR-II) / (TR-III), KTD, Guwahati.  
4) The Sr. Accounts Officer (Cash), O/o the GM(BSNL), KTD, Guwahati-7.  
5-6) The Accounts Officer (TA/SBP) / TR, O/o the GM(BSNL), KTD, Guwahati-7.

For GM(BSNL), KTD, Guwahati-7

Attester

H  
Advocate



**\*\*Syllabus for pre-qualification test of entry level i.e. 10+2 or equivalent  
for appearing in the  
Limited Departmental Competitive Examination for TTAs against 40% quota**

**\*\* As per instructions issued vide letter No.27-8/2003-TE.II (iii) dated 18.12.2003**

**(A) Eligibility to appear in the pre-qualification test:**

i) All Sr.TOAs/TOAs/Telecom. Mechanics, who do not possess the qualification of 10+2 or equivalent, and Technicians (other than those entitled for absorption under 10% Absorption quota) with requisite service conditions as prescribed in the Recruitment Rules of TTAs, will be permitted to sit in a pre-qualification test of entry level i.e. 10+2 or equivalent.

ii) The select panel of this test may be drawn up on merit basis amongst the qualified candidates to the tune of 10 times the vacancies earmarked for the Departmental Quota in each category i.e. OC/SC/ST. The officials of the select panel will be eligible to appear in the Limited Departmental Competitive Examination along with other eligible officials, holding the entry-level educational qualifications as per the Recruitment Rules of TTAs against 40% quota.

iii) Only those officials of the prescribed cadres will be permitted to take pre-qualification test as well as competitive examination, who are in lower pay scales than that of TTA.

iv) Mere passing the qualifying test will not confer any right to the officials to claim either for appointment in the TTA cadre or any other benefit.

**(B) SCHEME OF EXAMINATION**

There will be a single Objective Multiple-choice-type Paper comprising of three Sections of 50 questions each. All questions will carry one mark each. The time allowed shall be 2-1/2 hours. The minimum qualifying marks will be 40% for General Candidates and 33% for SC/STs.

SUBJECT	MAXIMUM MARKS	TIME ALLOWED
SECTION - I GENERAL KNOWLEDGE/ GENERAL ENGLISH	50	2- 1/2 HOURS
SECTION - II GENERAL SCIENCE & MATHEMATICS	50	
SECTION - III DEPARTMENTAL PRACTICES	50	
TOTAL	150 MARKS	

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SYLLABUSSECTION-I GENERAL KNOWLEDGE & GENERAL ENGLISH(1) GENERAL KNOWLEDGE

Questions will be designed to test the knowledge of candidate's general awareness of the environment around him and its applicability to society. Questions will also be designed to test knowledge of Current Events and of subject matters of everyday observation and experience. The test will also include questions relating to India and its neighbouring countries, especially pertaining to History, Culture, Geography and General Politics.

(2) GENERAL ENGLISH

Questions in this test will be set to assess the knowledge of English language, its vocabulary, Grammar, Synonyms and Antonyms, Usage of Articles and Preposition, Sentences and its types, Direct-Indirect speech, Active-Passive voice, Phrases & Idioms and usage of prepositions verb and adjectives.

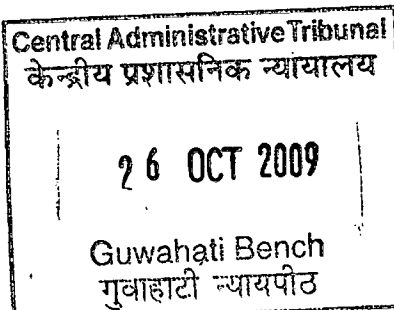
SECTION-II: GENERAL SCIENCE & MATHEMATICS(1) GENERAL SCIENCE

Mass and Time, Concept of Pressure and specific gravity, Conductor, Law of Motion, Current Joule's law, electric energy, voltage, simple application of Ohm's Law, resistance, simple applications of resistance in series and parallel, application of electric current—electric bulb, heater, fuses, switch, regulator and fluorescent tubelights, Electro-magnetic effect of current, Use and application of basic measuring instruments like Voltmeter, Ammeter and Multimeter.

(2) MATHEMATICS

Number System, Ratio and Proportion, Linear Equations, Percentage, Profit & Loss, Lines and Angles, Congruence of Triangles, Parallelograms, Trigonometric Ratios, Mensuration.

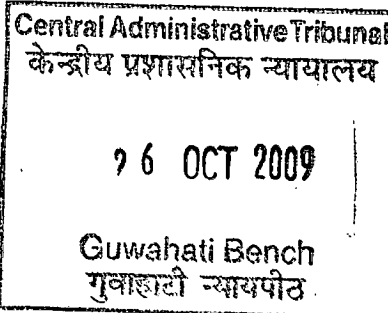
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SECTION -III - DEPARTMENTAL PRACTICES

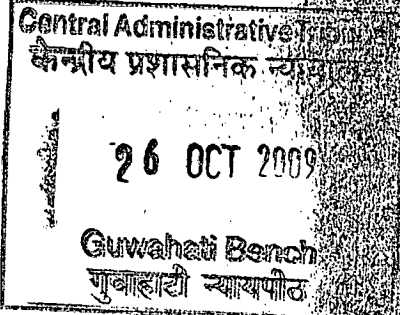
- a) Various types of subscriber instruments and their working.
- b) Various types of exchanges such as CDOT, RAX/SBM/MBM/ E-10B/New Technology MAX I and their working principles
- c) Various types of transmission system functioning in BSNL and their working principles.
- d) Float rectifiers, power plant, engine alternator, Batteries, UPS, and Inverter - their operation and maintenance.
- e) Identification of tag blocks, Connectors, soldering and de-soldering and use of various types of tools.
- f) Organizational setup upto Telecom Circle level.
- g) Various types of underground Cables, concept of cabinet, pillars and termination of cables and subscriber's fittings.
- h) Concept of MDF, IDF
- i) Working of FRS, Subscriber's line testing and fault-control system
- j) Working of Directory Enquiry system and maintenance of computer cable and customer record
- k) Working of local, Trunk, Special Services, International Trunk, Fault Control position.
- l) Working knowledge of Computers, simple Data entry, Word processing, e-mail, Internet
- m) Working of Commercial & TRA Sections, New Telephone Connections, closing & opening.
- n) Working of SFT/SFMSS





THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA;  
MANIPUR; TRIPURA; MIZORAM AND ARUNACHAL PRADESH)

WP(C) 620/2004



1. Shri Ambikka Bezbaruah,  
S/o. late Gopal Chandra Bezbaruah  
O/O. Sub Divisional Engineer,  
Maintenance and Control,  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

2. Sri Umesh Ch. Kalita,  
S/o. late Pani Ram Kalita,  
O/O. Sub Divisional Engineer(OCB),  
Maintenance and Control,  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

3. Sri Jugindra Singh  
S/o. Sri N. Singh  
O/O. DEE - 10-B  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

4. Md. Muksheed Ali,  
O/O. SDO (Phones) West,  
Bharalumukh, Guwahati-9.

5. Sri Ranly Ram Kumar  
S/o. Sri M Kumar  
O/o. SDE (Power Plant)  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

6. Sri Pradip Malakar  
S/o. late Pabitra Malakar  
O/O. SDO(P) West-II  
Guwahati-1

7. Shri Debashish Bhattacharjee  
S/o. late DR Bhattacharjee  
O/o. E-10-B  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

8. Ms. Naushad Ali  
O/O. SDE (Msc)  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

9. Sri Swapan Kumar Brahma  
S/O. late Mohin Chandra Brahma  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

Attest:

*[Signature]*  
18/10/09

26 OCT 2009

Guwahati Bench  
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10. Sri Dhaneswar Malakar  
O/O. SDFC  
Panbazar, Guwahati-1

11. Sri Barendra Paul  
S/o. late Pachugopal Paul  
O/O. SDE, MVC,  
Panbazar, Guwahati-1

Petitioners

-VERSUS-

1. The Union of India,  
Represented by the Secretary to the Department of  
Telecommunication, Ministry of Telecommunication,  
New Delhi.
2. The Bharat Sanchar Nigam Ltd  
(A Govt. of India Enterprise)  
represented by the Chairman, BSNL  
Registered office, Sanchar Bhawan,  
New Delhi
3. The Chief General Manager,  
Assam Telecom Circle,  
(BSNL), Ulubari,  
Guwahati-7
4. The General Manager,  
Kamrup Telecom District, (BSNL)  
Ulubari, Guwahati-7
5. The Asstt. Director General (DE), BSNL  
(A Govt. of India Enterprise)  
Dak Bhawan,  
Sanchar Marg,  
New Delhi - 110 001

... respondents

PRESENT  
THE HON'BLE MR. JUSTICE I.A. ANSARI

For the petitioners

: Mr. J.L. Sarkar, Advocate.

For the respondents

: Mr. M. Singh, Advocate.

Date of hearing & date of Judgment : 26.05.2006

I have heard Mr. J. L. Sarkar, learned counsel for the petitioners and M. Singh, learned counsel, appearing on behalf of the respondents.

2. The petitioners herein were appointed, on different dates, in the year 1993-1994, as Telephone Mechanic/Tele-Communication Mechanic. In terms of the Telecom Technical Assistant Recruitment Rules, 1998, (in short, 'the Rules of 1998'), which came into force on 06.02.1999, a Telephone Mechanic/Tele-Communication Mechanic was eligible for consideration for promotion to the post of Telecom Technical Assistant (in short, 'the TTA') on completing five years of regular service in the grade of Telephone Mechanic/Tele-Communication Mechanic.

3. The grievance of the present petitioners is that in terms of the Rules of 1998, the petitioners, having put in requisite period of service of five years in the grade of Telephone Mechanic/Tele-Communication Mechanic, had become eligible for promotion to the post of TTA as far back as in the year 1999, and though vacancies were available in the posts of TTA, the petitioners were not considered for promotion and the qualifying screening test, as envisaged under the Rules of 1998, were not held; whereas similarly situated employees, working in the cadre of Telephone Mechanic/ Tele-Communication Mechanic in other circles of the respondent department, including the North Eastern Circle, Shillong, have been considered and promoted to the cadre of the TTA, in the year 2000, by holding screening tests in terms of the Rules of 1998. It is also the grievance of the petitioners that the Rules of 1998 were amended by bringing into force, on 27/07/02, the Telecom (Technical) Assistant Recruitment Rules, 2001 (in short, 'the Rules of 2001'), whereby promotional avenues of the Telephone Mechanic/Tele-Communication Mechanic has been drastically reconstructed by making 10+2 standard certificate or equivalent certificate as

the minimum educational qualification for promotion to the post of the TTA from the grade of Telephone Mechanic/Tele-Communication Mechanic. The Rules of 2001 also envisage holding of limited departmental competitive examination for promotion to the post of TTA from the group-C employees, which consists of Telephone Mechanic/Tele-communication Mechanic too. Though under the Rules of 1998, there was no provision for holding limited departmental competitive examination and though the petitioners, having become eligible for consideration for promotion to the post of TTA long before the Rules of 2001 came into force, were not required to appear in any limited departmental competitive examination and though the respondents/authorities concerned ought to have held qualifying screening test in terms of the Rules of 1998 for deciding the question of promotion of the petitioners to the post of TTA, the respondents/authorities concerned have been insisting upon the petitioners and other group-C employees to appear in the limited departmental competitive examinations as envisaged under the Rules 2001. Such insistence by the respondents/authorities concerned is, according to the petitioners, unreasonable and impermissible in law inasmuch as the Rules of 2001 are, contend the petitioners, prospective in nature and their cases ought to have been considered, plead the petitioners, in terms of the provisions of the Rules of 1998, particularly, because there were, according to the petitioners, vacant posts available for considering the cases of the petitioners for promotion to the

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posts of TTA long before the Rules of 2001 came into force.

4. Opposing the petitioners' case, the case, which the respondents have set up, is, in brief, thus: With the change in the standard of working of the entire Tele-Communication system, sophisticated equipments are required to be handled by the TTAs and keeping in view this fundamental requirement of the service, which the respondents provide, the respondents have made, under the Rules of 2001, educational qualification of 10+2 standard certificate mandatory for a Group-C employee to be considered for promotion to the post of TTA. In

view of the changes, which the Rules of 2001 have so introduced, those petitioners, who are not holding the minimum educational qualification of 10+2 standard certificate, are not even eligible for being considered for promotion, and even those, who have minimum educational of 10+2 standard certificate are required to participate in the limited departmental competitive examination so that their suitability for promotion to the posts of TTA can be correctly judged and evaluated.

5. While considering the present writ petition, it is, now, essential to note that in terms of the letter, dated 12/12/01, issued by the Bharat Sanchar Nigam Limited (in short, 'the respondent Corporation'), the first limited departmental competitive examination for promotion to the post of TTA, under the Rules of 2001, in respect of the Group-C employees of Assam Telecom Circle, was to be held on 24/02/02. This limited competitive examination was, however, postponed by the respondent Corporation by letter, dated 12/02/02. As the controversy with regard to the petitioners' promotion to the posts of TTA could not be resolved by the parties concerned, the petitioners, who are altogether eleven in number, have come to this Court with the help of the present application, made under Article 226 of the Constitution of India, seeking, *inter alia*, issuance of appropriate writ(s) directing the respondents to hold the screening test/limited departmental competitive examination under the Rules of

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6. Before entering into the merit of the present writ petition, what may be pointed out is that as the process for holding of the limited departmental competitive examination, under the Rules of 2001, had already been initiated, though kept postponed at the time, when writ petition was filed, the respondent Corporation, with the leave of this Court, held a limited departmental examination in terms of the Rules of 2001. Subsequent thereto, the respondent Corporation has also announced, with the leave of this Court, the result of the

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competitive examination so held. Out of the present eleven petitioners, two of the petitioners, namely Gyanendra Singh (i.e., the petitioner No.3 herein) and Debasish Bhattacharjee (i.e., the petitioner No. 7 herein) had appeared in the said limited departmental competitive examinations conducted under the Rules of 2001 and in this examination, while Debasish Bhattacharjee has succeeded, Gyanendra Singh has failed.

7. While considering the present writ petition, what is crucial to note is that the fact that the petitioners were appointed, on different dates, in the year 1993-94, as Telephone Mechanic/ Tele-Communication Mechanic is not in dispute. The Tele-Communications Phone Mechanic Recruitment Rules, 1991 (in short, the Rules of 1991) which came into effect on 22/07/91, makes it clear that all the posts of Telephone Mechanic/Tele-Communication Mechanic have to be filled up by promotion. These promotional appointments are divided into two categories; half of the strength of the cadre of Telephone Mechanic/Tele-Communication Mechanic are to be filled up by way of promotion from amongst linemen/wiremen (belonging to the Tele-Communication Engineering wing of the department), who have passed 10<sup>th</sup> standard qualification, and the other half of the cadre of the Telephone Mechanic/Tele-Communication Mechanic are to be appointed through competitive examination from amongst the cadres of lineman/wireman and also from regular Mazdoors and casual Mazdoors. Since the petitioners have not been promoted to the post of Telephone Mechanic/Tele-Communication Mechanic through any competitive examination, it is clear that in order to hold the promotional post of Telephone Mechanic/Tele-Communication Mechanic, the minimum educational qualification is passing of the 10<sup>th</sup> standard examination. In other words, in order to receive promotion to the post of TTA, the incumbent is required to have the minimum educational qualification of 10<sup>th</sup> standard.

8. Bearing in mind what have been indicated above, when I turn to the Rules of 1998, which came into effect on 25/01/99, I notice that there were two modes of appointment to the post of TTA, namely, by promotion and by direct recruitment. According to the Rules of 1998, the Telephone Mechanic/Tele-Communication Mechanic with five years of regular service in grade-C were eligible for consideration for promotion to the post of TTA through qualifying screening test. There is no dispute before this Court that before the Rules of 2001 came into force on 27/07/01, the petitioners had satisfied the minimum eligibility criteria for being considered for promotion to the posts of TTA and vacancies in the posts of TTA existed before the Rules of 2001 came into force and had the respondent/authorities concerned desired, the petitioners, having satisfied the eligibility criteria, could have been considered for promotion to the posts of TTA.

9. What is, however, of immense importance to note is that when a person satisfies the eligibility criteria of promotion and the authorities concerned decide to fill up the promotional post, such a person has the fundamental right to be considered for promotion if he falls within the zone of consideration. It is also trite that the promotion of a Government servant shall be considered in accordance with the rules, which were in force on the date, when the Government servant had fallen within the zone of consideration for promotion. Reference may be made, in this regard, to the decision of a Division Bench of this Court in *M. Laitphlang(DR)(MS) & ORS vs State of Meghalaya & Ors*, wherein this Court has observed and held as follows :-

*"35. To be considered for promotion, when a person becomes so eligible, is his fundamental right and denial of such right, if discriminatory, cannot be permitted by a Writ Court. In the case of Delhi Jal Board Vs. Mahinder Singh reported in 2000) 7 SCC 210, the Apex Court held, "The right to be considered by DPC is a fundamental right guaranteed under Article 16 of the Constitution of India, provided a person is eligible and is within the zone of consideration."*

"40. It is trite that promotion of a Government servant should be considered in accordance with the rules, which were in force on the date, when he had fallen within the zone of consideration for promotion. In the present case, since the writ petitioners had become eligible for promotion under the 1982 Rules and the vacancies were, admittedly, available, they ought to have been considered for promotion under the 1982 Rules itself."

10. Bearing in mind the fundamental principle governing promotion of a Government servant, when I turn to the Rules of 2001, what becomes evident is that the Rules of 2001 is prospective in nature. Hence, the Rules of 2001 cannot divest the petitioners of their rights, which the petitioners have already acquired under the Rules of 1998. As a corollary thereto, it is not difficult to hold that on completing the eligibility criteria under the Rules of 1998, since the petitioners became eligible for consideration for promotion to the posts of TTA, their cases cannot be considered in terms of the minimum qualifications, which have been imposed by the Rules of 2001; rather, the cases of the petitioners ought to have been considered for promotion in terms of the Rules of 1998. While the Rules of 2001 make 10+2 standard certificate as the minimum educational qualification for promotion to the post of TTA, the Rules of 1998, read with the Rules of 1991, make it clear that a Telephone Mechanic/Tele-Communication Mechanic, having passed 10<sup>th</sup> standard examination and having put in five years of regular service in the cadre of Telephone Mechanic/Tele-Communication Mechanic, is eligible for consideration for promotion to the post of TTA. When the petitioners had attained the requisite eligibility criteria for the purpose of being considered for promotion to the post of TTA before the Rules of 2001 came into force, their cases ought to have been considered in terms of the Rules of 1998, when their turn for being considered for promotion had arisen.

11. Because of what have been discussed and pointed out above, it is abundantly clear that the respondent Corporation cannot insist upon the writ



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petitioners that the petitioners shall satisfy the eligibility criteria for promotion to the post of TTA under the Rules of 2001 and/or insist upon the petitioners to appear in any competitive examination except what the Rules of 1998 envisage.

12. As has already been pointed out above even the Rules of 1998 perceive of holding of qualifying screening test. The syllabus for such test has not been spell out in the Rules of 1998. However, the respondent Corporation shall have, in terms of the Rules of 1998, liberty to prescribe the syllabus for the screening test. Such qualifying screening test cannot, however, be of the same standard as has been conceived under the Rules of 2001, for, while the Rules of 2001, as already indicated hereinabove, require minimum educational qualification of 10+2 standard certificate, the Rules of 1998 require educational qualification of 10<sup>th</sup> standard as the minimum qualification for promotion to the post of TTA.

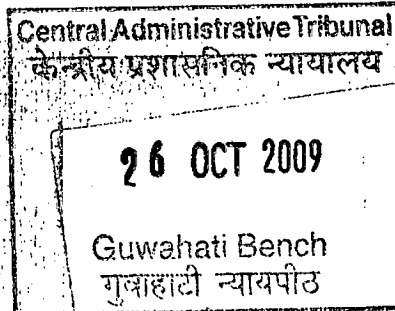
13. In the result and the reasons discussed above, this writ petition partly succeeds. While the respondents are left at liberty to prescribe the syllabus and prepare scheme for holding qualifying screening test in terms of the Rules of 1998, it is made clear that the cases of each of the present writ petitioners shall be considered by the respondents, in terms of the Rules of 1998, for promotion to the posts of TTA. The whole exercise, so directed, shall be completed within a period of 4(four) months from to-day. Whatever decision is reached on the question of promotion of the petitioners by the respondents/authorities concerned shall be communicated, in writing, to the petitioner concerned. If any of the petitioners feel aggrieved by the decision that may be taken by the respondents/authorities concerned, while carrying out the directions given hereinbefore, the petitioner(s) concerned, who may be so aggrieved, shall be at liberty to approach this Court for appropriate directions.

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13. Before parting with this writ petition, it is made clear that the directions, which have been given hereinabove, in respect of the petitioners, may not be extended by the respondent/authorities concerned to anyone other than the present petitioners.

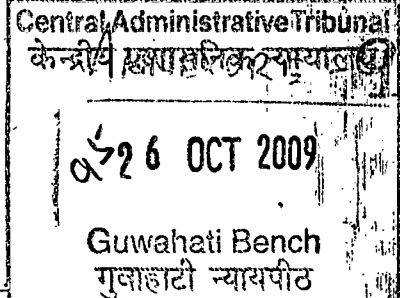
14. With the above observations and directions, this writ petition shall stand disposed of.

15. No order as to costs.



Dutta/bd

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**BIHARAT SANCHAR NIGAM LIMITED**  
(A. Govt. of India Enterprise)  
OFFICE OF THE GENERAL MANAGER  
KAMRUP TELECOM DISTRICT, GUWAHATI-781001

No: GMT/EST-395/Exam(loose)/07-08/132  
2007.

Dated at Guwahati the 14<sup>th</sup> June,

To,

The ADT ( Rectt ),  
O/O the CGMT,  
Assam Telecom Circle,  
Panbazar, Guwahati-781001,

Sub: Holding of Screening Test for promotion to the cadre of TTA on the basis  
Of TTA Recruitment Rule 1998----Implementation of Judgement dated  
26.5.2006 of Hon'ble High Court, Guwahati in WP ( C ) No. 620/2004.

Ref: Your No. Rectt-3/102/2007/3 Dtd 31.5.2007.

In pursuance to your letter cited above kindly find herewith the following  
duly filled in 10( ten) application forms for favour of your necessary action pl. Debashish  
Bhattacharjee that is shown in SL-7 of your Annexure-A was expired on 28-11-2006.  
Shri Jugindra Singh that is shown in SL-3 may please be corrected as Shri Jugindra  
Singha. Md. Muksheed Ali that is shown in SL-4 may please be corrected as Md.  
Mokshed Ali. Shri Ranti Ram Kumar that is shown in SL-5 may please be corrected as  
Shri Ranti Ram Kumar. Shri Swapan Kumar Brahma, S/O Late Mohin Chandra  
Brahma that is shown in SL-9 may please be corrected as Shri Swapan Kumar Baruah,  
S/O Late Mohin Chandra Baruah please. All these applications are sent after proper  
verification of their Service Books.

SL	NAME	DESIGNATION
01	Shri Ambika Bezbaruah	TM
02	Shri Umesh Chandra Kalita	TM
03	Shri Jugindra Singha	TM
04	Md. Mokshed Ali	TM
05	Shri Ranti Ram Kumar	TM
06	Shri Pradip Malakar	TM
07	Md. Naushad Ali	TM
08	Shri Swapan Kumar Baruah	TM
09	Shri Dhaneswar Malakar	TM
10	Shri Barendra Paul	TM

Encl: (As above)

Copy to: The District Secretary, BSNLEU,  
Guwahati-1

Sr Sub Divisional Engineer (Admin)

Attest:

Hd.  
Attocate

THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Page No : 1

CASE NO : WP(C) 3282/2007

Category : 10042 (Promotion.)

District : Kamrup

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

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1. KRISHNA PRADHAN, PHONE MECHANIC AND ORS.  
S/O LATE DHAN BAHADUR PRADHAN,  
O/O SUB-DIVISIONAL ENGINEER, KALAPAHAR,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
KALAPAHAR EXCHANGE, (RLU), GUWAHATI, ASSAM.
2. RAJAT BHATTACHARJEE, PHONE MECHANIC  
S/O LATE RAMENDRA CHANDRA BHATTACHARJEE,  
O/O SUB-DIVISIONAL OFFICER PHONES, C-II,  
BHARAT SANCHAR NIGAM LIMITED, AMBARI, GHY-1.
3. BIJOY DEKA, PHONE MECHANIC  
S/O LATE DHARANI DHAR DEKA,  
O/O D.E.T. (PROJECT-I), BHANGAGARH, BHARAT  
SANCHAR NIGAM LIMITED, GHY-5.
4. TARINI KANTA KUMAR, PHONE MECHANIC  
S/O LATE MANGALU RAM KUMAR,  
O/O SUB-DIVISIONAL ENGINEER, E 10 B, ADABARI,  
BHARAT SANCHAR NIGAM LIMITED, RSU EXCHANGE,  
GHY-12.
5. CHANDRA KUMAR SAHA, PHONE MECHANIC  
S/O LATE RAJENDRA MOHAN SAHA,  
O/O TELEPHONE EXCHANGE, BHARAT SANCHAR  
NIGAM LIMITED,  
P.O. DHALIGAON, DIST. CHIRANG (ASSAM),  
PIN-783185.
6. ROBIN KUMAR ROY, PHONE MECHANIC  
S/O LATE ANANTA MOHAN ROY,  
O/O TELEPHONE EXCHANGE, BHALUKDUJI, BHARAT  
SANCHAR NIGAM LIMITED, DIST. GOALPARA  
(ASSAM).
7. AJOY BAKSHI, PHONE MECHANIC  
S/O MANINDRA BAKSHI  
O/O SUB-DIVISIONAL ENGINEER, P/P S A/C  
TELEPHONE EXCHANGE, BSNL, GHY-1.
8. HARI CHANDRA DAS, PHONE MECHANIC  
S/O LATE GANDHA SHYAM DAS,  
O/O SUB-DIVISIONAL ENGINEER (M/C), BHARAT  
SANCHAR NIGAM LIMITED, GHY-1.
9. PRADIP DAS, PHONE MECHANIC  
S/O LATE RAGHU NATH DAS,  
O/O SDOH-I, BHARAT SANCHAR NIGAM LIMITED,  
TEZPUR, NEAR HEAD POST OFFICE, DIST. SONITPUR  
(ASSAM), PIN-784001.
10. SPIBASH TALUKDAR  
S/O LATE ADAYUT TALUKDAR  
O/O TELEPHONE EXCHANGE, GOSAI GAON  
KOKRAJHAR, ASSAM.

Petitioner/appellant/applicant

Versus

1. THE UNION OF INDIA & ORS.  
REPRESENTED BY THE SECRETARY TO THE GOVT.  
OF INDIA, DEPARTMENT OF TELECOM, MINISTRY OF  
TELECOMMUNICATION, NEW DELHI.
2. THE BHARAT SANCHAR NIGAM LIMITED  
(A GOVT. OF INDIA ENTERPRISE), REPR. BY THE  
CHAIRMAN, BSNL, REGISTERED OFFICE, SANCHAR  
BHAWAN, NEW DELHI.
3. THE CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE (BSNL), ULUBARI, GHY-7.
4. THE GENERAL MANAGER,  
KAMRUP TELECOM DISTRICT, BSNL, ULUBARI,  
GHY-7.

Attested

Advocate

es for Petitioner/appellant

S SARMA

B DEVI

H K DAS

Respondent/Opp. Party

Advocates for Respondents

1 R BORA

2 SC, BSNL

Central Administrative Tribunal  
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Guwahati Bench  
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Summary Of Case And Prayer In Brief

CERTIFIED COPY OF JUDGEMENT / ORDER

DATE OF FILING APPLICATION 28/06/2007	DATE WHEN COPY WAS READY 29/06/2007	DATE OF DELIVERY 29/06/2007
--	--	--------------------------------

BEFORE

THE HON'BLE MR JUSTICE RANJAN GOGOI

DATE OF ORDER : 28/06/2007

Heard Mr.S.Sharma, learned counsel for the petitioners.

Issue Rule, returnable in 3 months.

Mr.C.Baruah, learned Central Govt. Counsel accepts notice on behalf of Respondent No.1 whereas Mrs.R.Bora, learned Central Govt. Counsel accepts notice on behalf of Respondent Nos. 2-5. Extra copies of the writ petition be furnished to the respective counsels within 3 days.

Issue notice on the prayer for interim relief returnable in six months.

The petitioners shall be allowed to participate in the written test scheduled to be held on 15.07.2007 which participation will be subject to further orders that may be passed in the writ petition.

Sd/- Ranjan Gogoi  
Judge

CERTIFIED TO BE TRUE COPY

Date.....

Superintendent/Copying Section;

Gauhati High Court

Authorised U/S 76, Act 1, 1872

Sl.No. 78422

28.6.07

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ANNEXURE - 11

EXAM MATTER/MOST URGENT

BHARAT SANCHAR NIGAM LTD.

(A Govt. of India Enterprise)

Office of the Chief General Manager Telecom.

Assam Telecom. Circle, BSNL Administrative Building,  
Panbazar, Guwahati-781 001.

No. Rectt-3/102/2007/17

Dated at Guwahati the 6.7.2007.

To,

1. The CGMT, NETF, BSNL, Guwahati.

2-4. The GMTD, Kamrup/Bongaigaon/Tezpur

SUB:

Holding of Screening Test for promotion to the cadre of TTA on the basis of TTA Recruitment Rule 1998 Implementation of Judgment dated 26.5.006 of Hon'ble High Court, Guwahati in WP (C) No.620/2004.

Kindly find enclosed herewith hall permit in respect of following candidates of your SSA/Unit for appearing in the above examination to be held on 15.7.2007 (SUNDAY).

S. No.	Name	Desgn.	SSA/Unit	Roll No.
1	Krishna Pradhan,	TM	GMTD/KMP	ASM/ITA-Screening/2007/11
2	Rajat Bhattacharjee	TM	-do-	ASM/TTA-Screening/2007/12
3	Bijoy Deka	TM	NETF	ASM/TTA-Screening/2007/13
4	Tarani Kanta Kumar	TM	GMTD/KMP	ASM/TTA-Screening/2007/14
5	Chandan Kumar Saha	TM	GMTD/BGN	ASM/TTA-Screening/2007/15
6	Rabin Kumar Roy	TM	-do-	ASM/TTA-Screening/2007/16
7	Ajay Bakshi	TM	GMTD/KMP	ASM/ITA-Screening/2007/17
8	Hari Chandra Das	TM	-do-	ASM/TTA-Screening/2007/18
9	Pradip Das	TM	GMTD/TZ	ASM/TTA-Screening/2007/19
10	Sribhas Talukdar	TM	GMTD/BGN	ASM/TTA-Screening/2007/20

The hall permits issued above are purely **PROVISIONAL** and are valid subject to the final outcome of Hon'ble Court's verdict in WP (C) No. 3287/2007 and Misc Case No. 2554/2007 in the Gauhati High Court.

The hall permits may please be delivered to the candidates concerned under clear receipt.

It should also be ensured that before handing over the hall permit, application in the format (enclosed) be obtained from the candidate concerned for appearing in the screening test. &amp; forward the same to CO/SH.

(B.C. PAL)

Asstt. Director Telecom. (Recit)  
PH: 0361- 2736347

Copy to: 1) B. F. Laddu, DE (OP) &amp; Supervising Officer, O/o CGMT, Guwahati. A revised list of candidates permitted to appear in the examination is enclosed along with a specimen copy of provisional hall permit as above.

Asstt. Director Telecom. (Recit)  
PH: 0361- 2736347

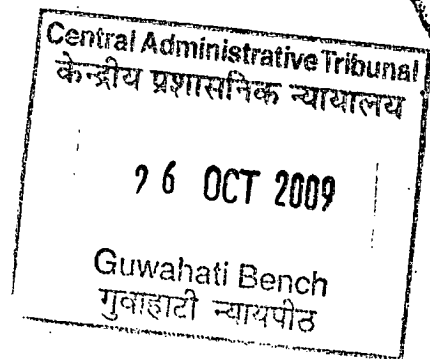
Attested

H. B.

Advocate

S. C. Das

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// 2 //

**Instruction to the Candidates:**

1. This Hall Permit should be brought in the Examination Hall and produced before the Supervising Officer. Failure to bring the Hall Permit will result in denial admission in the Examination Hall.
2. The candidate should sign the Hall Permit and get the same attested by a gazetted officer in the space provided for before the commencement of the examination.
3. The candidate will have to bring his/her own pen, pencil etc. The department does not supply any of these items in the Examination Hall.
4. The Hall Permit should be handed over to the Supervising Officer when all the papers of the examination are over.
5. No candidate will be admitted inside the Examination Hall 30 minutes after scheduled hour of commencement of each paper and no candidate will be permitted to leave the Examination Hall before expiry of 1 (one) hour after the commencement of the examination in each paper and without permission of the Invigilator.
6. Use of any communication devices viz. Cell/Mobile Phone, Pagers etc. in the Examination Hall and Venue premises is not permitted.

Dated at Guwahati the 6.7.2007

Signature of Issuing Officer

  
(B.C. PAL)

Asstt. Director Telecom. (Rectt)

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Central Administrative Tribunal  
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**BHARAT SANCHAR NIGAM LTD.**  
(A Govt. of India Enterprise)  
Office of the Chief General Manager Telecom.  
Assam Telecom. Circle, BSNL Administrative Building  
Panbazar, Guwahati-781 001.

Screening Test for promotion to the cadre of TTA to be held on 15.7.2007 (SUNDAY)

**PROVISIONAL HALL PERMIT \***

Name of Candidate : **BIJOY DEKA**  
Roll No. : **ASM/TTA-Screening/2007/13**  
Centre : **Guwahati**  
Venue : **RTTC, Ulubari, Guwahati-781 007.**

Specimen Signature of the Candidate

Attested

Signature & Designation of the Attesting Officer.

Schedule of Examination:

Day & Date	Paper	Subject	Maximum Marks	Time (IST)
Sunday, the 15 <sup>th</sup> July, 2007	Paper-I	Part-A : General Science	50	10.00 AM to 12.30 PM
		Part-B : General Mathematics	25	
		Part-C : Departmental Practices	25	

\* This Hall Permit is issued provisionally and is valid subject to the final outcome of Hon'ble Court's verdict in WP (C) No. 3287/2007 and Misc Case No. 2554/2007 in the Gauhati High Court.

Contd. Page-2



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Application for Screening Test for Promotion to the cadre of TTA (TTA RR 1998)  
WP (C) No. 620/2004

1. Name :
2. Designation :
3. Name of SSA/Unit :
4. Present Office of Posting. :
5. Date of entry in the Deptt. on regular basis :
6. Date of entry in the cadre of Telecom. Mechanic :
7. Educational Qualification :
8. Community : OC/SC/ST/OBC

I do hereby declare that the information furnished above are true to the best of my knowledge and belief.

Signature of the official

Date:

Certified that the information furnished by the official are correct as per Service Book of the official.

Signature of the Forwarding Officer with Seal :  
Designation:  
Date :

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ANNEXURE - 12

DISTRICT: KAMRUP.

IN THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

(CIVIL EXTRA ORDINARY JURIDICTION)

W.P. (C) No. 3282 / 2007

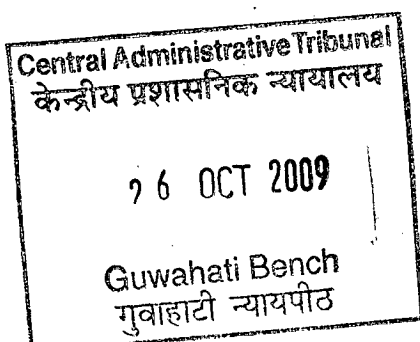
Shri Krishna Pradhan & others

Petitioners

-Versus-

Bharat Sanchar Nigam Limited &Ors

Respondents



[Additional affidavit-in-opposition filed for and on behalf of respondent No.2 to 5 disclosing position of vacancy of the posts of TTA and also the question of issue of fulfillment of eligibility criteria by the writ petitioners under the Recruitment Rules, 1998]

I, Shri S.N Chakraborty, son of late Taranath Chakraborty, aged about 52 years, resident of Ulubari, Guwahati in the District of Kamrup (Assam) do hereby solemnly affirm and state as follows:

1. That I am at present working as Assistant Director Telecom (Legal) in the office of the Chief General Manager, Telecom, Assam Circle, Bharat Sanchar Nigam Limited (referred to as the "BSNL"), Guwahati-1. I am looking after and taking steps in all the legal matters including court cases and hence I am fully

Attested

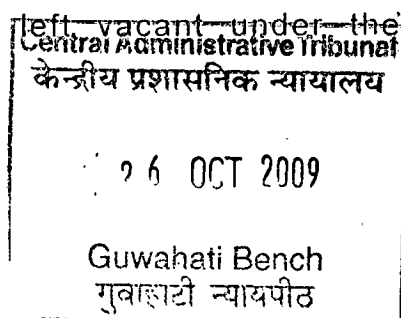
Advocate.

acquainted with the facts and circumstances of the cases and I am duly authorized to file this affidavit in this Hon'ble Court.

2. That during the course of hearing of the case and the arguments made by both the sides in the case, the Hon'ble Court was pleased to direct the respondents (i) to let it know if the petitioners in the writ petition were eligible for promotion as on 24.10.1999 under the Recruitment Rules, 1998, which came into force with effect from 6.2.1999. The Hon'ble Court also wanted to know from the respondents (ii) as to how many posts are to be filled up pursuant to the screening test held on 15.7.2007. These directions were given by this Hon'ble Court vide order dated 3.1.2008 while hearing the above noted WPC No. 3282/2007 along with Contempt Case (c) No. 637/2006.

3. That to answer the query made by the Hon'ble Court as above, I have the instructions to say that all the petitioners in the WPC No.3282/2007 are eligible for promotion as on 24.10.1999 as per Recruitment Rules, 1998.

4. That the respondents in WPC No. 620/2004 filed a Misc. case vide MC No.3633/2004 thereby seeking permission from the Hon'ble Court to allow them to publish the results. This Hon'ble Court on hearing the said Misc. case was pleased to pass an order on 22.12.2004 and thereby granted liberty to publish the result subject to the condition that the respondents shall keep vacant 11 number of posts of TTA in the Assam Circle out of the quota meant for filling up of the same by promotion. In compliance with the said order of this Hon'ble Court the respondents kept as many as 11 vacancies of TTA as vacant and the same are still lying vacant. Hence, these 11 numbers of vacancies are available for filling up under the Recruitment Rules, 1998. There is no other vacancy left vacant under the said Recruitment Rules, 1998.



5. That as per Recruitment Rules, 1998 the total vacancy as on 6.2.1999 were 67 in total in different SSA (Secondary Switching Area), which are shown below:

Name of SSA	Sanctioned Strength	Working Strength	Vacancy as on 6.2.1999
Kamrup	70	66	4
Dibrugarh	42	37	5
Jorhat	43	43	Nil
Nagaon	37	12	25
Silchar	33	33	Nil
Tezpur	57	41	16
Bongaigaon	43	26	17
Total	-	-	67

6. That except the said 11 vacancies of TTA as kept vacant in compliance with this Hon'ble court's order as stated above, the respondents were at liberty to fill-up all the remaining 56 (67-11) vacancies. Accordingly the respondents held the qualifying test for promotion to TTAs on 24.10.2004 as per new recruitment rules known as "Telecom Technical Assistants (TTAs) Recruitment Rules, 2001" framed by the BSNL as per distribution of vacancies as under:

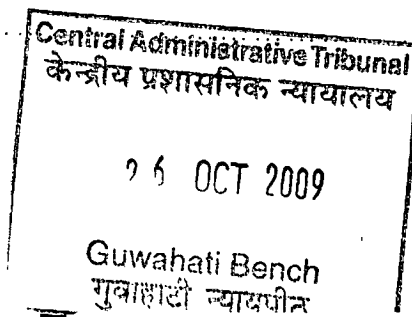
50% of the said vacancies for direct recruit quota;

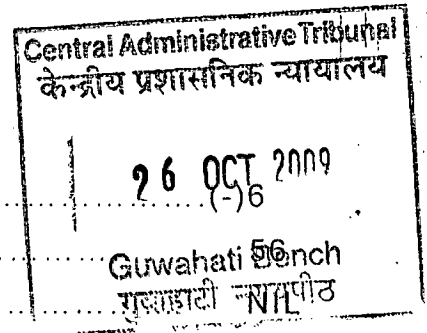
40% through Limited Internal Departmental Competitive Examination (LICE) and

10% through walk-in-group.

The above position may be further be explained as under:

Total vacancies (SSA wise) as on 6.2.1999	.....	=67
Less vacancies kept vacant	.....	(-)11
Balance total vacancies	.....	56
50% of 56 recruited from direct quota	.....	(-)28
40% quota under LICE	.....	(-)22





10% quota by walk-in-group .....  
Total vacancies filled up after 6.2.1999 .....  
Latest position of vacancies .....  
(Except 11 vacancies as per Court's order).

As illustrated above, there is no other vacancy available for Departmental Quota as on date against the 1998 Recruitment Rules. It is also worth mentioning here that under the Recruitment Rules of 1998, there was no vacancy under the Jorhat and Silchar SSA. If any petitioner out of the 11 petitioners in WP(C) No. 620/2004 belongs to Jorhat or Silchar SSA, such petitioners cannot be accommodated in their respective Jorhat / Silchar SSA. In such cases the respondents will have to obtain option of the candidates whether they would be willing to accept promotion against the available vacancy in SSAs other than Jorhat / Silchar.

7. That in view of the above clarification, I say that all the petitioners in WPC No. 620/2004, who have been able to pass the screening test held on 15.7.2007 could be accommodated in the process of training and promotion to the post of TTA as the judgment and order dated 26.5.2006 has attained the finality. As the number of candidates in the WPC No. 620/2004 has come down to 10 after the death of one of the petitioners, one vacancy could be made available for the petitioners in the WPC No. 3282/2007. The vacancy position would depend upon and could be determined after knowing the results of the candidates / petitioners in the WPC No. 620/2004. The more the number of successful candidates would be, more the lesser chance for the writ petitioners in the WPC No. 3282/2007. For example, if the number of successful candidates in WPC No. 620/2004 is 7, in that case 4 candidates in WPC No. 3282/2007 may have the chance for training and promotion along with the other candidates from the WPC No. 620/2004.

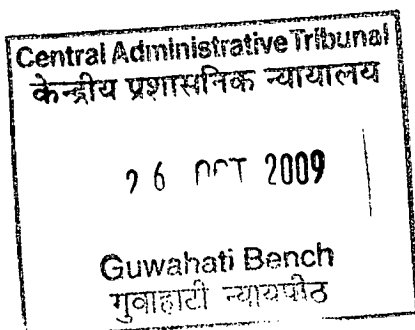
8. That under the above circumstances the respondents, BSNL would be able to accommodate only 11 candidates / petitioners from both the aforesaid writ petitions.
9. That the statements made in para 1, 2, 3, 4, 5, 6 and 8 are true to my knowledge and belief, those made in para 7 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Court. I have not suppressed any material fact.

And I sign this affidavit on this 12<sup>th</sup> Day of March, 2008 at Guwahati.

Identified by me

Deponent

Advocate's Clerk





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ANNEXURE

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
26 OCT 2009
Guwahati Bench गुवाहाटी न्यायपीठ

BIHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)  
Office of the Chief General Manager  
Assam Telecom Circle  
Panbazar, Guwahati-781001.  
\*\*\*\*\*

No. Rectt-3/102/2007/33

Dtd: 12.12.2008

To  
✓ The Principal  
RTTC/Guwahati

Sub: TTA Induction Training for Deptl Candidates-regarding.

Please refer to letter No.Rectt-3/102/2007/32 dtd 12.12.2008 regarding the above mentioned subject. In pursuance of the judgement and order of Hon'ble High Court order dtd 30.10.2008 the WPC No.3282/07 along with misc case No 2836/07 and WPC No.620/2004 the merit list of eleven successful candidates held on 15.07.07 as per Recruitment Rules of TTA, 1998(as per vacancies against the year 1998-1999) on the basis of inter se merit of the common merit list has been furnished in Annexure-'A'.

The successful candidates of the screening test will be sent for TTA induction training. You are requested to make necessary arrangement for conducting the said training. This issues with the approval of the competent authority.

Encl: Annexure -A

✓ Ws  
(P.S.Bhattacharjee)  
Deputy General Manager(Admn)

Copy to: General Manager Kamrup, Bongaigaon and Tezpur.

DE (P.A.) RBC  
15/12/08

Sd/-  
(P.S.Bhattacharjee)  
Deputy General Manager(Admn)

Attested

HAS  
Advocate.



**Central Administrative Tribunal**  
 केन्द्रीय प्रशासनिक न्यायालय  
 26 OCT 2009  
 Guwahati Bench  
 गुवाहाटी न्यायपीठ

**BHARAT SANCHAR NIGAM LTD.**  
 (A Govt. of India Enterprise)  
 Office of the Chief General Manager Telecom.  
 Assam Telecom. Circle, BSNL Administrative Building,  
 Panbazar, Guwahati-781 001.

No. Rectt-3/102/2007/31

Dated at Guwahati the 10.12.2008.

In pursuance of the judgment and order dated 30.10.2008 of the Hon'ble High Court, Guwahati in WP(C) No. 3282/07 and Misc Case No. 2836/07, the merit list of 11 (eleven) successful candidates of the Screening Test held on 15.07.2007 as per Recruitment Rules of TTA, 1998 (as per vacancies against the year 1998-1999) on the basis of inter se merit of the common merit list and taking into account the existing Reservation Roster of the SSAs in the cadre of TTA are furnished below:

S No.	Name of Candidate	Name of SSA	Roll No.	Community	Remarks
1	Bijoy Deka, TM	KMP	ASM/TTA-Screening/2007/13	OC	Selected against UR vacancy of Kamrup SSA
2	Ajay Bakshi, TM	KMP	ASM/TTA-Screening/2007/17	OC	Selected against UR vacancy of Kamrup SSA
3	Chandan Kumar Saha, TM	BGN	ASM/TTA-Screening/2007/15	OC	Selected against UR vacancy of BGN SSA
4	Sribhas Talukdar, TM	BGN	ASM/TTA-Screening/2007/20	OC	Selected against UR vacancy of BGN SSA
5	Tarani Kanta Kumar, TM	KMP	ASM/TTA-Screening/2007/14	OBC	Selected against UR vacancy of BGN SSA
6	Pradip Das, TM	TZ	ASM/TTA-Screening/2007/19	OC	Selected against UR vacancy of TZ SSA
7	Krishna Pradhan, TM	KMP	ASM/TTA-Screening/2007/11	OBC	Selected against UR vacancy of BGN SSA
8	Rabin Kumar Roy, TM	BGN	ASM/TTA-Screening/2007/16	MOBC	Selected against UR vacancy of BGN SSA
9	Md. Naushad Ali, TM	KMP	ASM/TTA-Screening/2007/04	OC	Selected against UR vacancy of TZ SSA
10	Rajat Bhattacharjee, TM	KMP	ASM/TTA-Screening/2007/12	OC	Selected against UR vacancy of TZ SSA
11	Swapan Kumar Baruah, TM	KMP	ASM/TTA-Screening/2007/03	ST	Selected against ST vacancy of DR SSA

(P.S. Bhattacharjee)  
 Dy. General Manager (Admin)

Contd.

-71-

ANNEXURE - 15  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
26 OCT 2009  
Guwahati Bench  
गुवाहाटी न्यायापीठ

BHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)  
Office of the Chief General Manager  
Assam Telecom Circle  
Panbazar, Guwahati-781001.  
\*\*\*\*\*

No. Rectt-3/102/2007/39

Dtd: 18.12.2008

To

The General Manager  
Kamrup.

Sub: TTA Induction Training for Deptl Candidates-regarding.

Please refer to the letter No.Rectt-3/102/2007/34 dtd 12.12.2008 regarding the above mentioned subject. It is intimated by RTTC, Guwahati that the training would be commenced from 22.12.2008. Hence the Telephone Mechanics whose names appear in Annexure-A may be released accordingly.

Encl: Annexure-A

(P.S.Bhattacharjee)  
Deputy General Manager(Admin)

Atteste

  
Advocate

1	Ragindra Singha	Kamrup	ASM/TTA-Screening/2007/08	OBC
2	Umesh Chandra Kalita	Kamrup	ASM/TTA-Screening/2007/09	OC
3	Md. Makshed Ali	Kamrup	ASM/TTA-Screening/2007/07	OC
4	Ranti Ram Kumar	Kamrup	ASM/TTA-Screening/2007/06	OBC
5	Barendra Paul	Kamrup	ASM/TTA-Screening/2007/01	OC
6	Dhaneswar Malakar	Kamrup	ASM/TTA-Screening/2007/02	OC
7	Ambika Bezbaruah	Kamrup	ASM/TTA-Screening/2007/10	OBC
8	Hari Chandra Das	Kamrup	ASM/TTA-Screening/2007/18	OBC
9	Pradip Malakar	Kamrup	ASM/TTA-Screening/2007/05	SC

(Sl no. 1 through 9 : total nine candidates)

12/12/08

**Central Administrative Tribunal**  
**केन्द्रीय प्रशासनिक न्यायालय**  
  
**26 OCT 2008**  
  
**Guwahati Bench**  
**গুৱাহাটী ন্যায়পীঠ**



# Bharat Sanchar Nigam Limited

(A Govt. of India Enterprise)  
OFFICE OF THE GENERAL MANAGER  
KAMRUP TELECOM DISTRICT: PANBAZAR, GUWAHATI-1.

No: GMT/EST-407/40% Deptt. Promotion TTA/08-09/11  
Dated at Guwahati the 19<sup>th</sup> December' 2008

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

To

01. The DE(E-10B), Panbazar, GH -01.
02. The DE (OCB), Panbazar. GH-01.
03. The DE (Extl-I), Ambari, GH-01.

Sub: TTA induction Training for Departmental candidates

Ref: DGM (Admn), Circle office letter No. Rectt-3/102/2007/39 dtd 18/12/2008.

TTA Induction Training for Departmental Candidates for promotion to the cadre of TTA will be conducted at RTTC, Guwahati w.e.f 22/12/2008 as intimated vide above cited letter under reference.

The officials particularized below who have been selected for promotion to the cadre of TTA on the basis of the screening test held on 15-07-2007 as intimated vide DGM (Admn) Circle office letter No. Rectt-3/102/2007/34 dtd 12/12/2008 are hereby ordered for initial training in TTA with effect from 22/12/2008 at RTTC, Guwahati. However, on completion of successful training their appointment in the cadre of TTA will be subject to the availability of posts in the year after 1999 as per relevant rules.

Sl No	Name of the officials	Desgn	Community	Office to which attached
01	Sri Jugindra Singh	TM	OBC	DE (E-10B), Panbazar, GH.
02	Sri Umesh Ch Kalita	TM	OC	SDE (OCB) M/C Panbazar, GH.
03	Md Mokshed Ali	TM	OC	SDOP, W-I
04	Sri Ranti Ram Kumar	TM	OBC	SDE, P/P
05	Sri Barendra Paul	TM	OC	SDE, M/C
06	Sri Dhaneswar Malakar	TM	OC	SDE, M/C
07	Sri Ambika Bezbaruah	TM	OBC	SDE, M/C
08	Sri Hari Chandra Das	TM	OBC	SDE, M/C
09	Sri Pradip Malakar	TM	SC	SDOP, Fancy Bazar

As such you are requested to release the officials well in time with an instruction to report at RTTC, Guwahati for above training w.e.f 22/12/08 after observing all Departmental formalities.

Attest:

*[Signature]*  
Advocate

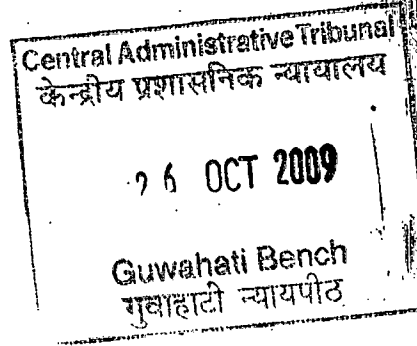
*[Signature]*  
(C. Dey)  
Divisional Engineer (Admn)

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-74-

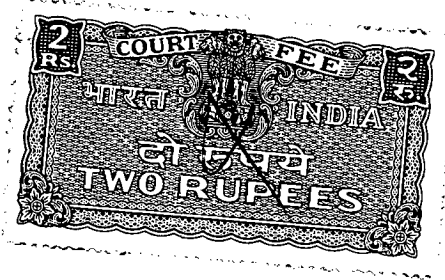
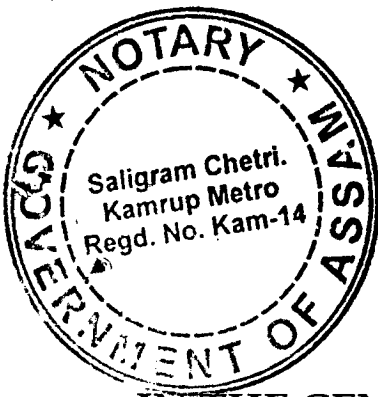
Copy to:

01. The CGMT, Asam Circle w.r.t CO letter under reference.
02. The Divisional Engineer, RTTC, Guwahati.
- 03-05. The SDE (OCB), (M/C), (P/P).
- 06-07. The SDOP (W-I), Fancybazar.
08. File No EST-301.
- 09-26. Service Book / Personal File of the officials.
- 27-35. The officials concern.
36. Spare



*[Signature]*  
19/12/08

For GM(BSNL)/KTD/GH



Filed by:  
The Applicant's  
through  
Hidip K. Das.  
Advocate  
7.11.09.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI

O.A. NO. 222/2009

File in Court on 10/11/09

Court Officer.

IN THE MATTER OF:

Sri Ishwari Prasad Sarma & Ors.

-vs-

Union of India & Ors.

- AND -

IN THE MATTER OF:

An affidavit to bring on record the judgment and order dated 30.10.08 passed in WP(C) No. 3282/07.

I, Sri Nabin Baishya, s/o late D. Baishya, Telephone Mechanic, O/o Sub-Divisional Officer, Phones, Noonmati, Guwahati, Assam, do hereby solemnly affirm and state that I am the applicant No. 14 in the connected original application and I am competent and authorized by the co-applicants to swear this affidavit.

1. That the applicant begs to state that being aggrieved by the illegal, arbitrary and discriminatory action on the part of the respondents the applicants have approached the Hon'ble Tribunal by way of filling the O.A. No. 222/09 praying for a similar relief granted to the similarly situated persons of WP(C) 620/04 and 3282/07.

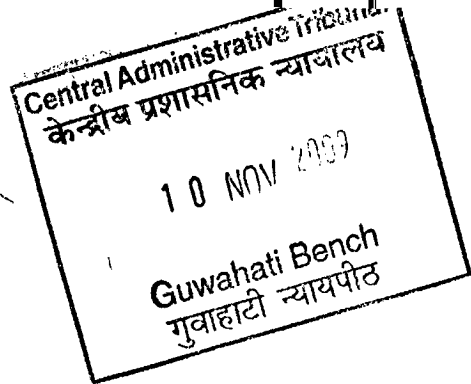
2. That the applicant begs to state that the aforesaid O.A. came up before the Hon'ble Tribunal for admission on 26.10.09. Although the judgment and order of the Hon'ble Gauhati High Court passed in WP(C) 620/04 was on record, however inadvertently the judgment passed in WP(C) 3282/07 dated 30.10.08 could not be placed on record. Therefore, the Hon'ble Tribunal granted liberty to the applicants to bring on records the judgment and order dated 30.10.08 passed in 3282/07 in the present original application.

Nabin Ch. Baishya.

Notary Seal: Kamrup Metropolitan District, Guwahati, Assam. Date: 10/11/09.

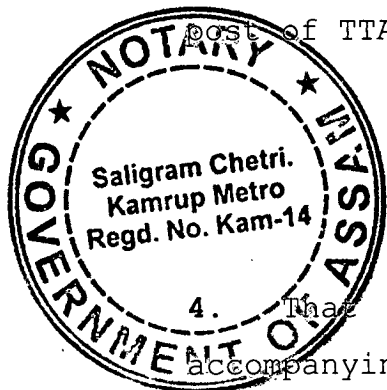
-2-

(75)



3. That the applicant begs to state that the Hon'ble High Court in Para 7 of the judgment and order dated 30.10.08 passed in WP(C) No. 3282/07 made a mention of the interim order passed in WP(C) No. 620/04 wherein it was categorically directed that the pendency of the writ petition i.e. WP(C) No. 620/04 shall not be a bar for the respondents to hold the Screening Test for consideration of the petitioners and other similarly situated persons for promotion to the post of Telecom Technical Assistant in Assam Telecom Circle, Assam. Therefore, the Hon'ble Court held that the respondents were at liberty to hold promotional test for all those persons who were well within the zone of consideration for promotion to the post of TTA in terms of the Rule of 1998. However, the respondents causing serious illegality and discrimination sent the Sl. No. 12 to 20 for induction training for promotion to the post of TTA, who could not occupy the 11 (Eleven) posts as indicated by the respondents earmarked for 1998 recruitment rules, and promoted them to the post of TTA against the vacancies surfaced after 1999.

A copy of the judgment and order dated 30.10.08 passed in WP(C) No. 3282/09 is annexed herewith and marked as **ANNEXURE- 17**.



4. That the statements made in this affidavit and in the accompanying petition in paragraphs 1 and 2 are true to my knowledge and those made in paragraph 3 being matters of records are true to my information derived there from and the rest are my humble submissions before this Hon'ble Court.

5. The Annexures are true copies of their originals and I have not suppressed any material facts.

And, I sign this affidavit on this the 8th day of November, 2009.

Identified by me

*Hridip Kr. Das.*

Advocate

*Nabin Ch. Barishpa*

**DEPONENT**

*[Signature]*  
**NOTARY**  
Kamrup Metropolitan District  
Guwahati, Assam

प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy	स्टाम्प और फोटो की अपेक्षित संख्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and photos	अपेक्षित स्टाम्प और फोटो देने की तारीख Date of delivery of the requisite stamps and photos	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the Applicant.
5/11/07	5/11/07	5/11/07	10/11/07	10/11/07

### THE GAUHATI HIGH COURT

HIGH COURT OF ASSAM, NAGALAND, MEGHALAY, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH.

WP(C) No. 3282 of 2007.

1. SHRI KRISHNA PRADHAN, PHONE MECHANIC,  
SON OF LATE DHAN BAHADUR PRADHAN,  
O/O SUB-DIVISIONAL ENGINEER, KALAPAHAR,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
KALAPAHAR EXCHANGE. (RLU),  
GUWAHATI, ASSAM.

2. SRI RAJAT BHATTACHARJEE, PHONE MECHANIC,  
SON OF LATE RAMENDRA CHANDRA BHATTACHARJEE,  
O/O SUB-DIVISIONAL OFFICER PHONES, C-II,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
AMBARI, GUWAHATI, ASSAM.

3. SRI BIJOY DEKA, PHONE MECHANIC,  
SON OF LATE DHARANI DHAR DEKA,  
O/O D.E.T (PROJECT-I), BHANGAGARH,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
GUWAHATI, ASSAM.

4. SRI TARINI KANTA KUMAR, PHONE MECHANIC,  
SON OF LATE MANGALU RAM KUMAR,  
O/O SUB-DIVISIONAL ENGINEER, E 10 B, ADABARI,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
RSU EXCHANGE. (RLU),  
GUWAHATI, ASSAM.

5. SRI CHANDAN KUMAR SAHA, PHONE MECHANIC,  
SON OF LATE REJENDRA MOHAN SAHA,  
O/O TELEPHONE EXCHANGE,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
P.O. DHALIGAON, DIST. CHIRANG (ASSAM),  
PIN - 783385.

6. SRI ROBIN KUMAR ROY, PHONE MECHANIC,  
SON OF LATE ANANTA MOHAN ROY,  
O/O TELEPHONE EXCHANGE, BHALUKDUBI,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
DIST. GOALPARA (ASSAM).

7. SRI AJOY BAKSHI, PHONE MECHANIC,  
SON OF MANINDRA BAKSHI,  
O/O SUB-DIVISIONAL ENGINEER, P/P'S A/C,  
TELEPHONE EXCHANGE,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
GUWAHATI-1, ASSAM.

8. SRI HARI CHANDRA DAS, PHONE MECHANIC,  
SON OF LATE GANDHA SHYAM DAS,  
O/O SUB-DIVISIONAL ENGINEER (M/C),  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
PANBAZAR TELEPHONE EXCHANGE,  
GUWAHATI-1, ASSAM.

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

10 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

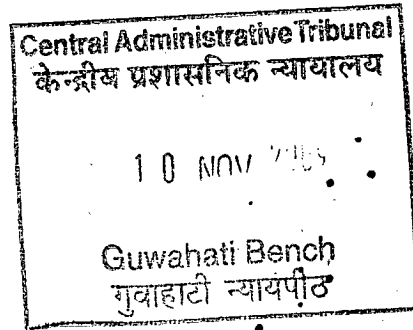
Attested

Advocate



9. SRI PRADIP DAS, PHONE MECHANIC,  
SON OF LATE RAGHU NATH DAS,  
O/O SDOP-1,  
BHARAT SANCHAR NIGAM LIMITED, BSNL, TEZPUR,  
NEAR HEAD POST OFFICE, DIST. SONITPUR (ASSAM),  
PIN - 784001.

10. SRI SRIBASH TALUKDAR,  
SON OF LATE ADYAUT TALUKDAR,  
O/O TELEPHONE EXCHANGE, GOSSAIGAON,  
KOKRAJHAR, ASSAM.



----- Petitioners

Versus

1. UNION OF INDIA,  
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,  
DEPARTMENT OF TELECOM,  
MINISTRY OF TELECOMMUNICATION, NEW DELHI.

2. BHARAT SANCHAR NIGAM LIMITED, BSNL,  
(A GOVERNMENT OF INDIA ENTERPRISE),  
REPRESENTED BY THE CHAIRMAN, BSNL,  
REGISTERED OFFICE,  
SANCHAR BHAWAN, NEW DELHI.

3. THE CHIEF GENERAL MANAGER,  
ASSAM TELECOM CIRCLE (BSNL),  
ULUBARI, GUWAHATI-7.

4. THE GENERAL MANAGER,  
KAMRUP TELECOM CIRCLE (BSNL),  
ULUBARI, GUWAHATI-7.

5. THE ASSISTANT DIRECTOR GENERAL, BSNL,  
DAK BHAWAN, SANCHAR MARG, NEW DELHI - 110001.

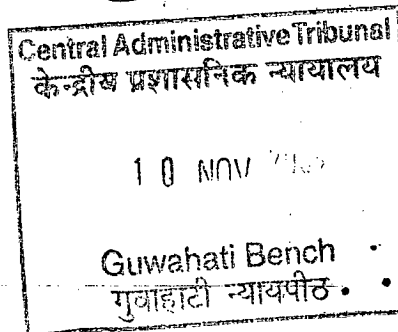
----- Respondents

CONT CASE (C) NO. 637 OF 2006.

1. SRI AMBIKA BEZBARUAH,  
S/O LATE GOPAL CHANDRA BEZBARUAH,  
O/O SUB-DIVISIONAL ENGINEER,  
MAINTENANCE AND CONTROL,  
PAN BAZAAR TELEPHONE EXCHANGE,  
PAN BAZAAR, GUWAHATI-1.

2. SRI UMESH CHANDRA KALITA,  
SON OF LATE PANI RAM KALITA,  
O/O SUB-DIVISIONAL ENGINEER (OCB),  
PAN BAZAAR TELEPHONE EXCHANGE,  
PAN BAZAAR, GUWAHATI-1.

3. SRI JUGINDRA SINGH,  
SON OF SRI N. SINGH,  
O/O D.E.E-10-B,  
TELEPHONE EXCHANGE,  
PAN BAZAAR, GUWAHATI-1.



4. MD. MUKSHEED ALI,  
OFFICE OF THE SDO (PHONES), WEST,  
BHARALUMUKH, GUWAHATI-9.

5. SRI RANTY RAM KUMAR,  
SON OF SRI M. KUMAR,  
OFFICE OF SDE (POWER PLANT),  
PAN BAZAAR TELEPHONE EXCHANGE,  
GUWAHATI - 1.

6. SRI SRI PRADIP MALAKAR,  
SON OF LATE PABITRA MALAKAR,  
OFFICE OF THE SDO (P) WEST-II, GUWAHATI-1.

7. SRI DEBASH BHATTACHARJEE,  
SON OF LATE DR BHATTACHARJEE,  
OFFICE OF E-10-B,  
TELEPHONE EXCHANGE, PAN BAAZAR,  
GUWAHATI - 1.

8. MD. NAUSHAD ALI,  
OFFICE OF THE SDE (MSC),  
TELEPHONE EXCHANGE, GUWAHATI-1.

9. SRI SWAPAN KUMAR BARUAH,  
SON OF LATE MOHIN CHANDRA BARUAH,  
OFFICE OF DEE-10-B,  
TELEPHONE EXCHANGE, PAN BAZAAR, GUWAHATI-1.

10. SRI DHANESWAR MALAKAR,  
OFFICE OF S.D.F.C.,  
PAN BAZAAR, GUWAHATI-1.

11. SRI BARENDRA PAUL,  
SON OF LATE PACHUGOPAL PAUL,  
OFFICE OF SDE, MVC,  
PAN BAZAAR, GUWAHATI-1.

----- Petitioners

Versus

1. SHRI A.K. SINHA,  
CHAIRMAN-CUM-MANAGING DIRECTOR,  
BHARAT SANCHAR NIGAM LTD.,  
[A GOVT. OF INDIA ENTERPRISE]  
REGISTERED OFFICE, SANCHAR BHAWAN,  
NEW DELHI -1.

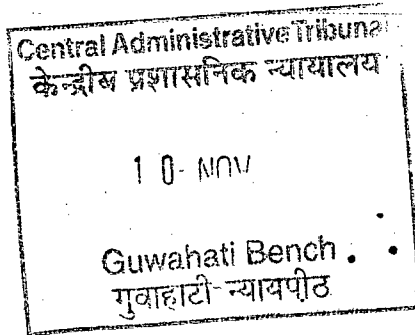
2. SRI G. RAJARAM,  
CHIEF GENERAL MANAGER,  
ASSAM TELECOM CIRCLE,  
[BSNL], PANBAZAR, GUWAHATI-7.

3. SRI V.K. MATHUR,  
GENERAL MANAGER,  
KAMRUP TELECOM DISTRICT (BSNL),  
PANBAZAR, GUWAHATI -1.

----- Alleged Contemners.

Advocates for Petitioner

MR. S SARMA, MS. B DEVI, MR. HK DAS.

Advocates for RespondentsMR. R BORA,  
MR. BC PATHAK, MR. B PATHAK.

BEFORE  
THE HON'BLE MR. JUSTICE IA ANSARI

Date of hearing & judgment :: 30<sup>th</sup> October, 2008.**JUDGMENT AND ORDER****(oral)**

By this common judgment and order, I propose to dispose of the Writ Petition and the Contempt Case, namely, WP(C) No. 3282/2007 and Contempt Case(C) No. 637/2006, inasmuch as both these matters are closely inter-linked and decision, in any of these two cases, will have a bearing on the outcome of the other.

2. I have heard Mr. S. Sarma, learned counsel for the petitioners in WP(C) No. 3282/07, and Mr. B.C. Pathak, learned Standing counsel for the respondents. I have also heard Mr. M. Chanda, learned counsel for the petitioners in Contempt Case (C) No. 637/2006, and Mr. B. C. Pathak, learned counsel, appearing on behalf of the respondents.

3. Before entering into the merit of the Writ Petition and also the Contempt case, it is necessary that the facts, which have given rise to both these proceedings, are taken note of. The material facts, leading to these two proceedings, are, therefore, set out as under:

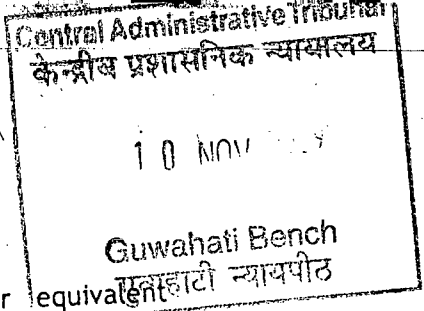
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Guwahati Bench  
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(I) The petitioners, in Contempt Case (C) No. 637/2006, who are hereinafter referred to as the first set of petitioners, came to this Court with a writ petition made under Article 226 of the Constitution of India. This writ petition gave rise to WP(C) No. 620/2004. By this writ petition, the first set of petitioners had sought for directions be issued to the respondents, particularly, Bharat Sanchar Nigam Limited (known as 'the BSNL', which is, hereinafter, referred to as the 'respondent Corporation') to consider the case of the writ petitioners for promotion to the posts of Telecommunication Technical Assistant (in short, 'TTA'), the case of these petitioners being, briefly stated, thus:

(a) The petitioners were appointed, on different dates, in the year 1993-94, as Telephone Mechanic/Tele-Communication Mechanic. In terms of the Telecom Technical Assistant Recruitment Rules, 1998 (in short, 'the Rules of 1998'), which came into force on 06.02.1999, a Telephone Mechanic/Tele-Communication Mechanic was eligible for consideration for promotion to the post of Telecom Technical Assistant (in short, 'the TTA') on completing five years of regular service in the grade of Telephone Mechanic/Tele-Communication Mechanic.

(b) In terms of the Rules of 1998, the petitioners, having put in requisite period of service of five years in the grade of Telephone Mechanic/Tele-Communication Mechanic, had become eligible for promotion to the post of TTA as far back as in the year 1999, and though vacancies were available in the posts of TTA, the petitioners were not considered for promotion and the qualifying screening test, as envisaged under the Rules of 1998, were not held; whereas similarly situated employees, working in the cadre of Telephone Mechanic/Tele-Communication Mechanic in other circles of the respondent department, including the North Eastern Circle, Shillong, have been considered and promoted to the cadre of TTA, in the year 2000, by holding screening tests in terms of the Rules of 1998. It is also the grievance of the petitioners that the Rules of 1998 were amended by bringing into force, on 27.07.2002, the Telecom (Technical) Assistant Recruitment Rules, 2001 (in short, 'the Rules of 2001'), whereby promotional avenues of the Telephone Mechanic/Tele-Communication Mechanic has been drastically



reconstructed by making 10+2 standard certificate or equivalent certificate as the minimum educational qualification for promotion to the post of TTA from the grade of Telephone Mechanic/Tele-Communication Mechanic. The Rules of 2001 also envisage holding of limited departmental competitive examination for promotion to the post of TTA from the group-C employees, which consists of Telephone Mechanic/Tele-Communication Mechanic too. Though under the Rules of 1998, there was no provision for holding limited departmental competitive examination and though the petitioners, having become eligible for consideration for promotion to the post of TTA long before the Rules of 2001 came into force, were not required to apply for any limited departmental competitive examination and though the respondents/authorities concerned ought to have held qualifying screening test in terms of the Rules of 1998 for deciding the question of promotion of the petitioners to the post of TTA, the respondents/authorities concerned have been insisting upon the petitioners and other group-C employees to appear in the limited departmental competitive examination as envisaged under the Rules of 2001. Such insistence by the respondents/authorities concerned is, according to the petitioners, unreasonable and impermissible in law inasmuch as the Rules of 2001 are, contend the petitioners, prospective in nature and their cases ought to have been considered, plead the petitioners, in terms of the provisions of the Rules of 1998, particularly, because there were, according to the petitioners, vacant posts available for considering the cases of the petitioners for promotion to the posts of TTA long before the Rules of 2001 came into force.

- (ii) Opposing the petitioners' case, the case, which the respondents had set up, was, in brief, thus: With the change in the standard of working of the entire Tele-Communication System, sophisticated equipments are required to be handled by the TTAs and keeping this fundamental requirement of the service, which the respondents provide, the respondents have made, under the Rules of 2001, educational qualification of 10+2 standard certificate mandatory for a Group-C employee to be considered for promotion to the post of TTA. In view of the changes, which the Rules of 2001 have so introduced, those petitioners, who are not holding the minimum educational qualification of 10+2

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standard certificate, are not even eligible for being considered for promotion and even those, who have minimum educational of 10+2 standard certificate, are required to participate in the limited departmental competitive examination so that their suitability for promotion to the posts of TTA can be correctly judged and evaluated.

(iii) Having considered the respective cases, which the first set of petitioners and the respondent Corporation had set up, in WP(C) No. 620/2004, this Court observed and directed, *inter alia*, as follows :-

“10. Bearing in mind the fundamental principle governing promotion of a Government servant, when I turn to the Rules of 2001, what becomes evident is that the Rules of 2001 is prospective in nature. Hence, the Rules of 2001 cannot divest the petitioners in their rights, which the petitioners have already acquired under the Rules of 1998. As a corollary thereto, it is not difficult to hold that on completing the eligibility criteria under the Rules of 1998, since the petitioners became eligible for consideration for promotion to the posts of TTA, their cases cannot be considered in terms of the minimum qualifications, which have been imposed by the Rules of 2001; rather, the cases of the petitioners ought to have been considered for promotion in terms of the Rules of 1998. While the Rules of 2001 make 10+2 standard certificate as the minimum educational qualification for promotion to the post of TTA, the Rules of 1998, read with the Rules of 1991, make it clear that a Telephone Mechanic/Tele-Communication Mechanic, having passed 10<sup>th</sup> standard examination and having put in five years of regular service in the cadre of Telephone Mechanic/Tele-Communication Mechanic, is eligible for consideration for promotion to the post of TTA. When the petitioners had attained the requisite eligibility criteria for the purpose of being considered for promotion to the post of TTA before the Rules of 2001 came into force, their cases ought to have been considered in terms of the Rules of 1998, when their turn for being considered for promotion had arisen.

11. Because of what have been discussed and pointed out above, it is abundantly clear that the respondent Corporation cannot insist upon the writ petitioners that the petitioners shall satisfy the eligibility criteria for promotion to the post of TTA under the Rules of 2001 and/or insist upon the petitioners to appear in any competitive examination except what the Rules of 1998 envisage.

12. As has already been pointed out above, even the Rules of 1998 perceive of holding of qualifying screening test. The syllabus for such test has not been spelt out in the Rules of 1998. However, the respondent Corporation shall have, in

terms of the Rules of 1998, liberty to prescribe the syllabus for the screening test. Such qualifying screening test cannot, however, be of the same standard as has been conceived under the Rules of 2001, for, while the Rules of 2001, as already indicated hereinabove, require minimum educational qualification of 10+2 standard certificate, the Rules of 1998 require educational qualification of 10<sup>th</sup> standard as the minimum qualification for promotion to the post of TTA.

13. In the result and the reasons discussed above, the writ petition partly succeeds. While the respondents are left at liberty to prescribe the syllabus and prepare scheme for holding qualifying screening test in terms of the Rules of 1998, it is made clear that the cases of each of the present writ petitioners shall be considered by the respondents, in terms of the Rules of 1998, for promotion to the posts of TTA. The whole exercise, so directed, shall be completed within a period of 4 (four) months from to-day. Whatever decision is reached on the question of promotion of the petitioners by the respondents/authorities concerned shall be communicated, in writing, to the petitioner concerned. If any of the petitioners feel aggrieved by the decision that may be taken by the respondents/authorities concerned, while carrying out the directions given hereinbefore, the petitioner(s) concerned, who may be so aggrieved, shall be at liberty to approach this Court for appropriate directions."

(Emphasis is supplied).

(iv) Alleging that the respondent Corporation was willfully refusing to comply with the directions, given, on 26-05-2006, in WP(C) No. 620/2004, the first set of petitioners came to this Court with a contempt application on 26-11-2006. This contempt application has given rise to COP(C) No. 637/2006 aforementioned.

(v) Thereafter, the second writ petition, i.e., WP(C) No. 3282/2007, was filed by as many as 10 persons, who too claim to be eligible for consideration for promotion to the posts of TTA in terms of the Rules of 1998, their case too being, *inter alia*, that they are eligible for promotion to the posts of TTA and that their promotion is required to be considered in terms of the Rules of 1998. As the respondent Corporation was to hold requisite promotional test in terms of the Rules of 1998, the Court passed an order, on 28-06-2007, in WP(C) No. 3282/2007, directing the respondent Corporation to allow the second set of

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petitioners too to participate in the promotional test, which was to be held on 15-07-2007.

4. It is in the backdrop of the above facts that the present writ petition, namely, WP(C) No. 3282/2007 and the contempt case, namely, Cont. Case (C) No. 637/2006, are, now, required to be considered. On hearing the learned counsel for the parties and upon perusal of the materials on record, there remains no room for doubt, and there is, in fact, no dispute that the petitioners in WP(C) No. 3282/2007, who are hereinafter referred to as the second set of writ petitioners, stand on the same footing as do the first set of petitioners (i.e., the petitioners in WP(C) No. 620/2004, who are also petitioners in Cont. Case (C) No. 637/2006), except the fact that while in the case of first set of petitioners, there was a specific direction given, on 25-06-2006, in WP(C) No. 620/2004, to consider their cases, in terms of the Rules of 1998, in the manner as has been quoted above, no such specific direction was available in respect of the second set of petitioners. What can also not be ignored is that the total number of vacant available posts of TTA is 11 (eleven).

5. What, now, needs to be noted is that in WP(C) No. 620/2004 (i.e., the first writ petition), there were as many as 11 petitioners, but only 10 (ten) of them are still alive. In the second writ petition, i.e., WP(C) No. 3282/2007, the petitioners are as many as 10 in numbers. Thus, while the total number of persons, who were eligible to participate in the promotional test, in terms of the Rules of 1998, were as many as 20 (twenty), the total number of vacant promotional post is barely 11 (eleven).

6. The limited question, therefore, which falls for consideration, is this: Whether the directions given, on 26-05-2006, in WP(C) No. 620/2004, in favour of the first set of petitioners, can be taken to have had divested the second set



of petitioners from either participating in the selection test, which had been held in terms of the Rules of 1998, and/or from being considered for promotion, in terms of the Rules of 1998, in respect of the said 11 (eleven) vacant posts.

7. While considering the above aspect of the case, what is of immense importance to note is that on 30-01-2004, while issuing notice of motion in WP(C) No. 620/2004 (i.e., the first writ petition), the interim direction, which was passed, ran as under :

*"Pendency of this petition shall not be a bar for the respondents to hold the Screening Test/Limited Departmental Examination for consideration of the petitioners and other similarly situated persons for promotion to the post of Telecom Technical Assistant in Assam Telecom Circle, Assam."*

8. From the interim direction, which was passed on 30-01-2004, it becomes clear that the respondent Corporation had been given the liberty to hold the promotional test in respect of not only the cases of the first set of petitioners, but also of other similarly situated persons for promotion to the posts of TTA in Assam Telecom Circle. The interim directions, given, on 30-01-2004, were slightly modified, on 21-10-2004, by the Court inasmuch as the Court allowed the respondent Corporation to hold the selection test, but directed that the result of the selection test shall not be published without leave of the Court.

9. Thus, the interim directions passed in WP(C) No. 620/2004, as noted above, had entitled not only the first set of petitioners, but also the other eligible persons, similarly situated, such as, the second set of petitioners, to participate in the promotional test. No wonder, therefore, that on 28-06-2007, an interim order was passed, even in WP(C) No. 3282/2007, directing the respondent Corporation to allow the second set of petitioners to participate in the promotional test, which was to be held on 15-07-2007. In terms of the directions so given by the Court, both the sets of petitioners have appeared in

the promotional test, but their results have been kept withheld as had been directed by this Court.

10. Because of the fact that this Court finds that both the first as well as the second set of petitioners are persons eligible for consideration for promotion to the post of TTA in terms of the Rules of 1998, and because of the fact that no direction was given, in WP(C) No. 620/2004, restraining the respondent Corporation from allowing the second set of petitioners to participate in the said promotional test or restraining the second set of writ petitioners from participating in the promotional test, which was conducted, on 15-07-2007, in terms of the Rules of 1998, and in view also of the fact that both the set of petitioners have, indeed, appeared in the promotional test, held on 15-07-2007, it becomes abundantly clear that the question of promotion of both the set of writ petitioners needs to be decided on the basis of a common merit list to be drawn and prepared subject to the policy of reservation, which may have been in force.

11. Considering, therefore, the matter in its entirety and in the interest of justice, the respondent Corporation is hereby directed to prepare a common merit list by treating both the set of petitioners as one group of employees, who were eligible for being considered for promotion, in terms of the Rules of 1998, to the said 11 (eleven) posts of TTA, announce the result of the promotional test accordingly and make order(s) of promotion in respect of the said 11 (eleven) posts of TTA on the basis of inter se merit of both the set of petitioners subject to any policy of reservation, which may have been in force and are applicable to the participants. The whole exercise, so directed, shall be completed within a period of six weeks from today. It is further directed that the result sheet, which was submitted to this Court, under sealed cover,

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by the respondent Corporation, shall be returned, and/or handed over, to the learned counsel for the respondent Corporation.

12. It is also pertinent to point out that upon taking into account the facts and circumstances in their entirety, this Court does not find that any of the actions or omissions of the respondent Corporation and/or its employees reflect willful defiance of the directions/orders passed by this Court. The contempt proceeding is, therefore, closed.

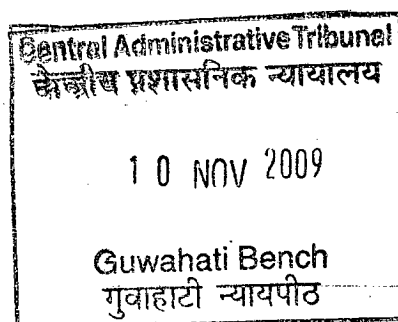
13. With the above observations and directions, the writ petition as well as the contempt proceeding shall stand disposed of.

14. No order as to costs.

Sd/- I. A. Husari  
Judge

CERTIFIED TO BE TRUE COPY  
Date: 10.11.08  
Superintendent (Copying Section)  
Gauhati High Court  
Authorised U/S 76, Act 1, 1872

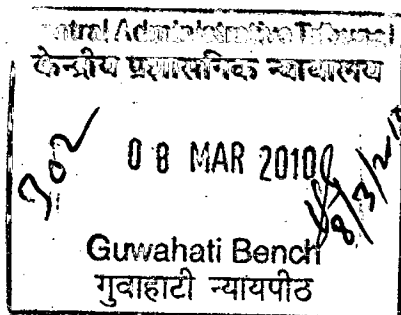
*[Signature]*  
10.11.08



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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**GUWAHATI BENCH**



**IN THE MATTER OF:**

O.A. No. 222/09

Sri Ishwari Prasad Sarma & Ors.

.....Applicant

-VS-

Union of India and Ors.

.....Respondents

-AND-

**IN THE MATTER OF:**

An affidavit filed by the respondent no. 1, Union of India represented by the Secretary to the Government India, Ministry of Telecommunications and Information Technology, Department of Telecommunications in O.A. No. 222/09.

**(AN AFFIDAVIT ON BEHALF OF RESPONDENTS NO.1)**

I, A.V.PADUBSDAS s/o Late Sri: V.S.PADUBSDAS  
aged about 58 years, presently working as the Dy.CCA of CCA Assam  
Telecom Circle, Guwahati, do hereby solemnly affirm and state as follows:-

1. That the humble deponent begs to state that in the said O.A., the applicant, Sri Ishwari Prasad Sarma, has approached the Hon'ble Tribunal praying for a direction to the respondents to promoted the applicants to the post of TTA as has been done in the case of the 9 person more particularly as indicated in serial-no. 12 to 20 of the merit list of the Examination held on 15.07.07 w.e.f. from the date on which they have been given effect of such promotion including all the consequential service benefits including arrear salary, seniority, etc.

2. That the deponent begs to state that that at present the applicant is an absorbed employee of BSNL and thus there is no employee-employer relationship between the applicant and the Department of Telecommunications. The Personnel and Establishment matter of the applicant is under the administrative control of

Filed by: -  
The Respondent No. 1  
Through  
Mangul Das  
Sr. C. S. C.  
8/3/2010  
Dy. CCA,  
Assam Telecom Circle  
Guwahati  
24/3/10  
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8/3/10

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BSNL only and no role of Department of Telecommunications is involved in such matter.

3. That the deponent begs to state that this ~~Affidavit~~ has been filed for affirming that the Department of Telecommunications has no role in the present case, the applicant, Sri Ishwari Prasad Sarma, being already under the administrative control of BSNL. The issues raised by the applicant pertain to BSNL only. The relief too sought by the applicant i.e. Sri Ishwari Prasad Sarma cannot be granted by the Department of Telecommunications, as the relief sought for is not under the purview of Department of Telecommunications.

4. That this Affidavit is made bona fide and for the ends of justice.

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D. 10/24/2/16  
Assam Telecom Circle

**AFFIDAVIT**

I, D.V. PADUBIDAR s/o Late Sri. V.S. PADUBIDAR aged about 58 years, presently working as the Dy. C.A. o/o C.A. Assam Telecom circle, Guwahati, do hereby solemnly affirm and state as follows:-

1. That I am well conversant with the facts and circumstances of the case, thus competent to swear this affidavit. I have been authorized to file this affidavit on behalf of petitioner (Respondent No. 1 of the O.A. No. 222/09).

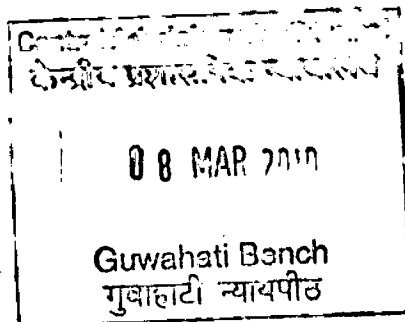
2. That the statements made in this affidavit and in paragraphs 2, 3 and 4 are true to my knowledge and those made in paragraphs 1 are being matters of records of the case derived therefrom which I believed to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this 24<sup>th</sup> day of February, 2010 at Guwahati.

Identified by:-

Mangal Das

Advocate.



Whem  
DEPONENT  
24/2/10  
C.A. Assam Telecom Circle

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Filed by  
H.K. Gogoi  
Advocate  
8.3.2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: AT GUWAHATI

O.A. No.222 / 2009

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Guwahati Bench  
8/3/2010

Sri Ishwari Prasad Sarma & 21 others

... Applicants

-VS-

Union of India & 6 others

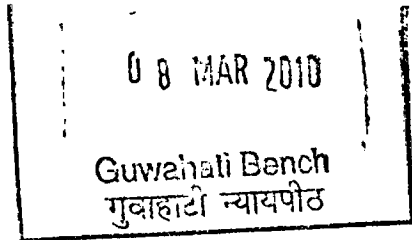
... Respondents

[WRITTEN STATEMENTS FILED BY THE  
RESPONDENT No. 2 to 7 (BSNL)]

The written statements of the above-mentioned respondents (BSNL) are as follows:

1. That the copy of the above noted O.A. No. 222/2009 (hereinafter referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of the respondent Nos.2 to 7 being common and similar, the written statements as filed herewith may kindly be treated as common to all of the respondents.
2. That the statements made in the application, which are not specifically admitted by the respondents are hereby denied.
3. That before traversing the various paragraphs of the application, the respondents beg to give a brief resume of the facts and circumstances of the case as under:
  - a) That a group of employee comprising of 11 (one died during the pendency of the case) in numbers, filed a writ petition vide WPC No. 620/2004 in the Hon'ble Gauhati High Court with the prayer to hold the screening test under 40% quota for the post of Telecom Technical Assistant (in short "TTA") as per Telecom Technical Assistant Recruitment Rules, 1998 framed on 25.01.1999 and published in official Gazette on 6.2.1999 and the rest of the post as per Recruitment Rules dated 27.07.2001. The said case was contested by the BSNL. After hearing the parties the Hon'ble High Court was pleased to pass the final judgment and order on 26.05.2006 and thereby directing the BSNL to hold the screening test in terms of Recruitment Rules of 1998 for promotion to the post of Telecom Technical Assistant and the said exercise was to be completed within a period of 4 months from the date of the order.

सहायक महाप्रबंधक (प्रशासन)  
Asstt. General Manager (Admn.)  
कार्यालय मुख्य महाप्रबंधक, गुवाहाटी  
O/o the Chief General Manager, BSNL  
असम दूरसंचार परामर्शक निगम लि.  
Guwahati Circle, Guwahati-781005



It was further directed to the BSNL to communicate any decision so arrived and with further liberty to approach the appropriate forum if so aggrieved. By the said decision the Hon'ble High Court made it categorically clear that the direction which have been given in respect of the petitioners may not be extended by the respondents/ authorities to anyone other than the writ petitioners. After receipt of the said judgment, the local authority of the Assam circle took up the matter with the concerned authority in the Corporate Office of BSNL, New Delhi for taking necessary decision and to advice the local authority accordingly.

The copy of the said judgment and order dated 26.05.2006 is annexed as **ANNEXURE – R1.**

- b) That the Corporate Office, New Delhi, examined the matter and took a decision to go for further judicial review of the order-dated 26.05.06 and necessary instruction were given to the local authority. Accordingly a Writ Appeal was prepared and filed along with a Misc. Application vide No.4397/06 for condoning delay. During the pendency of hearing of the said Writ Appeal and the Misc. Application, the writ petitioners in WPC No. 620/04 filed a Contempt Case alleging contempt of court for non-implementation of the order dated 26.05.2006. The BSNL submitted their affidavit in the said contempt case registered as Contempt Case No. 637/06 and explained about the reason of delay in implementation of the Hon'ble Court's order as they have gone for further judicial review of the said order. In the meantime, the Misc. Case no. 4397/06 was listed for hearing on 6.12.06 before the Hon'ble High Court (Division Bench). The said Misc. case was heard and notice was directed to be issued with steps to be taken within 3 days under registered post with AD failing which it was ordered that the petition as well as the appeal shall stand as dismissed without any further reference to the Court. Although the steps were taken, the same could not be effectuated inadvertently due to the lapse on the part of the Advocate's Clerk. As a result, the Misc. case as well as the appeal stood automatically dismissed before going into merit of the case. As the case was not further listed before the Hon'ble High Court, the said lapse came into light only when the contempt case was listed for order and the contemnor produced the copy of the order dated 6.12.2006 in said Misc. Case.

The copy of the said order dated 6.12.2006 is annexed as **ANNEXURE –R2.**

सहायक महाप्रबंधक (प्रशासन)  
Asstt. General Manager (Admn.)  
कार्यालय मुख्य महाप्रबंधक / वेब: www.bsnl.co.in  
the Chief General Manager BSNL  
7810



- c) That the BSNL local authority immediately took up the matter with the Corporate Office, New Delhi and sought advice for further course of action in the matter. On that, the Corporate Office, New Delhi took a decision to implement the order dated 26.05.2006 passed in WPC No. 620/04 as the question of implementation was limited to only 11 writ petitioners. Accordingly all necessary arrangement for holding the screening test on 15.07.2007 were made and announced / notified. In the meantime, another group of as many as 10 employees approached the Hon'ble High Court through another writ petition (WPC No. 3282/07) and thereby prayed that they also be allowed to appear in the screening test for promotion to the post of Telecom Technical Assistant scheduled to be held on 15.07.07 as per Recruitment Rules, 1998. The Hon'ble High Court, in the interim, was pleased to pass an order on 28.06.2007 and thereby directed the BSNL to allow the petitioners in WPC No.3282/07 to participate in the screening test scheduled to be held on 15.07.2007 subject to further orders that may be passed in the said writ petition. The BSNL was aggrieved on receipt of the said order and immediately took step by filing a Misc. case on 4.7.07 seeking cancellation / modification / vacation of the said order dated 28.06.2007. The said Misc. case was numbered as M.C. 2554/07. But the said Misc. case remained ineffective as the same could not be moved before 15.07.2007 (the date fixed for holding the screening test) due to the ongoing summer vacation of the Hon'ble Gauhati High Court. As a result the BSNL had no other alternative option but to allow the writ petitioners in WPC No. 3282/07 also along with the petitioners in the WPC No. 620/04.

The copy of the said order dated 28.06.2007 is annexed as **ANNEXURE -R3.**

- d) That during the pendency of the above contempt case No. 637/06 and the WPC NO. 3282/07, the petitioners in WPC No. 3282/07 filed a Misc. case vide No.2836/07 in the Hon'ble High Court thereby praying for declaration of the results of the screening test. After hearing the matter, the Hon'ble Court vide order dated 1.8.2007 directed the BSNL to place the results before the said Hon'ble Court and the case was further directed to be listed after two weeks. By the said order the Hon'ble Court also directed the BSNL to indicate as to whether the BSNL have any objection if the results of the petitioners are declared and further action as may be deemed necessary to be taken.

The copy of the said order dated 1.8.2007 is annexed as **ANNEXURE - R4.**

सहायक महाप्रबंधक (प्रशासन)  
Asstt. General Manager (Admn.)  
कार्यालय मुख्य महाप्रबंधक / वी एम एम एम.  
Olo the Chief General Manager BSNL  
असम दूरसंचार परिसर, गुवाहाटी-1  
Guwahati Circle, Guwahati - 78100

- e) That the contempt case was again listed on 13.8.2007, when the advocate appearing on behalf of BSNL, clarified the position and the developments including steps taken in the case towards compliance of the order and also prayed that there is no contempt within the meaning of term. It was also submitted by the BSNL that the authorities of the BSNL, while finalizing the results, are in dilemma as they are to move by respecting / obeying two different orders passed in two different writ petitions and such orders are not concurring each other. Therefore it was also prayed verbally that the pending WPC No. 3282/07 and Misc. Case No. 2836/06 be clubbed together and connected with the Contempt Case No. 637/06 for hearing the matter as a whole. In view of the submission, the Hon'ble Court was pleased to grant one month's time for finalizing the select list and to list the matters together.

The copy of the said order dated 13.8.2007 is annexed as ANNEXURE -R5.

- f) That the said contempt case was again listed on 14.09.2007 and the advocate appearing on behalf of the BSNL explained all about the facts and circumstances of the case and the subsequent developments. The Hon'ble Court, considering the situation granted two week's time to submit the complete results of the screening test before the court in a sealed cover. In compliance with the said direction the results have been prepared and the same was made ready to be placed before the Hon'ble High Court.

A copy of the said order dated 14.9.2007 is annexed as ANNEXURE - R6.

- g) That in the meantime there had been some more development and another group of employees (2 of them are also applicants in this OA at serial No.2 and 19) have come out with a joint representation dated 17.09.2007, which was signed on 19.9.2007 thereby claiming that they also may be given the legitimate opportunity to be screened for promotion to the post of Telecom Technical Assistant before declaring the results of the screening test held on 15.07.2007. From the facts and circumstances of the case it has become clear that if the screening test is not limited to the batch of employees as per restrictions as imposed by the Hon'ble High Court in the judgment and order dated 26.5.2006 in WPC No. 620/04, it would become a never ending business. It is also pertinent to state here that in the meantime, the entire Recruitment Rule has been amended and the new Recruitment Rule has

সহায়ক মহাপ্রবন্ধক (প্রশাসন)  
Asstt. General Manager (Admn.)  
কার্যালয়: মুখ্য মহাপ্রবন্ধক (প্রশাসন)  
Olo the Chief General Manager  
অসম দূরসংযোগ পরিষদ, গুৱাহাটী  
Assam Telecom Circle, Guwahati

been brought into existence considering the pace of development of science and technology to suit the modern technological developments and to bring in proper qualified person with specialized knowledge to do specialized technical jobs.

The copy of the said representation dated 17.9.2007 is annexed as **ANNEXURE -R7.**

- h) That the Telecom Technical Assistant Recruitment Rules, 1998 came into force with effect from 6.2.1999 but immediately thereafter the said Recruitment Rule was amended vide the Telecom Technical Assistant (Amendment) Rules, 1999 and the same came into force from 25.10.99. In the meantime, pursuant to the New Telecom Policy, 1999, the Government of India as a matter of policy, decided to corporatize the services of Department of Telecom (DOT) and accordingly a company was formed and registered under the Companies Act, 1956 in the name and style as "Bharat Sanchar Nigam Limited" (BSNL). The said company came into existence with effect from 15.09.2000 and all the assets and liabilities of the erstwhile DOT was transferred to BSNL with effect from 1.10.2000. On 27.9.2000, the DoT instructed the different Chief General Managers of all Telecom Circles to hold the screening test for promotion of Senior TOA/TTA, but the said decision was cancelled on 5.12.2000 due to the above changes. The Telecom Technical Assistant Recruitment Rules, 1998 and the Telecom Technical Assistant (Amendment Rules), 1999 are the statutory rules made under Article 309 of the Constitution of India, while the Telecom Technical Assistant Recruitment Rules, 2001 has been made by the Board of Directors of the BSNL. The Board of Directors of BSNL is the highest decision making authority. According to the Telecom Technical Assistant Recruitment Rules, 1998, the eligibility criteria from the feeder grade Telcom Mechanic is 5 years. But the Telecom Technical Assistant (Amendment) Rules, 1999 has changed the said criteria and fixed the eligibility criteria as 10+2 standard pass certificates with 5 years regular service as Telecom Mechanics. The vacancies are distributed (i) as 50% for direct recruitment, (ii) 10% by way of absorption and (iii) rest 40% promotion through departmental limited examination. However, this amended provision could not be placed and argued inadvertently while the WPC No. 620/04 was heard and decided by the Hon'ble Gauhati High Court. This question of law was very much taken up in the Writ Appeal, which was dismissed on technical ground and not on merit. By the Telecom Technical Assistant Recruitment Rule, 2001 of BSNL the said eligibility criteria has further been changed, but so far as the petitioners are concerned the educational qualification has been retained as 10+2 standard certificate with the 50%, 10% &

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कार्यालय: मुख्य महाप्रबंधक, बीएसएनएल  
O/o the Chief General Manager, BSNL  
असम दूरसंचार परिमण्डल, गुवाहाटी-1  
Guwahati Circle, Guwahati - 78100

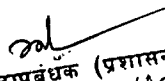
40% categorization (40% in this case). In all the said three Recruitment Rules the Telecom Technical Assistants are classified as SSA Cadre (Secondary Switching Area, under the General Manager, BSNL in each and every Telecom Districts) and their Recruitment Zone is limited to such SSA only including position of vacancies in each such Telecom District. This is not a circle cadre or inter circle cadre as claimed by the applicants.

The respondents crave the leave of this Hon'ble Tribunal to allow them to rely upon and produce the copies of the aforesaid Recruitment Rules at the time of hearing of the case.

- i) That the petitioners in WPC No. 620/04 and the WPC No. 3282/07 and the signatories in the representation dated 19.9.2007 are employees under the Kamrup SSA only. Apart from the Kamrup SSA, there are some other SSAs under the Assam Circle, like Dibrugarh SSA, Jorhat SSA, Silchar SSA, Nagaon SSA, Tezpur SSA and Bongaigaon SSA. The screening test is held only depending upon the available vacancies in such SSAs and not otherwise.
- j) That as on 6.2.1999, the crucial date fixed by the Telecom Technical Assistant Recruitment Rules, 1998, under which the screening test of the petitioners in both the said writ petitions were held, the total vacancies for all the SSAs in the Assam Circle was 67 as a whole. Out of these 67 vacancies, only 4 vacancies were there in the SSA Kamrup. In view of this vacancy position the interim order passed by the Hon'ble High Court in Misc. Case No. 3633/04 in WPC No. 620/04 were to be reviewed and modified as the said interim order was passed as ad-interim directing the BSNL to keep as many as 11 posts of Telecom Technical Assistant in the Assam Circle out of the quota meant for filling up by promotion as vacant. The TTAs are categorized as the SSA cadre posts and such posts cannot be distributed and thrown open for promotion by candidate belonging to other SSAs or circles. Moreover, the interim order dated 28.6.2007 passed in the WPC No. 3282/2007 was beyond the scope limited by the judgment and order dated 26.5.2006 as the screening test was to be held only for the said 11 candidates and the same was not to be extended to anyone other than the writ petitioners in WPC No. 620/2004. Unless this two different divergent views / orders are settled and unified at a meeting point, the BSNL would be put in dilemma as to which order is to be followed and in what manner.

- k) That during the course of hearing of the case and the arguments made by both the sides in the case, the Hon'ble Court was pleased to direct the respondents (i) to let it know if the petitioners in the writ petition were eligible for promotion as on 24.10.1999 under the Recruitment Rules, 1998, which came into force with effect from 6.2.1999. The Hon'ble Court also wanted to know from the respondents (ii) as to how many posts are to be filled up pursuant to the screening test held on 15.7.2007. These directions were given by the Hon'ble Court vide order dated 3.1.2008 while hearing the above noted WPC No. 3282/2007 along with Contempt Case (c) No. 637/2006.
- l) That to answer the query made by the Hon'ble Court as above, the respondents had the instructions to say that all the petitioners in the WPC No.3282/2007 were eligible for promotion as on 24.10.1999 as per Recruitment Rules, 1998.
- m) That the respondents in WPC No. 620/2004 filed a Misc. case vide MC No.3633/2004 thereby seeking permission from the Hon'ble Court to allow them to publish the results. The Hon'ble High Court on hearing the said Misc. case was pleased to pass an order on 22.12.2004 and thereby granted liberty to publish the result subject to the condition that the respondents shall keep vacant 11 number of posts of TTA in the Assam Circle out of the quota meant for filling up of the same by promotion. In compliance with the said order of the Hon'ble High Court the respondents kept as many as 11 vacancies of TTA as vacant. Hence, these 11 numbers of vacancies were available for filling up under the Recruitment Rules, 1998. There was no other vacancy left vacant under the said Recruitment Rules, 1998.
- n) That as per Recruitment Rules, 1998 the total vacancy as on 6.2.1999 were 67 in total in different SSA (Secondary Switching Area), which were shown as below:

Name of SSA	Sanctioned Strength	Working Strength	Vacancy as on 6.2.1999
Kamrup	70	66	4
Dibrugarh	42	37	5
Jorhat	43	43	Nil
Nagaon	37	12	25
Silchar	33	33	Nil
Tezpur	57	41	16
Bongaigaon	43	26	17
Total	-	-	67

  
 सहायक महाप्रबंधक (प्रशासन)  
 Asstt. General Manager (Admn.)  
 कार्यालय- मुख्य महाप्रबंधक I बी एस एन एल  
 O/o the Chief General Manager, BSNL  
 असम दूरसंचार परिसर, गुवाहाटी-781005  
 Assam Telecom Circle, Guwahati-781005

- o) That except the said 11 vacancies of TTA as kept vacant in compliance with the Hon'ble court's order as stated above, the respondents were at liberty to fill-up all the remaining 56 (67-11) vacancies. Accordingly the respondents held the qualifying test for promotion to TTAs on 24.10.2004 as per new Recruitment Rules known as "Telecom Technical Assistants (TTAs) Recruitment Rules, 2001" framed by the BSNL as per distribution of vacancies as under:

50% of the said vacancies for direct recruit quota;

40% through Limited Internal Departmental Competitive Examination (LICE) 10% through walk-in-group.

The above position may be further be explained as under:

Total vacancies (SSA wise) as on 6.2.1999 .....	=67
Less vacancies kept vacant .....	(-)11
Balance total vacancies .....	56
50% of 56 recruited from direct quota.....	(-)28
40% quota under LICE .....	(-)22
10% quota by walk-in-group .....	(-)6
Total vacancies filled up after 6.2.1999 .....	56
Latest position of vacancies .....	NIL
(Except 11 vacancies as per Court's order).	

- p) As illustrated above, there was no other vacancy available for Departmental Quota at that relevant point against the Recruitment Rules, 1998. It is also worth mentioning here that under the Recruitment Rules of 1998, there was no vacancy under the Jorhat and Silchar SSA. If any petitioner out of the 11 petitioners in WP(C) No. 620/2004 belonged to Jorhat or Silchar SSA, such petitioners cannot be accommodated in their respective Jorhat / Silchar SSA. In such cases the respondents will have to obtain option of the candidates whether they would be willing to accept promotion against the available vacancy in SSAs other than Jorhat / Silchar as applicable at that time.

That in view of the above clarification, the respondents say that all the petitioners in WPC No. 620/2004, who have been able to pass the screening test held on 15.7.2007 could be accommodated to undergo training and subsequent promotion to the post of TTA as the judgment and order dated 26.5.2006 has attained the finality. As the number of candidates in the WPC No. 620/2004 had come down to 10 after the death of one of the petitioners, one vacancy could be made available for the petitioners in the WPC No. 3282/2007. It was also highlighted before the Hon'ble

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O/o the Chief General Manager  
असम दूरसंचार परिषद/ Assam Telecom Circle, Guwahati

High Court that the vacancy position would depend upon and could be determined after knowing the results of the candidates / petitioners in the WPC No. 620/2004. The more the number of successful candidates, lesser the chance for the writ petitioners in the WPC No. 3282/2007. For example, if the number of successful candidates in WPC No. 620/2004 is 7, in that case 4 candidates in WPC No. 3282/2007 could have the chance for training and promotion along with the other candidates from the WPC No. 620/2004.

That under the above circumstances the respondents, BSNL was able to accommodate only 11 candidates / petitioners from both the aforesaid writ petitions. As the Hon'ble High Court judgment was beyond the scope of the aforesaid TTA (Amendment) Rules, 1999, some 9 additional posts occurred thereby enabling the BSNL to accommodate as many as 20 candidates who were declared successful in the screening test, which was done accordingly.

4. The Hon'ble High Court ultimately heard the WPC No.3282/2007 and passed the final judgment on 30.10.2008. In passing the said judgment, the Hon'ble High Court reconciled the restrictions imposed in the earlier decision restricting the vacancy to the applicants as in WPC No.620/2004 and thrown open the vacancies to be equally distributed among the applicants in WPC No.3282/2007. It is also pertinent to see and understand that the Hon'ble High Court did not consider the fact of the existence of TTA (Amendment) Rules, 1999 as set up as a plea by the respondents in their affidavit-in-opposition in paragraph 3(h) and thereby leaving a scope of interpretation of the vacancy position and for consideration of such promotion by holding screening test.

The copy of the judgment dated 30.10.2008 is annexed as  
**ANNEXURE: R8**

**PARAWISE COMMENTS:**

5. That with regard to the statements made in Para 1 of the application the answering respondents state that the present set of applicants are in now way or manner are similarly situated persons with those petitioners in WPC No.620/2004 and WPC No.3282/2007. Those petitioners were very much vigilant with their rights and they took up the matter in the legal process and as a result they were allowed to come within the zone of consideration under the Recruitment Rules, 1998; although the said decision of the Hon'ble High Court was passed in *per incuriam* as the existence

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O/o the Chief General Manager  
असम दूरसंचार परिषद्, गुवाहाटी  
Telecom Circle, Guwahati

of the TTA (Amendment) Rules, 1999 could not be placed / argued by either of the side or by the Hon'ble Court in passing the said judgment. At least two applicants out of the present set of applicants, were very much present while the screening test was held and they attempted to come within the zone of consideration while the matter in WPC No.3282/2007 was pending before the Hon'ble High Court for a final decision as stated hereinabove. But none of the applicants including the said two applicants contested the case in the High Court at the appropriate time nor they tried to intervene in the matter as intervener. The settled law is that a writ court is a court of equity and in equity the parties are expected to be vigilant for enforcement of their right at the appropriate time. Equity looks not him who slumbers upon his own claim. While the applicants were sleeping, the other similarly situated persons as in WPC No.3282/2007 promptly came up and got the order from the Hon'ble High Court on 28.6.2007 thereby permitting them to appear in the screening test to be held on 15.7.2007. This was the last date on or before which the applicants could have approached the appropriate court in order to vindicate their rights, if any. That has not been done; and now after the lapse of about 3 years they are now trying to get benefit out of a dead / stale claim. The Hon'ble Supreme Court has laid down law that "when a stale or dead issue / dispute is considered and decided, date of such decision cannot furnish a fresh cause of action for reviving dead issue or time barred dispute. Issue of limitation or delay and laches has to be considered with reference to original cause of action and not with the reference to date on which an order is passed in compliance with a court's direction." On the other hand the applicant are specific in their claim that they are not challenging the promotion of applicants in the said writ petitions in the High Court and the case of as many as 9 other candidates, who appeared in the screening test and successfully passed the screening test and subsequently promoted as in para 4.20 of the application.

6. That with regards to the statement made in Para 2 and 3 the respondents beg to state that as stated hereinabove, the matter is barred by law of limitation as the cause of action arose on 28.6.2007 when they failed to take up their matter like the other similarly situated persons or 17.9.2007 as in Annexure: R7 of this WS, when they submitted their representation to the competent authority.
7. That with regard to the statement made in Para 4.1, 4.2, 4.3 and 4.4 of the application the respondents reiterate the foregoing statements and state that the Recruitment Rules came into force w.e.f. 6.2.1999 and was in force up to 24.10.1999. The Recruitment Rules of 1998 was amended by TTA (Amendment)

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Olo the Chief General Manager  
असम दूरसंचार परिषद, गुवाहाटी  
Telecom Circle, Guwahati



Rules, 1999, which came into force w.e.f. 25.10.1999 and remained in force till 26.7.2001. Thereafter while the Govt. of India as a matter of policy corporatise the telecom services and telecom operations created the Bharat Sanchar Nigam Limited, a duly registered Government Company under the Companies Act, 1956 and transferred to it all the assets and liabilities w.e.f. 1.10.2000. This BSNL, which is a separate distinct legal entity and not a department of the Government of India, formulated their own Recruitment Rules relating to recruitment of TTA and the same is known as TTA Recruitment Rules, 2001 and the same is still in force.

The claim of the applicants is that they are similarly situated with those in WPC No.620/2004 and 3282/2007. Apparently those employees in the said writ petitions were eligible as on 6.2.1999. Whereas the admitted fact at the instance of the applicants themselves that they were recruited as Phone Mechanics in the year 1993 and 1994. The requirements of the R/R, 1998 as on 24.10.1999 should be 5 years in regular service a Telecom Mechanic. After 25.10.1999 under the R/R, 1999 the eligibility criteria being amended, is 5 years regular service with 10+2 standard passed. But in the application, nothing is clear as to how many of them completed 5 years as on 6.2.1999 or 25.10.1999. Therefore nothing is admitted which are not borne on record as referred to by the applicants. Moreover, a judgment per-incuriam cannot lay down any ratio to be followed subsequently as a precedent as the aforesaid writ petitions were decided per incuriam.

8. That with regard to the statement made in Para 4.5, 4.6 and 4.7 of the application the respondents state that these are facts, which are not relevant in the instant case. As stated hereinabove, the TTA is a SSA cadre post and it has no relation with inter circle matter. The applicants are therefore not similarly situated with those other employees of another circle and they cannot claim equal treatment in the matter of holding of screening test for promotion.
9. That with regard to the statement made in Para 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14 and 4.15 of the application the respondents reiterate and reassert the foregoing statements and state that these are all matter of records; nothing is admitted which is not borne on such records. Moreover, as stated hereinabove, the present set of applicants are not similarly situated with those in the aforesaid writ petitions. Those in the said writ petitions were very much vigilant and they availed the opportunity at

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Asstt. General Manager (Admn.)  
कार्यालय मुख्य महाप्रबंधक, दूरभाष व दूरसंचार  
O/o the Chief General Manager, Telecom  
असम दूरभाष व दूरसंचार विभाग, गुवाहाटी  
Telecom Circle, Guwahati

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Rules, 1999 and without any observation or restriction in that regard. In this regard the respondents respectfully submit that the decisions of the Hon'ble High Court being judgment *per incuriam*, cannot be treated as precedent and such precedent cannot also be perpetuated by misinterpreting the existing rules. As the aforesaid two judgments passed in WPC No.620/2004 and 3282/2007 had no mention about the existence and operation of the TTA (Amendment) Rules, 1999, the said judgments are hit by doctrine of *sub-silento*, which cannot be regarded as law declared having binding effect as contemplated in Article 141 of the Constitution of India. The law is settled as in "**A-One Granites v. State of UP & others**" reported in (2001) 3 SCC 537. The settled provision of law is that illegality cannot be perpetuated by misinterpretation of provisions of law.

In this connection, it is pertinent to note here that the applicants have admittedly not challenged the promotion of the said 9 other candidates; but interestingly on the other hand, they pray for similar relief as granted to the said other 9 candidates. Such claim / relief as sought for cannot sustain in law as the present applicants are not similarly situated as they never appeared in any such screening test and came out successfully as the said other 9 candidates and therefore they cannot claim similar treatment in the eye of law and also in absence of any other vacancy.

11. That with regard to the statement made in Para 5.1 to 5.7 of the application the respondents reiterate and reassert the foregoing statements and state that for the facts and circumstances of the case and under the provisions of law, the applicants are not entitled to any such relief as prayed for and the application is liable to be dismissed with cost. In this regard, the respondents state that the scope of promotional avenues, prescription of qualification, framing and change of rules etc. are matter within the exclusive domain of the executive and the court or the Tribunal has no power to interfere in such matter. Such law is settled as in "**P.U. Joshi & others -vs- Accountant General, Ahmedabad & others etc as reported in 2003 (2) SCC 632**". Moreover, promotion in service cannot be claimed as a matter of right.
12. That with regard to the statement made in Para 6 and 7 of the application, the answering respondents respectfully beg to state here that the applicants had ample

Opportunity to avail their chances , but they failed to do so deliberately or willfully and now they are craving after a stale claim , which cannot be protected under the provisions of law.

13. That with regard to the statement made in Para 8.1 , 8.2 , 8.3 and 9 of the application the respondents state that for the reasons stated above , under the facts and circumstances of the case and the provisions of law , rules , the application is devoid of any merit and the same is liable to be dismissed as baseless with cost.
14. That the written statements are filed bonafide and for the ends of justice.

In the premises aforesaid , it is therefore , prayed that your Lordships would be pleased to hear the parties , peruse the records and after hearing the parties and perusing the records shall also be pleased to dismiss the application with cost.

### Verification

I, Shri X. K. RAJHA , son of Late Mah' Lal Rajha , aged about 56 years , resident of BSNL Gtr. Type IV Block at present working as the Asstt. General Manager (Admn.) in the office of the General Manager Panbazar Chief General Manager, BSNL, Assam Telecom Circle , being competent and duly authorized to sign this verification do hereby solemnly affirm and state that the statements made in Para 1, 2, 3 (h) to 3 (p), 5 to 14 are true to my knowledge and belief, those made in Para 3(a) to 3(g) and 4 ..... being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 8<sup>th</sup> Day of March , 2010 at Guwahati.

DEPONENT

*[Signature]*  
 सहायक महाप्रबंधक (प्रशासन)  
 Asstt. General Manager (Admn.)  
 कार्यालय - मुख्य महाप्रबंधक / बी.एम.एन.एन.  
 O/o the Chief General Manager, BSNL  
 असम दूरसंचार परिमण्डल, गुवाहाटी-1  
 Assam Telecom Circle, Guwahati - 781001

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ANNEXURE : R1  
ANNEXURE : R1  
ANNEXURE : 10

THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA;  
MANIPUR; TRIPURA; MIZORAM AND ARUNACHAL PRADESH)

WP(C) 620/2004

1 Shri Ambikka Bezbaruah,  
S/o. late Gopal Chandra Bezbaruah  
O/O. Sub-Divisional Engineer,  
Maintenance and Control,  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

2. Sri Umesh Ch. Kalita,  
S/o. late Pani Ram Kalita,  
O/O. Sub Divisional Engineer(OCB),  
Maintenance and Control,  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

3. Sri Jugindra Singh  
S/o. Sri N. Singh  
O/O. DEE - 10-B  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

4. Md. Muksheed Ali,  
O/O. SDO (Phones) West,  
Bharalumukh, Guwahati-9.

5. Sri Ranty Ram Kumar  
S/o. Sri M Kumar  
O/o. SDE (Power Plant)  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

6. Sri Pradip Malakar  
S/o. late Pabitra Malakar  
O/O. SDO(P) West-II  
Guwahati-1

7. Shri Debashish Bhattaharjee  
S/o. late DR Bhattaharjee  
O/o. E-10-B  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

8. Ms. Naushad Ali  
O/O. SDE (Msc)  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

9. Sri Swapan Kumar Brahma  
S/O. late Mohin Chandra Brahma  
Panbazar Telephone Exchange  
Panbazar, Guwahati.

Certified to be true Copy.  
H. K. Gogoi  
Advocate

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10. Sri Dhaneswar Malakar  
O/O. SDFC  
Panbazar, Guwahati-1

11. Sri Barendra Paul  
S/o. late Pachugopal Paul  
O/O. SDE, MVC,  
Panbazar, Guwahati-1

..... Petitioners

-VERSUS-

1. The Union of India,  
Represented by the Secretary to the Department of  
Telecommunication, Ministry of Telecommunication,  
New Delhi.

2. The Bharat Sanchar Nigam Ltd  
(A Govt. of India Enterprise)  
represented by the Chairman, BSNL  
Registered office, Sanchar Bhawan,  
New Delhi

3. The Chief General Manager,  
Assam Telecom Circle,  
(BSNL), Ulubari,  
Guwahati-7

4. The General Manager,  
Kamrup Telecom District, (BSNL)  
Ulubari, Guwahati-7

5. The Asstt. Director General (DE), BSNL  
(A Govt. of India Enterprise)  
Dak Bhawan,  
Sanchar Marg,  
New Delhi - 110 001

..... respondents

**PRESENT**  
**THE HON'BLE MR. JUSTICE I.A. ANSARI**

For the petitioners

: Mr. J.L. Sarkar, Advocate.

For the respondents

: Mr. M. Singh, Advocate

Date of hearing & date of Judgment

: 26.05.2006

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JUDGMENT AND ORDER (ORAL)

I have heard Mr. J. L. Sarkar, learned counsel for the petitioners, and Mr. M. Singh, learned counsel, appearing on behalf of the respondents.

2. The petitioners herein were appointed, on different dates, in the year 1993-1994, as Telephone Mechanic/Tele-Communication Mechanic. In terms of the Telecom Technical Assistant Recruitment Rules, 1998, (in short, 'the Rules of 1998'), which came into force on 06.02.1999, a Telephone Mechanic/Tele-Communication Mechanic was eligible for consideration for promotion to the post of Telecom Technical Assistant (in short, 'the TTA') on completing five years of regular service in the grade of Telephone Mechanic/Tele-Communication Mechanic.

3. The grievance of the present petitioners is that in terms of the Rules of 1998, the petitioners, having put in requisite period of service of five years in the grade of Telephone Mechanic/Tele-Communication Mechanic, had become eligible for promotion to the post of TTA as far back as in the year 1999, and though vacancies were available in the posts of TTA, the petitioners were not considered for promotion and the qualifying screening test, as envisaged under the Rules of 1998, were not held; whereas similarly situated employees, working in the cadre of Telephone Mechanic/ Tele-Communication Mechanic in other circles of the respondent department, including the North Eastern Circle, Shillong, have been considered and promoted to the cadre of the TTA, in the year 2000, by holding screening tests in terms of the Rules of 1998. It is also the grievance of the petitioners that the Rules of 1998 were amended by bringing into force, on 27/07/02, the Telecom (Technical) Assistant Recruitment Rules, 2001 (in short, 'the Rules of 2001'), whereby promotional avenues of the Telephone Mechanic/Tele-Communication Mechanic has been drastically reconstructed by making 10+2 standard certificate or equivalent certificate as

the minimum educational qualification for promotion to the post of the TTA from the grade of Telephone Mechanic/Tele-Communication Mechanic. The Rules of 2001 also envisage holding of limited departmental competitive examination for promotion to the post of TTA from the group-C employees, which consists of Telephone Mechanic/Tele-communication Mechanic too. Though under the Rules of 1998, there was no provision for holding limited departmental competitive examination and though the petitioners, having become eligible for consideration for promotion to the post of TTA long before the Rules of 2001 came into force, were not required to appear in any limited departmental competitive examination and though the respondents/authorities concerned ought to have held qualifying screening test in terms of the Rules of 1998 for deciding the question of promotion of the petitioners to the post of TTA, the respondents/authorities concerned have been insisting upon the petitioners and other group-C employees to appear in the limited departmental competitive examinations as envisaged under the Rules 2001. Such insistence by the respondents/authorities concerned is, according to the petitioners, unreasonable and impermissible in law inasmuch as the Rules of 2001 are, contend the petitioners, prospective in nature and their cases ought to have been considered, plead the petitioners, in terms of the provisions of the Rules of 1998, particularly, because there were, according to the petitioners, vacant posts available for considering the cases of the petitioners for promotion to the posts of TTA long before the Rules of 2001 came into force.

4. Opposing the petitioners' case, the case, which the respondents have set up, is, in brief, thus: With the change in the standard of working of the entire Tele-Communication system, sophisticated equipments are required to be handled by the TTAs and keeping in view this fundamental requirement of the service, which the respondents provide, the respondents have made, under the Rules of 2001, educational qualification of 10+2 standard certificate mandatory for a Group-C employee to be considered for promotion to the post of TTA. In



-19- -109-  
43/16

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view of the changes, which the Rules of 2001 have so introduced, those petitioners, who are not holding the minimum educational qualification of 10+2 standard certificate, are not even eligible for being considered for promotion, and even those, who have minimum educational of 10+2 standard certificate are required to participate in the limited departmental competitive examination so that their suitability for promotion to the posts of TTA can be correctly judged and evaluated.

5. While considering the present writ petition, it is, now, essential to note that in terms of the letter, dated 12/12/01, issued by the Bharat Sanchar Nigam Limited (in short, 'the respondent Corporation'), the first limited departmental competitive examination for promotion to the post of TTA, under the Rules of 2001, in respect of the Group-C employees of Assam Telecom Circle, was to be held on 24/02/02. This limited competitive examination was, however, postponed by the respondent Corporation by letter, dated 12/02/02. As the controversy with regard to the petitioners' promotion to the posts of TTA could not be resolved by the parties concerned, the petitioners, who are altogether eleven in number, have come to this Court with the help of the present application, made under Article 226 of the Constitution of India, seeking, *inter alia*, issuance of appropriate writ(s) directing the respondents to hold the screening test/limited departmental competitive examination under the Rules of 1998.

6. Before entering into the merit of the present writ petition, what may be pointed out is that as the process for holding of the limited departmental competitive examination, under the Rules of 2001, had already been initiated, though kept postponed at the time, when writ petition was filed, the respondent Corporation, with the leave of this Court, held a limited departmental examination in terms of the Rules of 2001. Subsequent thereto, the respondent Corporation has also announced, with the leave of this Court, the result of the

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competitive examination so held. Out of the present eleven petitioners, two of the petitioners, namely Gyanendra Singh (i.e., the petitioner No.3 herein) and Debasish Bhattacharjee (i.e., the petitioner No. 7 herein) had appeared in the said limited departmental competitive examinations conducted under the Rules of 2001 and in this examination, while Debasish Bhattacharjee has succeeded, Gyanendra Singh has failed.

- ✓ 7. While considering the present writ petition, what is crucial to note is that the fact that the petitioners were appointed, on different dates, in the year 1993-94, as Telephone Mechanic/ Tele-Communication Mechanic is not in dispute. The Tele-Communications Phone Mechanic Recruitment Rules, 1991 (in short, the Rules of 1991) which came into effect on 22/07/91, makes it clear that all the posts of Telephone Mechanic/Tele-Communication Mechanic have to be filled up by promotion. These promotional appointments are divided into two categories; half of the strength of the cadre of Telephone Mechanic/Tele-Communication Mechanic are to be filled up by way of promotion from amongst linemen/wiremen (belonging to the Tele-Communication Engineering wing of the department), who have passed 10<sup>th</sup> standard qualification, and the other half of the cadre of the Telephone Mechanic/Tele-Communication Mechanic are to be appointed through competitive examination from amongst the cadres of lineman/wireman and also from regular Mazdoors and casual Mazdoors. Since the petitioners have not been promoted to the post of Telephone Mechanic/Tele-Communication Mechanic through any competitive examination, it is clear that in order to hold the promotional post of Telephone Mechanic/Tele-Communication Mechanic, the minimum educational qualification is passing of the 10<sup>th</sup> standard examination. In other words, in order to receive promotion to the post of TTA, the incumbent is required to have the minimum educational qualification of 10<sup>th</sup> standard.
- 2 E
- 9/12

8. Bearing in mind what have been indicated above, when I turn to the Rules of 1998, which came into effect on 25/01/99, I notice that there were two modes of appointment to the post of TTA, namely, by promotion and by direct recruitment. According to the Rules of 1998, the Telephone Mechanic/Tele-Communication Mechanic with five years of regular service in grade-C were eligible for consideration for promotion to the post of TTA through qualifying screening test. There is no dispute before this Court that before the Rules of 2001 came into force on 27/07/01, the petitioners had satisfied the minimum eligibility criteria for being considered for promotion to the posts of TTA and vacancies in the posts of TTA existed before the Rules of 2001 came into force and had the respondent/authorities concerned desired, the petitioners, having satisfied the eligibility criteria, could have been considered for promotion to the posts of TTA.

✓✓  
9. What is, however, of immense importance to note is that when a person satisfies the eligibility criteria of promotion and the authorities concerned decide to fill up the promotional post, such a person has the fundamental right to be considered for promotion if he falls within the zone of consideration. It is also trite that the promotion of a Government servant shall be considered in accordance with the rules, which were in force on the date, when the Government servant had fallen within the zone of consideration for promotion. Reference may be made, in this regard, to the decision of a Division Bench of this Court in *M. Laitphlang(DR)(MS) & ORS vs State of Meghalaya & Ors*, wherein this Court has observed and held as follows :-

*"35. To be considered for promotion, when a person becomes so eligible, is his fundamental right and denial of such right, if discriminatory, cannot be permitted by a Writ Court. In the case of Delhi Jal Board Vs. Mahinder Singh reported in 2000) 7 SCC 210, the Apex Court held, "The right to be considered by DPC is a fundamental right guaranteed under Article 16 of the Constitution of India, provided a person is eligible and is within the zone of consideration."*

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*"40. It is trite that promotion of a Government servant should be considered in accordance with the rules, which were in force on the date, when he had fallen within the zone of consideration for promotion. In the present case, since the writ petitioners had become eligible for promotion under the 1982 Rules and the vacancies were, admittedly, available, they ought to have been considered for promotion under the 1982 Rules itself."*

10. Bearing in mind the fundamental principle governing promotion of a Government servant, when I turn to the Rules of 2001, what becomes evident is that the Rules of 2001 is prospective in nature. Hence, the Rules of 2001 cannot divest the petitioners of their rights, which the petitioners have already acquired under the Rules of 1998. As a corollary thereto, it is not difficult to hold that on completing the eligibility criteria under the Rules of 1998, since the petitioners became eligible for consideration for promotion to the posts of TTA, their cases cannot be considered in terms of the minimum qualifications, which have been imposed by the Rules of 2001; rather, the cases of the petitioners ought to have been considered for promotion in terms of the Rules of 1998. While the Rules of 2001 make 10+2 standard certificate as the minimum educational qualification for promotion to the post of TTA, the Rules of 1998, read with the Rules of 1991, make it clear that a Telephone Mechanic/Tele-Communication Mechanic, having passed 10<sup>th</sup> standard examination and having put in five years of regular service in the cadre of Telephone Mechanic/Tele-Communication Mechanic, is eligible for consideration for promotion to the post of TTA. When the petitioners had attained the requisite eligibility criteria for the purpose of being considered for promotion to the post of TTA before the Rules of 2001 came into force, their cases ought to have been considered in terms of the Rules of 1998, when their turn for being considered for promotion had arisen.

11. Because of what have been discussed and pointed out above, it is abundantly clear that the respondent Corporation cannot insist upon the writ

petitioners that the petitioners shall satisfy the eligibility criteria for promotion to the post of TTA under the Rules of 2001 and/or insist upon the petitioners to appear in any competitive examination except what the Rules of 1998 envisage.

12. As has already been pointed out above, even the Rules of 1998 perceive of holding of qualifying screening test. The syllabus for such test has not been spelt out in the Rules of 1998. However, the respondent Corporation shall have, in terms of the Rules of 1998, liberty to prescribe the syllabus for the screening test. Such qualifying screening test cannot, however, be of the same standard as has been conceived under the Rules of 2001, for, while the Rules of 2001, as already indicated hereinabove, require minimum educational qualification of 10+2 standard certificate, the Rules of 1998 require educational qualification of 10<sup>th</sup> standard as the minimum qualification for promotion to the post of TTA.

13. In the result and the reasons discussed above, this writ petition partly succeeds. While the respondents are left at liberty to prescribe the syllabus and prepare scheme for holding qualifying screening test in terms of the Rules of 1998, it is made clear that the cases of each of the present writ petitioners shall be considered by the respondents, in terms of the Rules of 1998, for promotion to the posts of TTA. The whole exercise, so directed, shall be completed within a period of 4(four) months from to-day. Whatever decision is reached on the question of promotion of the petitioners by the respondents/authorities concerned shall be communicated, in writing, to the petitioner concerned. If any of the petitioners feel aggrieved by the decision that may be taken by the respondents/authorities concerned, while carrying out the directions given hereinbefore, the petitioner(s) concerned, who may be so aggrieved, shall be at liberty to approach this Court for appropriate directions.

13. Before parting with this writ petition, it is made clear that the directions, which have been given hereinabove, in respect of the petitioners, may not be extended by the respondent/authorities concerned to anyone other than the present petitioners.

14. With the above observations and directions, this writ petition shall stand disposed of.

15. No order as to costs.

*sd/- I A. Ansari*  
*Judge*

P. NO. 55272  
dt 19/6/06

**CERTIFIED TO BE TRUE COPY**  
*Kereng Ram Singh*  
Date *23/6/06*  
Superintendent (Copying Section)  
Gauhati High Court  
Authorized U/S 76, Act I, 1872

*23/6/06*

(2)

Noting by Officer or Advocate	Serial No.	Date	Office notes, report, etc.
1	2	3	

MC 4397/06

**PRESENT**

**HON'BLE THE CHIEF JUSTICE B.S.REDDY**  
**HON'BLE MR.JUSTICE B.P.KATAKEY**

**06.12.2006.**

**REDDY, CJ: -**

Notice returnable in three weeks.

Petitioner to take steps within three days for service of notice as against the respondents under registered post with acknowledgement due failing of which this petition and as well as the appeal shall stand dismissed without any further reference to the court.

Sd/- B.P. Katakey  
Judge

Sd/- B.S. Reddy  
Chief Justice

*Resonance Ram Sagar*  
13/3/07

Sd/- No. 1103/07

13/3/07

Certified to be true Copy.  
**H. K. Ganga**  
Advocate

Advocates for Petitioner/appellant

S SARMA  
B DEVI  
H K DAS

Respondent/Opp. Party

ANNEXURE : R3

Advocates for Respondents

1 R BORA  
2 SC, BSNL

23

Summary Of Case And Prayer In Brief

CERTIFIED COPY OF JUDGEMENT / ORDER

DATE OF FILING APPLICATION 28/06/2007	DATE WHEN COPY WAS READY 29/06/2007	DATE OF DELIVERY 29/06/2007
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BEFORE  
THE HON'BLE MR JUSTICE RANJAN GOGOI

DATE OF ORDER : 28/06/2007

Heard Mr.S.Sharma, learned counsel for the petitioners.

Issue Rule, returnable in 3 months.

Mr.C.Baruah, learned Central Govt. Counsel accepts notice on behalf of Respondent No.1 whereas Mrs.R.Bora, learned Central Govt. Counsel accepts notice on behalf of Respondent Nos. 2-5. Extra copies of the writ petition be furnished to the respective counsels within 3 days.

Issue notice on the prayer for interim relief returnable in six months.

The petitioners shall be allowed to participate in the written test scheduled to be held on 15.07.2007 which participation will be subject to further orders that may be passed in the writ petition.

Sd/- Ranjan Gogoi  
Judge.

*[Handwritten signature]*  
22/7/07  
22/7/07

Certified to be true Copy.

H. K. Goga

Advocate



Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Misc. Case No 2836 of 2007  
[in WP(C) No.3282 of 2007]

BEFORE  
THE HON'BLE MR. JUSTICE RANJAN GOGOI

01.08.2007

After hearing the learned counsels for the contesting parties the order that is considered appropriate to be passed in the Misc. Case under consideration is to direct the Respondents in the writ petition to place the result of the Limited Departmental Competitive Examination in which the petitioners had participated, on the strength of the interim order dated 28.6.2007, before the Court.

The respondents shall also indicate as to whether they have any objection if the results of the petitioners are declared and further action as may be deemed necessary is directed/ordered to be taken.

Copy of this order be furnished to Sri B. C. Pathak, learned counsel appearing for the Respondents. Office to list WP(C) No. 4000/2006 for hearing on 27<sup>th</sup> of August 2007 alongwith WP(C) No 3182/2007 and Misc. Case No 2836/2007.

Misc. Case be listed after two weeks

JUDGE

TUC

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H. K. Gogoi  
Advocate

प्रतिलिपि के लिए आवेदन की तिथि Date of application for copy	स्टाम्प और फोटो को अपेक्षित न्याय स्थिति करने की तिथि Date fixed for notifying and receipt number of stamps and photos.	अपेक्षित स्टाम्प और फोटो देने की तिथि Date of delivery of the requisition stamps and photos.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तिथि Date of making over the copy to the applicant.

IN THE GAUHATI HIGH COURT  
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)  
CIVIL APPELLATE SIDE

Appeal from Court Case No. 637 of 200 6  
Civil Rule

Sh. Ambika Beglenuah & ors Appellant  
Petitioner

Sh. A. K. Sinha & ors Respondent  
Opposite Party

Appellant For Mr. M. Chouda  
Petitioner Mr. S. Dutta  
Mr. S. Choudhury.  
Respondent For Mr. B. C. Pattnayak, B. Pattnayak - for RN. 3, 2-21  
Opposite Party

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports orders or proceedings with signature
1	2	3	4
<u>P.</u>			

Certified to be true Copy.  
H. K. Goga  
Advocate

28 -29 -119-  
(2)  
2  
-AND-

In the matter of: -

1. Sri Ambika Bezbaruah.  
Son of Late Gopal Chandra Bezbaruah  
Office of the Sub Divisional Engineer,  
Maintenance and Control,  
Pan Bazaar Telephone Exchange,  
Pan Bazaar, Guwahati-1.
2. Sri Umesh Chandra Kalita,  
Son of Late Pani Ram Kalita,  
Office of Sub Divisional Engineer (OCB)  
Pan Bazaar Telephone Exchange,  
Pan Bazaar, Guwahati-1.
3. Sri Jugindra Singh,  
Son of Sri N. Singh,  
Office of DEE-10-B, Telephone Exchange,  
Pan Bazaar, Guwahati-1.
4. Md. Muksheed Ali,  
Office of the SDO (Phones) West,  
Bharalumukh, Guwahati-9.
5. Sri Ranty Ram Kumar,  
Son of Sri M. Kumar,  
Office of SDE (Power Plant)  
Pan Bazaar Telephone Exchange,  
Guwahati-1.
6. Sri Pradip Malakar,

P.  
Attorney  
Court.

Son of Late Pabitra Malakar,  
Office of SDO (P) West-II, Guwahati-1.

7. Sri Debash Bhattacharjee,  
Son of Late DR Bhattacharjee  
Office of F-10-B, Telephone Exchange,  
Pan Bazaar, Guwahati-1.
8. Md. Naushad Ali,  
Office of the SDE (MSC)  
Telephone Exchange, Guwahati-1.
9. Sri Swapan Kumar Baruah,  
Son of Late Mohin Chandra Baruah,  
Office of DEE -10-B, Telephone Exchange,  
Pan Bazaar, Guwahati-1.
10. Sri Dhaneswar Malakar,  
Office of S. D. F. C.  
Pan Bazaar, Guwahati-1.
11. Sri Barendra Paul,  
Son of Late Pachugopal Paul,  
Office of SDE, MVC,  
Pan Bazaar, Guwahati-1.

... Petitioners.

-Versus-

1. Shri A.K. Sinha,  
Chairman Cum Managing Director,  
Bharat Sanchar Nigam Ltd.  
(A Govt. of India Enterprise)  
Registered Office, Sanchar Bhawan  
New Delhi- 1.

(4)

4

2. Sri G. Rajaram,  
Chief General Manager,  
Assam Telecom Circle,  
(BSNL), Panbazar,  
Guwahati- 7.
3. Sri V.K. Mathur  
General Manager,  
Kamrup Telecom District (BSNL)  
Panbazar, Guwahati- 1.

..... Alleged Contemnors.

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(5)

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p><u>Cont. Case No. 637/2006.</u></p> <p>BEFORE THE HON'BLE MR JUSTICE D. BISWAS</p> <p>13.8.2007.</p> <p>Heard Mr M. Chanda, learned counsel for the petitioners and also Mr BC Pathak, learned senior counsel for the respondents.</p> <p>Perused the order dated 29.5.2007.</p> <p>Mr Pathak submits that the selection process is over and the merit list will be finalized soon. In view of this statement, the matter is adjourned for a month to enable the respondents-contemners to finalize the select list.</p> <p>A copy of this order be furnished to Mr Pathak, during the course of the day.</p>

Sd/- D. Biswas  
Judge

read to

Kurung Ram Das  
(17/8/07)

Administered O/S 76, Act 1, 1872

B.  
17/8/07

SI No. 80886

16.8.07

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from  
Civil Rule

Cont Case

No. 637 of 200 6

Sh. Ambika Bezbaruah & ors

Appellant  
Petitioner

Versus

Sh. A. K. Sinha & ors

Respondent  
Opposite Party

Appellant  
For  
Petitioner

Mr. M. Chandra

Mr. S. Dutta

Mr. S. Choudhury.

Respondent  
For  
Opposite Party

Mr. B. C. Pattnaik, B. Pattnaik - for RN, 3, 2, 21

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H. K. Gogoi  
Advocate

- 34 - - 124 -

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

CONT. CASE (C) NO. 637 OF 2006 WITH  
W.P(C) NO. 3282 OF 2007

BEFORE

HON'BLE MR. JUSTICE AMITAVA ROY

14.09.2007

Heard Mr. Dutta, learned counsel for the petitioner also Mr. Pathak, Senior Advocate for the respondents.

Mr. Pathak, submits that being aggrieved by the directions contained in the judgment and order dated 26.05.2006, passed by this Court in W.P(C) No. 620/2004, instituted by the present petitioners, the respondents had preferred an appeal before the Division Bench of this Court, which eventually was dismissed for non-prosecution in the month of December, 2006. Thereafter, they initiated the process for holding the screening test as directed by this Court in W.P(C) No. 620/2004. In the meantime, another set of persons as petitioners in W.P(C) No. 3282/2007, having approached this Court, praying for the same relief, they were by order dated 28.06.2007, permitted to participate in the said test scheduled to be held on 15.07.2007. Subsequent thereto, by order dated 01.08.2007, in Misc. Cas No. 2836/2007, arising out of W.P(C) No. 3282/2007, this Court had directed the respondents to lay before it the results of the said test.

Mr. Pathak, submits that in the above factual premise, the process could not be completed in time. He prays for further **two (2) weeks** time to submit the complete results of the test before this Court.

List again on **28<sup>th</sup> of September, 2007.**



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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
A copy of this order be furnished to the learned counsel for the respondents to ensure that the results of the test are submitted before this Court in a sealed cover on or before the next date.			

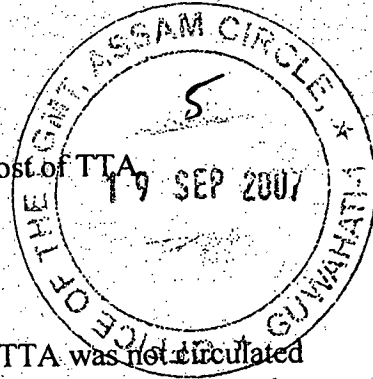
Sd/- Anilava Roy  
JUDGE

TRUE COPY  
16/9/07  
SUPERVISOR  
CIVIL APPEAL SECTION,  
COURT OF APPEALS,  
GUWAHATI.  
21-9-07

The Chief General Manager,  
Assam Telecom Circle, BSNL,  
Panbazar, Guwahati-1.

Dated at Guwahati, the 17.9.2007.

Sub:- Appearance at screening test for promotion to the post of TTA



Respected Sir

The notice for screening test for promotion to the post of TTA was not circulated in the department at Dispur, as such we were ignorant of the opportunity to appear at the screening test held on 15.07.2007. We also come to know that some of our colleagues in the Assam Circle went to court and got the benefit of appearing in the said screening test. We were, as well, ignorant of their recourse of court.

May we, the undersigned, therefore, pray you to give us the legitimate opportunity to be screened for promotion to TTA post, before you will be pleased to declare the results of the screening test held on 15.07.2007.

Yours faithfully,

4M/02  
B/ deans.  
20/9

1. N. Roy. Empl No.4137 :
2. R. Shah, Empl No.4134
3. T. Ali, Empl No.4223
4. P. Mazuradar, Empl No.4154
5. N. Rongpee, Empl. No. 4161
6. P.C. Das, Empl.No.4138
7. A. Ali, Empl.No.4139
8. J.R. Kalita, Empl.No.4221
9. A.J. Ahmed, Empl.No.4264
10. H.M. Nath Empl.No.4261
11. J.C. Bhuyan, Empl.No.4285
12. P. Bhattacharjee, Empl.No.6312
13. D. Sarma, Empl. No. 4270
14. Ramashis Singh No. 4412
15. Ramakar.a Singh Empl.No.6353

Naresha Ray  
T. Ali  
19/9/07  
17.9.07  
A.T. Ahmed  
Bhuyan  
Singh  
21/12/04 R2

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H. K. Gogoi

Advocate

-37- <sup>(mu-mess)</sup>  
-127-

ANNEXURE : R8, 6

Received on 25/11/08  
by spl member at CGMT

**THE GAUHATI HIGH COURT**  
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH).

WP(C) NO. 3282 OF 2007.

SHRI KRISHNA PRADHAN & ORS.

----- Petitioners

Versus

UNION OF INDIA & ORS.

----- Respondents

CONT CASE (C) NO. 637 OF 2006.

1. SRI AMBIKA BEZBARUAH & ORS.

----- Petitioners

Versus

1. SHRI A.K. SINHA & ORS.

----- Alleged Contemners

BEFORE  
THE HON'BLE MR. JUSTICE IA ANSARI

Date of hearing & judgment :: 30<sup>th</sup> October, 2008.

Certified to be true Copy  
Hemanta Kr. Gogoi  
Advocate

**THE GAUHATI HIGH COURT**  
HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL  
PRADESH).

WP(C) No. 3282 of 2007.

1. SHRI KRISHNA PRADHAN, PHONE MECHANIC,  
SON OF LATE DHAN BAHADUR PRADHAN,  
O/O SUB-DIVISIONAL ENGINEER, KALAPAHAR,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
KALAPAHAR EXCHANGE, (RLU),  
GUWAHATI, ASSAM.
2. SRI RAJAT BHATTACHARJEE, PHONE MECHANIC,  
SON OF LATE RAMENDRA CHANDRA BHATTACHARJEE,  
O/O SUB-DIVISIONAL OFFICER PHONES, C-II,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
AMBARI, GUWAHATI, ASSAM.
3. SRI BIJOY DEKA, PHONE MECHANIC,  
SON OF LATE DHARANI DHAR DEKA,  
O/O D.E.T (PROJECT-I), BHANGAGARH,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
GUWAHATI, ASSAM.
4. SRI TARINI KANTA KUMAR, PHONE MECHANIC,  
SON OF LATE MANGALU RAM KUMAR,  
O/O SUB-DIVISIONAL ENGINEER, E 10 B, ADABARI,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
RSU EXCHANGE, (RLU),  
GUWAHATI, ASSAM.
5. SRI CHANDAN KUMAR SAHA, PHONE MECHANIC,  
SON OF LATE REJENDRA MOHAN SAHA,  
O/O TELEPHONE EXCHANGE,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
P.O. DHALIGAON, DIST. CHIRANG (ASSAM),  
PIN - 783385.
6. SRI ROBIN KUMAR ROY, PHONE MECHANIC,  
SON OF LATE ANANTA MOHAN ROY,  
O/O TELEPHONE EXCHANGE, BHALUKDUBI,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
DIST. GOALPARA (ASSAM).
7. SRI AJOY BAKSHI, PHONE MECHANIC,  
SON OF MANINDRA BAKSHI,  
O/O SUB-DIVISIONAL ENGINEER, P/P'S A/C,  
TELEPHONE EXCHANGE,  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
GUWAHATI-1, ASSAM.
8. SRI HARI CHANDRA DAS, PHONE MECHANIC,  
SON OF LATE GANDHA SHYAM DAS,  
O/O SUB-DIVISIONAL ENGINEER (M/C),  
BHARAT SANCHAR NIGAM LIMITED, BSNL,  
PANBAZAR TELEPHONE EXCHANGE,  
GUWAHATI-1, ASSAM.

9. SRI PRADIP DAS, PHONE MECHANIC,  
SON OF LATE RAGHU NATH DAS,  
O/O SDOP-I,  
BHARAT SANCHAR NIGAM LIMITED, BSNL, TEZPUR,  
NEAR HEAD POST OFFICE, DIST. SONITPUR (ASSAM),  
PIN - 784001.

10. SRI SRIBASH TALUKDAR,  
SON OF LATE ADYAUT TALUKDAR,  
O/O TELEPHONE EXCHANGE, GOSSAIGAON,  
KOKRAJHAR, ASSAM.

----- Petitioners

Versus

1. UNION OF INDIA,  
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,  
DEPARTMENT OF TELECOM,  
MINISTRY OF TELECOMMUNICATION, NEW DELHI.

2. BHARAT SANCHAR NIGAM LIMITED, BSNL,  
(A GOVERNMENT OF INDIA ENTERPRISE),  
REPRESENTED BY THE CHAIRMAN, BSNL,  
REGISTERED OFFICE,  
SANCHAR BHAWAN, NEW DELHI.

3. THE CHIEF GENERAL MANAGER,  
ASSAM TELECOM CIRCLE (BSNL),  
ULUBARI, GUWAHATI-7.

4. THE GENERAL MANAGER,  
KAMRUP TELECOM CIRCLE (BSNL),  
ULUBARI, GUWAHATI-7.

5. THE ASSISTANT DIRECTOR GENERAL, BSNL,  
DAK BHAWAN, SANCHAR MARG, NEW DELHI - 110001.

----- Respondents

CONT CASE (C) NO. 637 OF 2006.

1. SRI AMBIKA BEZBARUAH,  
S/O LATE GOPAL CHANDRA BEZBARUAH,  
O/O SUB-DIVISIONAL ENGINEER,  
MAINTENANCE AND CONTROL,  
PAN BAZAAR TELEPHONE EXCHANGE,  
PAN BAZAAR, GUWAHATI-1.

2. SRI UMESH CHANDRA KALITA,  
SON OF LATE PANI RAM KALITA,  
O/O SUB-DIVISIONAL ENGINEER (OCB),  
PAN BAZAAR TELEPHONE EXCHANGE,  
PAN BAZAAR, GUWAHATI-1.

3. SRI JUGINDRA SINGH,  
SON OF SRI N. SINGH,  
O/O D.E.E-10-B,  
TELEPHONE EXCHANGE,  
PAN BAZAAR, GUWAHATI-1.

-40-  
-130-

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4. MD. MUKSHEED ALI,  
OFFICE OF THE SDO (PHONES), WEST,  
BHARALUMUKH, GUWAHATI-9.

5. SRI RANTY RAM KUMAR,  
SON OF SRI M. KUMAR,  
OFFICE OF SDE (POWER PLANT),  
PAN BAZAAR TELEPHONE EXCHANGE,  
GUWAHATI - 1.

6. SRI SRI PRADIP MALAKAR,  
SON OF LATE PABITRA MALAKAR,  
OFFICE OF THE SDO (P) WEST-II, GUWAHATI-1.

7. SRI DEBASH BHATTACHARJEE,  
SON OF LATE DR BHATTACHARJEE,  
OFFICE OF E-10-B,  
TELEPHONE EXCHANGE, PAN BAZAR,  
GUWAHATI - 1.

8. MD. NAUSHAD ALI,  
OFFICE OF THE SDE (MSC),  
TELEPHONE EXCHANGE, GUWAHATI-1.

9. SRI SWAPAN KUMAR BARUAH,  
SON OF LATE MOHIN CHANDRA BARUAH,  
OFFICE OF DEE-10-B,  
TELEPHONE EXCHANGE, PAN BAZAAR, GUWAHATI-1.

10. SRI DHANESWAR MALAKAR,  
OFFICE OF S.D.F.C.,  
PAN BAZAAR, GUWAHATI-1.

11. SRI BARENDRA PAUL,  
SON OF LATE PACHUGOPAL PAUL,  
OFFICE OF SDE, MVC,  
PAN BAZAAR, GUWAHATI-1.

----- Petitioners

Versus

1. SHRI A.K. SINHA,  
CHAIRMAN-CUM-MANAGING DIRECTOR,  
BHARAT SANCHAR NIGAM LTD.,  
[A GOVT. OF INDIA ENTERPRISE]  
REGISTERED OFFICE, SANCHAR BHAWAN,  
NEW DELHI 11.

2. SRI G. RAJARAM,  
CHIEF GENERAL MANAGER,  
ASSAM TELECOM CIRCLE,  
[BSNL], PANBAZAR, GUWAHATI-7.

3. SRI V.K. MATHUR,  
GENERAL MANAGER,  
KAMRUP TELECOM DISTRICT (BSNL),  
PANBAZAR, GUWAHATI -1.

----- Alleged Contemners.

Advocates for Petitioner

MR. S SARMA, MS. B DEVI, MR. HK DAS.

Advocates for Respondents

MR. R BORA,  
MR. BC PATHAK, MR. B PATHAK.

BEFORE  
THE HON'BLE MR. JUSTICE IA ANSARI

Date of hearing & judgment :: 30<sup>th</sup> October, 2008.

JUDGMENT AND ORDER  
(oral)

By this common judgment and order, I propose to dispose of the Writ Petition and the Contempt Case, namely, WP(C) No. 3282/2007 and Contempt Case(C) No. 637/2006, inasmuch as both these matters are closely inter-linked and decision, in any of these two cases, will have a bearing on the outcome of the other.

2. I have heard Mr. S. Sarma, learned counsel for the petitioners in WP(C) No. 3282/07, and Mr. B.C. Pathak, learned Standing counsel for the respondents. I have also heard Mr. M. Chanda, learned counsel for the petitioners in Contempt Case (C) No. 637/2006, and Mr. B. C. Pathak, learned counsel, appearing on behalf of the respondents.

3. Before entering into the merit of the Writ Petition and also the Contempt case, it is necessary that the facts, which have given rise to both these proceedings, are taken note of. The material facts, leading to these two proceedings, are, therefore, set out as under:

(i) The petitioners, in Contempt Case (C) No. 637/2006, who are hereinafter referred to as the first set of petitioners, came to this Court with a writ petition made under Article 226 of the Constitution of India. This writ petition gave rise to WP(C) No. 620/2004. By this writ petition, the first set of petitioners had sought for directions be issued to the respondents, particularly Bharat Sanchar Nigam Limited (known as 'the BSNL', which is, hereinafter referred to as the 'respondent Corporation') to consider the case of the writ petitioners for promotion to the posts of Telecommunication Technical Assistant (in short, 'TTA'), the case of these petitioners being, briefly stated, thus:

(a) The petitioners were appointed, on different dates, in the year 1993-94, as Telephone Mechanic/Tele-Communication Mechanic. In terms of the Telecom Technical Assistant Recruitment Rules, 1998 (in short, 'the Rules of 1998'), which came into force on 06.02.1999, a Telephone Mechanic/Tele-Communication Mechanic was eligible for consideration for promotion to the post of Telecom Technical Assistant (in short, 'the TTA') on completing five years of regular service in the grade of Telephone Mechanic/Tele-Communication Mechanic.

(b) In terms of the Rules of 1998, the petitioners, having put in requisite period of service of five years in the grade of Telephone Mechanic/Tele-Communication Mechanic, had become eligible for promotion to the post of TTA as far back as in the year 1999, and though vacancies were available in the posts of TTA, the petitioners were not considered for promotion and the qualifying screening test, as envisaged under the Rules of 1998, were not held; whereas similarly situated employees, working in the cadre of Telephone Mechanic/Tele-Communication Mechanic in other circles of the respondent department, including the North Eastern Circle, Shillong, have been considered and promoted to the cadre of TTA, in the year 2000, by holding screening tests in terms of the Rules of 1998. It is also the grievance of the petitioners that the Rules of 1998 were amended by bringing into force, on 27.07.2002, the Telecom (Technical) Assistant Recruitment Rules, 2001 (in short, 'the Rules of 2001'), whereby promotional avenues of the Telephone Mechanic/Tele-Communication Mechanic has been drastically



reconstructed by making 10+2 standard certificate or equivalent certificate as the minimum educational qualification for promotion to the post of TTA from the grade of Telephone Mechanic/Tele-Communication Mechanic. The Rules of 2001 also envisage holding of limited departmental competitive examination for promotion to the post of TTA from the group-C employees, which consists of Telephone Mechanic/Tele-Communication Mechanic too. Though under the Rules of 1998, there was no provision for holding limited departmental competitive examination and though the petitioners, having become eligible for consideration for promotion to the post of TTA long before the Rules of 2001 came into force, were not required to apply for any limited departmental competitive examination and though the respondents/authorities concerned ought to have held qualifying screening test in terms of the Rules of 1998 for deciding the question of promotion of the petitioners to the post of TTA, the respondents/authorities concerned have been insisting upon the petitioners and other group-C employees to appear in the limited departmental competitive examination as envisaged under the Rules of 2001. Such insistence by the respondents/authorities concerned is according to the petitioners, unreasonable and impermissible in law inasmuch as the Rules of 2001 are, contend the petitioners, prospective in nature and their cases ought to have been considered, plead the petitioners, in terms of the provisions of the Rules of 1998, particularly, because there were, according to the petitioners, vacant posts available for considering the cases of the petitioners for promotion to the posts of TTA long before the Rules of 2001 came into force.

- (ii) Opposing the petitioners' case, the case, which the respondents had set up, was, in brief, thus: With the change in the standard of working of the entire Tele-Communication System, sophisticated equipments are required to be handled by the TTAs and keeping this fundamental requirement of the service, which the respondents provide, the respondents have made, under the Rules of 2001, educational qualification of 10+2 standard certificate mandatory for a Group-C employee to be considered for promotion to the post of TTA. In view of the changes, which the Rules of 2001 have so introduced, those petitioners, who are not holding the minimum educational qualification of 10+2

standard certificate, are not even eligible for being considered for promotion and even those, who have minimum educational of 10+2 standard certificate, are required to participate in the limited departmental competitive examination so that their suitability for promotion to the posts of TTA can be correctly judged and evaluated.

(iii) Having considered the respective cases, which the first set of petitioners and the respondent Corporation had set up, in WP(C) No. 620/2004, this Court observed and directed, *inter alia*, as follows :-

"10. Bearing in mind the fundamental principle governing promotion of a Government servant, when I turn to the Rules of 2001, what becomes evident is that the Rules of 2001 is prospective in nature. Hence, the Rules of 2001 cannot divest the petitioners in their rights, which the petitioners have already acquired under the Rules of 1998. As a corollary thereto, it is not difficult to hold that on completing the eligibility criteria under the Rules of 1998, since the petitioners became eligible for consideration for promotion to the posts of TTA, their cases cannot be considered in terms of the minimum qualifications, which have been imposed by the Rules of 2001; rather, the cases of the petitioners ought to have been considered for promotion in terms of the Rules of 1998. While the Rules of 2001 make 10+2 standard certificate as the minimum educational qualification for promotion to the post of TTA, the Rules of 1998, read with the Rules of 1991, make it clear that a Telephone Mechanic/Tele-Communication Mechanic, having passed 10<sup>th</sup> standard examination and having put in five years of regular service in the cadre of Telephone Mechanic/Tele-Communication Mechanic, is eligible for consideration for promotion to the post of TTA. When the petitioners had attained the requisite eligibility criteria for the purpose of being considered for promotion to the post of TTA before the Rules of 2001 came into force, their cases ought to have been considered in terms of the Rules of 1998, when their turn for being considered for promotion had arisen.

11. Because of what have been discussed and pointed out above, it is abundantly clear that the respondent Corporation cannot insist upon the writ petitioners that the petitioners shall satisfy the eligibility criteria for promotion to the post of TTA under the Rules of 2001 and/or insist upon the petitioners to appear in any competitive examination except what the Rules of 1998 envisage.

12. As has already been pointed out above, even the Rules of 1998 perceive of holding of qualifying screening test. The syllabus for such test has not been spelt out in the Rules of 1998. however, the respondent Corporation shall have, in

terms of the Rules of 1998, liberty to prescribe the syllabus for the screening test. Such qualifying screening test cannot, however, be of the same standard as has been conceived under the Rules of 2001, for, while the Rules of 2001, as already indicated hereinabove, require minimum educational qualification of 10+2 standard certificate, the Rules of 1998 require educational qualification of 10<sup>th</sup> standard as the minimum qualification for promotion to the post of TTA.

13. In the result and the reasons discussed above, the writ petition partly succeeds. While the respondents are left at liberty to prescribe the syllabus and prepare scheme for holding qualifying screening test in terms of the Rules of 1998, it is made clear that the cases of each of the present writ petitioners shall be considered by the respondents, in terms of the Rules of 1998, for promotion to the posts of TTA. The whole exercise, so directed, shall be completed within a period of 4 (four) months from to-day. Whatever decision is reached on the question of promotion of the petitioners by the respondents/authorities concerned shall be communicated, in writing, to the petitioner concerned. If any of the petitioners feel aggrieved by the decision that may be taken by the respondents/authorities concerned, while carrying out the directions given hereinbefore, the petitioner(s) concerned, who may be so aggrieved, shall be at liberty to approach this Court for appropriate directions."

(Emphasis is supplied).

(iv) Alleging that the respondent Corporation was willfully refusing to comply with the directions, given, on 26-05-2006, in WP(C) No. 620/2004, the first set of petitioners came to this Court with a contempt application on 26-11-2006. This contempt application has given rise to COP(C) No. 637/2006 aforementioned.

(v) Thereafter, the second writ petition, i.e., WP(C) No. 3282/2007, was filed by as many as 10 persons, who too claim to be eligible for consideration for promotion to the posts of TTA in terms of the Rules of 1998, their case too being, inter alia, that they are eligible for promotion to the posts of TTA and that their promotion is required to be considered in terms of the Rules of 1998. As the respondent Corporation was to hold requisite promotional test in terms of the Rules of 1998, the Court passed an order, on 28-06-2007, in WP(C) No. 3282/2007, directing the respondent Corporation to allow the second set of

petitioners too to participate in the promotional test, which was to be held on 15-07-2007.

4. It is in the backdrop of the above facts that the present writ petition, namely, WP(C) No. 3282/2007 and the contempt case, namely, Cont. Case (C) No. 637/2006, are, now, required to be considered. On hearing the learned counsel for the parties and upon perusal of the materials on record, there remains no room for doubt, and there is, in fact, no dispute that the petitioners in WP(C) No. 3282/2007, who are hereinafter referred to as the second set of writ petitioners, stand on the same footing as do the first set of petitioners (i.e., the petitioners in WP(C) No. 620/2004, who are also petitioners in Cont. Case (C) No. 637/2006), except the fact that while in the case of first set of petitioners, there was a specific direction given, on 25-06-2006, in WP(C) No. 620/2004, to consider their cases, in terms of the Rules of 1998, in the manner as has been quoted above, no such specific direction was available in respect of the second set of petitioners. What can also not be ignored is that the total number of vacant available posts of TTA is 11 (eleven).

5. What, now, needs to be noted is that in WP(C) No. 620/2004 (i.e., the first writ petition), there were as many as 11 petitioners, but only 10 (ten) of them are still alive. In the second writ petition, i.e., WP(C) No. 3282/2007, the petitioners are as many as 10 in numbers. Thus, while the total number of persons, who were eligible to participate in the promotional test, in terms of the Rules of 1998, were as many as 20 (twenty), the total number of vacant promotional post is barely 11 (eleven).

6. The limited question, therefore, which falls for consideration, is this: Whether the directions given, on 26-05-2006, in WP(C) No. 620/2004, in favour of the first set of petitioners, can be taken to have had divested the second set

of petitioners from either participating in the selection test, which had been held in terms of the Rules of 1998, and/or from being considered for promotion, in terms of the Rules of 1998, in respect of the said 11 (eleven) vacant posts.

7. While considering the above aspect of the case, what is of immense importance to note is that on 30-01-2004, while issuing notice of motion in WP(C) No. 620/2004 (i.e., the first writ petition), the interim direction, which was passed, ran as under :

*"Pendency of this petition shall not be a bar for the respondents to hold the Screening Test/Limited Departmental Examination for consideration of the petitioners and other similarly situated persons for promotion to the post of Telecom Technical Assistant in Assam Telecom Circle, Assam."*

8. From the interim direction, which was passed on 30-01-2004, it becomes clear that the respondent Corporation had been given the liberty to hold the promotional test in respect of not only the cases of the first set of petitioners, but also of other similarly situated persons for promotion to the posts of TTA in Assam Telecom Circle. The interim directions, given, on 30-01-2004, were slightly modified, on 21-10-2004, by the Court inasmuch as the Court allowed the respondent Corporation to hold the selection test, but directed that the result of the selection test shall not be published without leave of the Court.

9. Thus, the interim directions passed in WP(C) No. 620/2004, as noted above, had entitled not only the first set of petitioners, but also the other eligible persons, similarly situated, such as, the second set of petitioners, to participate in the promotional test. No wonder, therefore, that on 28-06-2007, an interim order was passed, even in WP(C) No. 3282/2007, directing the respondent Corporation to allow the second set of petitioners to participate in the promotional test, which was to be held on 15-07-2007. In terms of the directions so given by the Court, both the sets of petitioners have appeared in

the promotional test, but their results have been kept withheld as had been directed by this Court.

10. Because of the fact that this Court finds that both the first as well as the second set of petitioners are persons eligible for consideration for promotion to the post of TTA in terms of the Rules of 1998, and because of the fact that direction was given, in WP(C) No. 620/2004, restraining the respondent Corporation from allowing the second set of petitioners to participate in the said promotional test or restraining the second set of writ petitioners from participating in the promotional test, which was conducted, on 15-07-2007, in terms of the Rules of 1998, and in view also of the fact that both the set of petitioners have, indeed, appeared in the promotional test, held on 15-07-2007, it becomes abundantly clear that the question of promotion of both the set of writ petitioners needs to be decided on the basis of a common merit list to be drawn and prepared subject to the policy of reservation, which may have been in force.

11. Considering, therefore, the matter in its entirety and in the interest of justice, the respondent Corporation is hereby directed to prepare a common merit list by treating both the set of petitioners as one group of employees who were eligible for being considered for promotion in terms of the Rules of 1998, to the said 11 (eleven) posts of TTA, announce the result of the promotional test accordingly and make order(s) of promotion in respect of the said 11 (eleven) posts of TTA on the basis of inter se merit of both the set of petitioners subject to any policy of reservation, which may have been in force and are applicable to the participants. The whole exercise, so directed, shall be completed within a period of six weeks from today. It is further directed that the result sheet, which was submitted to this Court, under sealed cover

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by the respondent Corporation. shall be returned, and/or handed over, to the learned counsel for the respondent Corporation.

12. It is also pertinent to point out that upon taking into account the facts and circumstances in their entirety, this Court does not find that any of the actions or omissions of the respondent Corporation and/or its employees reflect willful defiance of the directions/orders passed by this Court. The contempt proceeding is, therefore, closed.

13. With the above observations and directions, the writ petition as well as the contempt proceeding shall stand disposed of.

14. No order as to costs.

SG/- I.A. ANSARI.

JUDGE.

Memo No. HC.XIV/.....1395-97...../ROS.Dt.....19.11.08

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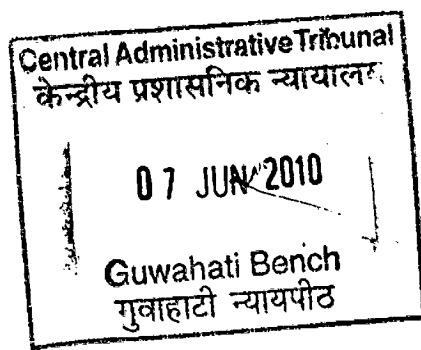
1. Shri A.K. Sinha, Chairman-cum- Managing Director,  
Bharatsanchar Nigam Ltd.,  
(A Govt. of India Enterprise)  
Registered Office, Sanchar Bhawan  
New Delhi- 1.
2. ✓ Sri G. Rajaram,  
Chief General Manager,  
Assam Telecom Circle,  
(BSNL), Panbazar, Guwahati-7.
3. Sri V.K. Mathur,  
General Manager,  
Kamrup Telecom District (BSNL),  
Panbazar, Guwahati-1.

BY ORDER

*Seka* 19.11.08

REGISTRAR (CONTEMPT)  
GAUHATI HIGH COURT, GUWAHATI.

19/11/08



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH :: GUWAHATI**

**OA No. 222 of 2009.**

Sri Ishwari Prasad Sarma & ors.

**Applicants.**

- versus -

Union of India & ors.

**Respondents.**

**REJOINDER TO THE WRITTEN STATEMENT FILED BY RESPONDENTS NO.**

**2 TO 7.**

1. That the copy of the written statement filed by the respondents No 2 to 7 has been served upon our counsel. I have gone through the statements made therein and have understood the contents thereof. Save and expect the statements which are admitted herein below, other statements made in the written statement may be treated as total denial by the deponent. The statements which are not borne on records are also treated to be denied by the deponent, and the respondents No 2 to 7 are put to the strictest proof thereof. Having regard to the nature of relief and the remedy sought for herein in the OA, the deponent on the authorization and consent of the other applicants has verified the statements appearing herein below.

2. That with regard to the statement made in Para 3(a) to 3 (f) of the written statement, the deponent does not admit anything contrary to the relevant records of the case.

3. That with regard to the statements made in Para

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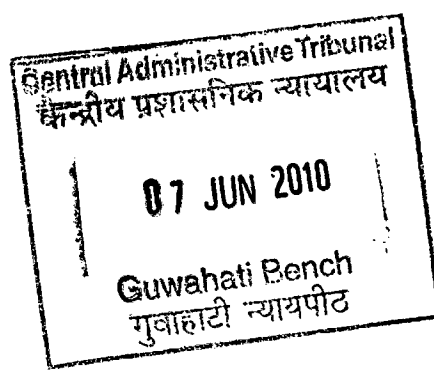
Ajay Prasad



3(g) of the writ petition the deponent begs to state that the respondents committed serious illegality at the very initial stage by making attempt to fill up the 67 posts surfaced in the year 1998 by the Recruitment Rule of 2001. It is stated that the petitioners of WP(C) 620/04 assailing the legality of such action approached the Hon'ble High Court and the Hon'ble High Court was pleased to pass an interim order directing the respondents to keep 11 posts of TTA vacant. Therefore, the respondents being model employer ought to have stalled the process of selection, however causing serious illegality and arbitrariness they continued with the selection process and filled up the remaining 56 posts as per the Recruitment Rule of 2001. It is stated that the respondents are duty bound to give opportunity to all the candidates to appear in the screening and were within the zone of consideration for promotion as on 1998 for the 67 posts as per the Recruitment Rule of 1998. However, resorting to illegalities and arbitrary exercise of power the respondents capriciously filled up the 56 posts as per the Recruitment Rule of 2001 leaving 11 posts vacant pursuant to the direction of the Hon'ble Court.

It is stated that the Hon'ble High Court vide order dated 26.05.06 passed in WP(C) No. 620/04 at Para 13 [Annexure- 8 of the O.A.] was pleased to grant liberty to the respondents to prescribe the syllabus and prepare Scheme for holding qualifying screening test in terms of the Rules of 1998 with further direction to consider the cases of the petitioners therein in terms of the Rules of 1998, for promotion to the post of TTA. Again, in Para 14 of the said judgment the Hon'ble Court was pleased to hold that the directions given in Para 13 **may** not be extended by the respondents to anyone other than the petitioners therein. Therefore, the Hon'ble Court did not put any restriction upon the respondents to deny the benefits to other similarly situated persons. It is the respondents with malafide intention to favour their blue eyed boys and deprive the other similarly situated persons gave their own

*Ajay Basa*

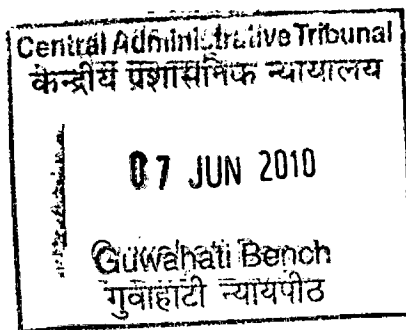


interpretation to the judgment of the Hon'ble Court. It is stated that the aforesaid aspect has been clarified by the Hon'ble High Court in the judgment and order dated 30.10.08 passed in WP(C) No. 3282/07 in Para 7, 8, 9 and 10. [Annexure- 17 of the additional affidavit filed by the applicant].

4. That with regard to the statements made in Para 3(h) of the written statement the deponent begs to state that in the WP(C) No. 620/04 and 3282/07 the petitioners therein were concerned with the vacancies surfaced as on 06.02.1999 i.e. the date on which TTA Recruitment Rule, 1998 came in to force. As on 06.02.1999, in total 67 vacancies surfaced in the different SSA in the Assam Circle which the respondents made move to fill up initially vide communication dated 12.12.01 [Annexure- 5 of the O.A.] which was cancelled vide order dated 12.02.02 [Annexure- 6 of the O.A.] and finally in the year 2004 vide communication dated 12.07.04 [Annexure- 7 of the O.A.] as per the Recruitment Rule of 2001 giving retrospective effect. It is stated that mention made by the respondents regarding existence of another Rule i.e. TTA (Amendment) Rules, 1999 which came into force on 25.10.99 does not have any role to play because this rule also inapplicable in filling up of the vacancies as on 06.02.99. Moreover, no such recruitment rule has been brought on record by the respondents and the respondents are making attempt to reopen the issue which was settled by the Hon'ble High Court attaining its finality.

5. That with regard to the statements made in Para 3(i)(j) of the written statement the deponent while denying the contentions made therein begs to state that the respondents due to their perpetuating illegalities had failed to adhere to the provisions of the recruitment rule. As per the respondents the petitioners of the WP(C) no. 620/04 and 3282/07 are employees of Kamrup SSA and total vacancies as on 06.02.99 in the Kamrup SSA are 4 (four).

*Ajoy Baruah*



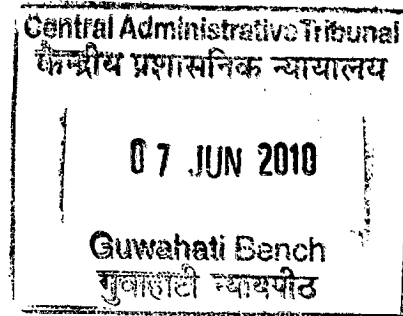
Therefore, if the statements made by the respondents are taken to be correct, in such an eventuality under what provision of law 11 (eleven) candidates were accommodated against 4 (four) vacant posts. The respondents diluted the provisions of the rules perpetuating illegalities.

6. That with regard to the statements made in Para 3 (k), (l), (m), (n), (o) the deponent does not admit anything contrary to the relevant records of the case.

7. That with regard to the statements made in Para 3 (p) and 4 of the written statement the deponent begs to state that the respondents in Para 3(m) have categorically stated that only 11 vacancies were available for filling up as per the Recruitment Rule of 1998 and no more vacancies left under the Rule of 1998. Therefore, any vacancies surfaced thereafter have to be filled up as per the recruitment Rules of 2001. The respondents have admitted that some 9 (nine) additional posts surfaced thereafter and the respondents relaxing the all norms and recruitment rules accommodated Sl. No. 12 to 20 of the list dated 18.11.08 [Annexure- 13 of the O.A.] in those posts. It is stated that after the filling up of the 11 posts, as per the admission of the respondents no post remained to be filled up as per the Recruitment Rules of 1998. Therefore, any vacancy surfaced thereafter has to be thrown open for all the eligible candidates including the applicants allowing them to avail their right to get considered for promotion. However, the respondents causing serious discrimination relaxing the Recruitment Rule of 2001 appointed the Sl. No. 12 to 20 of the list dated 18.11.08 depriving the applicants from their right to get considered for promotion.

It is further stated that the respondents failed in totality to give the details of the 9 vacancies surfaced and filled up after the filling up of the 11 vacancies. Therefore, the deponent craves leave of the Hon'ble Court for a direction towards the respondents to produce the

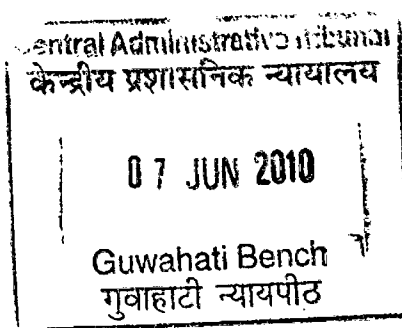
*Arjun Prasad*



relevant records of the case and to file a detail affidavit indicating the vacancy position and the manner of filling up of the vacancy surfaced later on.

8. That with regard to the statements made in Para 5 of the written statement the deponent while denying the contentions raised therein begs to state that the applicants became phone mechanic in the year 1993 and 1994 pursuant to a screening test. Thereafter, by the year 1999 on completion of 5 years all of them were well into the zone of consideration for getting considered for promotion against the 67 vacancies surfaced as on 06.02.1999. Therefore, the applicants are similarly situated to the petitioner of WP(C) No. 620/04 and 3282/07. The respondents resorting to serious illegality and arbitrariness filled up the 56 posts surfaced as on 06.02.99 by the Recruitment Rule of 2001 depriving the applicants from their right to getting considered for promotion, can not take the defense that the applicants are not vigilant of their rights. The respondents even did not circulate the notice for screening test in the department at Dispur as stated in the representation dated 17.09.07 [Annexure- R/7 of the W.S.]. It is further stated the decision passed by the Hon'ble High Court has attained its finality and since the respondents them self admitted that the aspect of Recruitment Rule of 1999 was not argued before the Hon'ble Court therefore such ground will not render the judgment of the Hon'ble High Court *per incuriam*. If the respondents were really aggrieved by the judgment of the Hon'ble high Court, they should have gone for further appeal. Moreover, so far as the aspect of having knowledge of two of the applicant regarding holding of screening test is concerned, they came to know about holding of the screening test after it was over and accordingly they submitted representation on 17.09.07 making a prayer for allowing them to appear in the screening test before the declaration of the results. However, the respondents failed to attend their prayer.

*Ajinkya Basa*

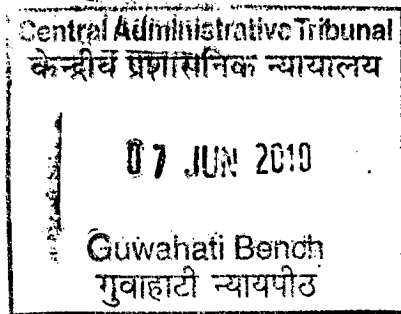


A copy of the communication dated 09.09.1993 is annexed herewith and marked as **ANNEXURE- 18.**

9. That with regard to the statements made in Para 6 of the written statement the deponent while denying the contentions made therein begs to state that the cause of action arose after the respondents allowed the Sl. No. 12 to 20 of the list dated 18.11.08 to participate in the TTA induction training and accordingly promote them to the post of TTA against the vacancies surfaced after 1999 as per the Recruitment Rules of 1998. Therefore, the present O.A. is well within the limitation period provided in the Administrative Tribunal Act' 1985.

10. That with regard to the statements made in Para 7 and 8 of the W.S. the deponent while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A. begs to state that the applicants are similarly situated to that of the petitioners of WP(C) No. 620/04 and 3282/07. The only prayer made by the applicants in the present O.A. is that similar treatment to them as has been done in the case of Sl. No. 12 to 20 of the list dated 18.11.08. The law is well settled that the respondents being a State can not take different stand and/or set different parameter in the matter of promotion to the similarly situated persons. Admittedly, since the respondents have promoted the persons at Sl. No. 12 to 20 of the list dated 18.11.08 to the post of TTA as per the Recruitment Rules of 1998 considering them to be in the zone of consideration as on 06.02.1999, therefore they can not deny such similar benefit to the applicants in violation of the Article 14 and 21 of the Constitution of India. It is stated that the respondent No. 12 to 24 were the un-successful candidates of the selection held by the official respondents and the respondents to accommodate them upon the pressure from the

*Agony Prasad*

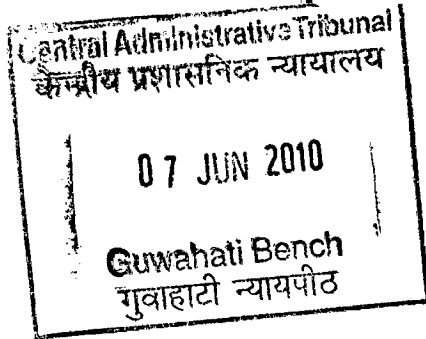


Union had provided them the said promotion ignoring the cases of the present applicants.

11. That with regard to the statements made in Para 9 of the written statement the deponent while denying the contentions made there in begs to state that the contention raised by the respondents that the applicant are not similarly situated has got no legs to stand as per the Annexure- 18 and only made with the sole purpose to mislead the Hon'ble Court. It is stated that the respondents interpreting the order of the Hon'ble High Court in their own way to favour their blue eyed boys did not considered the applicants who were within the zone of consideration as on 06.02.99 for promotion to the post of TTA for vacancies surfaced as on that date. The respondents even did not even circulate the notice of the Screening test. Therefore, the respondents taking benefit of their own lapse can not be allowed to contend that the applicants are not similarly situated.

12. That with regard to the statements made in Para 10 of the written statement the deponent while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A. begs to state that the fact of the existence of the TTA (Amendment) Rules, 1999 has got nothing to do with the present facts of the case. It has only been cited by the respondents to mislead the Hon'ble Court taking the ground of *per-incurium*. It is stated that since nothing has been argued and stated in the writ petition pertaining to the said TTA (Amendment) Rules' 1999, therefore on such flimsy grounds the judgments passed by the Hon'ble high Court would not render *per-incurium*. Moreover, since the judgments of the Hon'ble High Court have attained its finality the respondents can not take liberty to reopen the issue. It is stated that since the applicants were also within the zone of consideration like Sl. N. 12 to 20 of the list dated 18.11.08 for promotion to the post of TTA for the

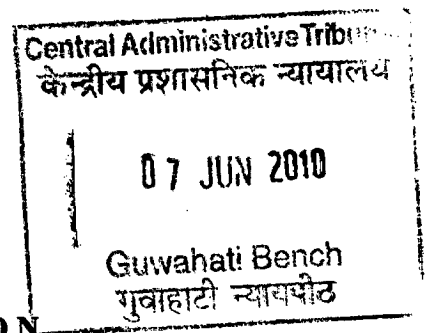
*Agony Borsad*



posts surfaced after 1999 and those Sl. No. 12 to 20 has been considered for promotion as per the Recruitment Rules of 1998, in such an eventuality the applicants being similarly situated can not be denied from their legitimate claim of promotion to the post of TTA as per the Recruitment Rule of 1998. The respondents being a State can not cause discrimination in the matter of promotion in the case of similarly situated persons. Moreover, the law is well settled that the administrative discretion can not be exercised in an arbitrary and discriminatory manner. Whenever, such arbitrariness and discrimination comes into light the Hon'ble Court can very well exercise the power of judicial review to restrict such illegality and discrimination. It is further stated that since the entire process of selection is illegal and the respondents deprived the applicants from their constitutional right of consideration for promotion there is no question of challenging individual promotion orders in the event of there being available sufficient vacancies.

13. That in view of the aforesaid facts and circumstances of the case the present O.A. deserves to be allowed with cost.

*Agny Basa*



**VERIFICATION**

I, Sri Ajay Prasad, s/o late Jagdish Prasad, Telephone Mechanic, O/o Sub-Divisional Officer, Phones, Guwahati, Assam, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1, 3 (Partly), 5, 7, 9, 10, 11 & 12 are true to my knowledge, those made in paragraphs 2, 3 (Partly), 4, 6, & 8 being matters of records are true to my information derived there from and the grounds urged are as per legal advice. I have not suppressed any material fact and I am authorized by the co-applicants to sign this verification.

And I sign this verification on this the 7th day of June, 2010 at Guwahati.

  
**APPLICANT**



-10-      -149-      (91)  
ANNEXURE-18

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM :: ASSAM CIRCLE  
ULUBARI::GUWAHATI::781007.

No. RECTT - 3/58-91/174      Dated at Guwahati, the 09.09.1993.

To,

- 1) The Telecom. District Manager, Guwahati.
- 2..7) The Telecom. District Engineers, Dibrugarh/  
Silchar/Bongaigaon/Jorhat/Tezpur/Nagaon.

Sub:-      Departmental Competitive Examination for promotion to the Cadre of Phone Mechanics held on 8th & 9th MAY'93 against the recruitment year 1992 ----- Announcement of Result.

Kindly find enclosed herewith the list of successful candidates in respect of the above mentioned Examination (As per Annexure I (Page 1 to 4)) for taking further necessary action at your end.

The position of the successful candidates are shown in order of merit .

Enclos: 1 As Above.

Sd/-  
(S.C. CHOUDHURY.)  
Asstt. Director Telecom. (E & R),  
for Chief General Manager,  
Assam Telecommunication Circle.

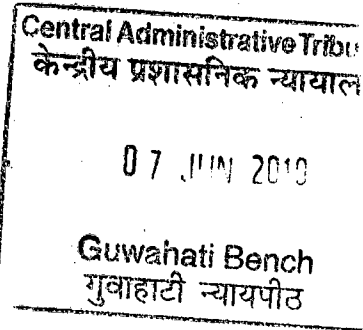
: : : : :

Copy to :-

- 1) The C.G.M.T, T/F , Guwahati.
- 2) The Director Maintenance, ETR, Guwahati.
- 3-4) The AMT, Guwahati/Dibrugarh.
- 5) The REM, Guwahati.
- 6) The CS, CTO, Guwahati.
- 7) The ADT(S), C.O., Guwahati.
- ✓ 8) The ADT(HRD), C.O., Guwahati. He is requested to make necessary arrangements for training of the candidates immediately.
- 9) File No. RECTT/E&R/CON-3/93.
- 10) Office Copy.
- 11) The O.S., Circle Office, Guwahati.

Sd/-  
for Chief General Manager,  
Assam Telecommunications Circle.

: : : : :



22/9/93  
p.m.

Attended  
Hrs.  
Advocate

Annexure to letter No. RECTT-3/58-91/174 dtd. 09.09.1993.

A. Guwahati Telecom. District = 51 (Fifty One)

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्याय

07 JUN 2010

Guwahati Bench  
गुवाहाटी न्यायपीठ

S/N	Name of Candidate	Roll No.	Community
1)	Sri Suryadeo Ray. ✓	ASM - 06/PM - 91	OC Rm
09 ✓ 2)	Md. Azghar Ali. ✓	248	OC Rm
09 ✓ 3)	Sri Ajoy Prasad. ✓	100	OC TSM
4)	Sri Jagdish Prasad Singh.	293	OC Rm
5)	Sri Karuna Kanta Das. ✓	271	SC TSM
6)	Krishna Pradhan.	117	OC Pcon
7)	Sri Tarani Kanta Kumar.	91	OC TSM
8)	Sri Sarbeswar Deka.	109	OC Rm
9)	Md. Naushad Ali. ✓	110	OC Rm
10)	Sri Ranti Ram Kumar. ✓	198	OC Pcon
11)	Sri Debendra Nath Patgiri.	197	OC Pcon
12)	Sri Dhaneswar Malakar. ✓	38	SC Underman
13)	Md. Makshed Ali. ✓	94	OC TSM
14)	Md. Mehboob Ali. ✓	97	OC TSM
15)	Sri Binanda Ram Kalita. ✓	45	OC Underman
16)	Sri Haren Ch. Das.	311(A)	OC Underman
17)	Sri Harijiwan Sah.	234	OC Pcon
18)	Sri Jagadish Ch. Bujarbaruah.	43	OC Underman
19)	Sri Hari Ch. Das.	32	OC Pcon
20)	Md. Salem Ali.	199	OC Pcon
21)	Md. Fazal Ali.	37	OC TSM
22)	Sri Bijey Deka.	118	OC Rm
23)	Sri Dharmeswar Deka.	114	OC Rm
24)	Md. Rubul Amin.	112	OC Rm
25)	Sri Nagina Roy.	53	OC L/M
26)	Sri Prabhat Ch. Das.	252	SC Rm
27)	Md. Idrish Ali.	89	OC TSM
28)	Sri Nabin Ch. Baishya. ✓	93	OC TSM
29)	Sri Bipul Ch. Das.	204	OC Underman
30)	Md. Akbar Ali.	36	OC TSM
31)	Sri Mohsin Chaudhury.	61	OC L/M
32)	Sri Gajen Thakuria.	241	OC TSM
33)	Sri Chakradhar Meral.	283	OC TSM
34)	Sri Umesh Ch. Kalita. ✓	113	OC Rm
35)	Ambika Bezbaruah. ✓	236	OC Pcon
36)	Sri Rajat Ch. Thakuria. ✓	54	OC L/M
37)	Harendra Paul. ✓	74	OC Rm
38)	Sri Pradip Malakar. ✓	105	SC Rm
39)	Sri Narayan Ch. Das.	39	OC Underman
40)	Sri Pranab Mazumdar.	81	OC Rm

S/N.	Name of Candidate	Roll No.	Community
41)	Sri Rajat Bhattacharjee. ASM - 119/PM-91		OC Rm
42)	Sri Jogindra Singha.	308	OC Tely. m
43)	Sri Babul Ch. Dey.	75	SC Rm
44)	Sri Uttam Ch. Das.	249	OC L/m
45)	Sri Pradip Kr. Chaudhury.	08	OC L/m
46)	Sri Swapen Kr. Baruah.	196	OC Tely. m
47)	Sri Manic Ch. Das.	76	SC Rm
48)	Sri Prasanna Das.	242	SC Rm
49)	Sri Lakshman Boro.	10	ST L/m
50)	Sri Niren Rongpee.	111	ST Rm
51)	Sri Ramani Baishya.	102	SC Tsm.

Central Administration  
केन्द्रीय प्रशासनिक  
07 JUN  
Guwahati E  
गुवाहाटी न्यू

B. Dibrugarh Telecom. District = 22 (Twenty Two)

1)	Sri Khitish Berpatra. ✓ ASM - 260/PM -91	OC Rm
2)	Sri Iswari Prasad Sarma. ✓	OC TSM
3)	Md. Jalaluddin Ahmed. ✓	OC Rm
4)	Sri Mani Ram Neeg.	OC L/m
5)	Sri Gopi Nath Gogoi.	OC TSM
6)	Sri Pabitra Mazumdar. ✓	SC TSM
7)	Sri Mahadev Ghosh.	OC Rm
8)	Sri Mihir Sikdar. ✓	OC TSM
9)	Sri Bhadra Kanti Kenwar.	OC TSM
10)	Md. Halim Ali.	OC TSM
11)	Sri Akshay Kr. Sarkar. ✓	OC TSM
12)	Sri Jiban Gehain. ✓	OC TSM
13)	Sri Bharat Bhowal. ✓	OC TSM
14)	Miss Kalpana Gehain. ✓	OC TSM
15)	Sri Akon Ch. Talukdar.	OC L/m
16)	Sri Bipul Hazarika. ✓	OC TSM
17)	Sri Deganta Senowal.	ST Rm
18)	Sri Dilip Mazumdar. ✓	OC TSM
19)	Sri Ajoy Kr. Das.	SC TSM
20)	Sri Govinda Mandal. ✓	SC TSM
21)	Sri Padmeswar Senowal.	ST TSM
22)	Singheswar Berah. ✓	SC TSM

C. Silchar Telecom. District = 12 (Twelve)

1)	Sri Narayan Ch. Das. ASM - 168/PM - 91	SC Tsm
2)	Sri Nihar Kanta Deb.	OC Tsm
3)	Sri Rasamay Ch. Nath.	OC Tsm
4)	Sri Hiralal Das.	SC Tsm
5)	Sri Dulal Ch. Roy.	OC Tsm
6)	Sri Sunil Rn. Malakar.	OC L/m
7)	Sri Sishir Kr. Singha.	SC Tsm

S/N	Name of Candidate	Roll No.	Community
8)	Sri Gopika Rn. Roy.	ASM - 289/PM - 91	SC <u>Condem. Employee</u>
9)	Sri Pijush Kanti Roy.	296	SC TSM
10)	Sri Sahidul Islam Chaudhury.	133	OC TSM
11)	Sri Kajal Kr. Das.	136	SC TSM
12)	Sri Tapash Shankar Barman.	298	ST <u>Guwahati</u>

N.B. :: The candidates at Sl.No.7,8,9,& 11 are declared qualified against unreserved categories of vacancies.

D. Bongaigaon Telecom. District = 11 (Eleven)

1)	Sri Ramani Medhi.	ASM - 11/PM - 91	OC <u>L/m</u>
2)	Sri Dharanidhar Basumatary.	12	ST <u>L/m</u>
3)	Md. Janmil Ali. ✓	15	OC <u>L/m</u>
4)	Sri Chandan Kr. Saha.	03	OC <u>RM</u>
5)	Sri Rabin Kr. Roy.	04	OC TSM
6)	Sri Symbash Talukdar.	05	OC <u>RM</u>
7)	Md. Ayub Ali. ✓	16	OC TSM
8)	Sri Rajen Ch. Das.	19	SC <u>L/m</u>
9)	Md. Alewddin Ali.	27	OC TSM
10)	Smt. Dalima Barman Roy.	87	OC TSM
11)	Sri Subal Ch. Nath.	22	OC <u>L/m</u>

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्याय

07 JUN 2010

Guwahati Bench  
गुवाहाटी न्यायपीठ

E. Jorhat Telecom. District = 10 (Ten)

1)	Sri Paresch Ch. Phookan.	ASM - 220/PM - 91	OC <u>L/m</u>
2)	Sri Himen Gogoi.	146	OC <u>RM</u>
3)	Sri Genesh Berah.	223	OC <u>L/m</u>
4)	Sri Lakheswar Berah.	143	OC TSM
5)	Sri Gouri Sankar Sarma.	222	OC <u>L/m</u>
6)	Sri Padmadhar Baruah.	225	OC TSM
7)	Sri Horesch Ch. Kalita.	142	OC TSM
8)	Sri Ajit Gogoi.	226	OC TSM
9)	Sri Niren Ch. Neeg.	316	OC <u>RM</u>
10)	Sri Meneswar Hazarika.	171	SC TSM

F. Tezpur Telecom, District = 08 (Eight)

S/N	Name of Candidate	Roll No.	Community
1)	Sri Sonkan Kalita.	ASM - 186/PM - 91	OC TSM
2)	Sri Pradip Das.	185	OC TSM
3)	Sri Kamaleswar Konwar.	160	OC TSM
4)	Sri Jegya Ch. Deuri .	187	ST TSM
5)	Sri Dulal Hazarika.	183	OC TSM
6)	Sri Thaneswar Bora.	158	OC L/M
7)	Sri Rabi Lama.	192	OC TSM
8)	Sri Dinesh Kumar.	189	ST R/M

G. Nagaen Telecom, District = 06 (Six)

1)	Sri Aken Deka Raja.	ASM - 254/PM - 91	ST R/M
2)	Sri Lokeswar Saikia.	239	OC L/M
3)	Sri Jiban Ch. Gogoi.	137	OC L/M
4)	Sri Thanu Ram Oza.	152	OC L/M
5)	Sri Golap Ch. Borah.	138	OC L/M
6)	Sri Pradip Das.	253	OC TSM

