

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 274/2015  
R.A./CP/NO..... 2015  
E.P./M.P./NO..... 2015

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by mrs. m. dm in case

22/07/2015  
SECTION OFFICER (JUDL.)

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

1. ORIGINAL APPLICATION No : 274 / 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 M. C. Kalita, M.A.

Respondent (S) : Union of India, more

Advocate for the : Dr. J. L. Sarkar  
(Applicant (S))

Mrs. S. N. Tamuli

Advocate for the : BSNL  
(Respondent (S))

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. f. r. 1.5 U/- deposited vide IP No. <u>896429765</u> Dated <u>19/12/05</u></p> <p><i>21/12/05</i> Dy. Registrar 21/12/05</p> <p><i>21/12/05</i></p> <p>Five copies of application with envelope received for issue notice to the Respondent. Copy served to the d/Advocate for the BSNL. No separate application for joinder prayer is submitted.</p> <p><i>21/12/05</i></p>	<p>22.12.2009</p> <p>1LM/</p>	<p>Heard for both sides. For the reasons recorded separately O.A. stands disposed of.</p> <p><i>21/12/05</i></p> <p>(Madan Kumar Chaturvedi) Member (A)</p>

4/1/2010.

Judgement / Final order

dated 22/12/09 Prepared  
and sent to the despatch  
section for issuing the  
all respondents and  
issued Advocate bill  
the Parties  
vide NO Eplo 75

dated 04-01-2010

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI:

O.A. No. 274 of 2009

Date of Decision : 22.12.2009

Shri M.C.Kalita & Ors.  
.....

Applicant/s

Dr.J.L.Sarkar  
.....

Advocates for the  
Applicant/s

- Versus -

U.O.I. & Ors.  
.....

Respondent/s

Mrs. M.Das, B.S.N.L.  
.....

Advocate for the  
Respondents

CORAM :

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

*Chaturvedi*  
MEMBER(A)

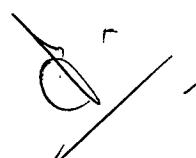
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 274 of 2009

Date of Order: This, the 22<sup>nd</sup> Day of December, 2009

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

1. Shri M.C. Kalita  
S/O Late Bandhu Ram Kalita  
P.O.- Noonmati  
Vill- No.2 Madhabpur G.R.C. Road  
Pin- 781020.
2. Shri Biman Kumar Deb  
S/O Lal Deb  
P.O. – Vinovanagar  
Vill- Bhaskar Nagar, Pin- 781018.
3. Shri Hiren Chandra Deb  
S/O Late I. Ch. Deb  
P.O.- Lalganesh (Govinda Nagar)  
Pin- 781034.
4. Shri D Goswami  
S/O Late M. Goswami  
P.O.- Roopnagar, Medical Birubari Road  
Pin- 781032.
5. Shri B.K. Goswami  
P.O.- Udayan Vihar  
Vill- Kundil Nagar, No.2 Birkuchi  
Pin- 781171.
6. Sri Sarat Das  
S/O Late Nabin Chandra Das  
P.O. Soalkuchi  
Villo-Haripur  
Pin 781130
7. Shri D Lahkar  
Anandapur  
P.O. Dispur  
Pin 781005
8. Shri Golok Ch. Kalita  
S/O Late M.R. Kalita  
P.O. Baranghati  
Vill. Palpara, Pin 781351



9. Shri Mati Ram Baishya  
S/o Late Haro Baishya  
P.O.Mukalmua  
Vill.No.Joysagar  
Pin.781126
10. Shri Maheswar Mali  
S/O Late S.R.Mali  
P.O.Kaniha  
Vill.No.Ischadagharia  
Pin 781380
11. Shri G.N.Sarma  
S/O Late M.N.Sarma  
P.O.Deb Kata Nagar  
Krishna Nagar Down  
Near Gosala Maligaon  
Pin 781033
12. Shri Tapan Ch.Pator  
S/O Late J.Patar  
P.O.Kharghuli  
Vill.Litpur, Pin.781004
13. Shri Lohit Ch.Malakar  
S/O Late Dehi Ram Malakar  
P.O.Kahilipara, Vill.Bhagaduttpur  
Pin 781019

... Applicants

By Advocate: Dr.J.L.Sarkar,

1. Union of India Represented by the Secretary  
Ministry of communication  
Department of Telecom  
Sanchar Bhawan  
New Delhi, Pin -110001
2. Che Chief Managing Director  
Bharat Sanchar Nigam Limited  
Corporate Office 102 B  
Statesman House  
148 Bharahhumba Road  
New Delhi, Pin-110001
3. The Chief Managing Director  
B.S.N.L. Corporate office  
102-B statesman House  
148 Barahhumba Road  
New Delhi, Pin-110001
4. The Chief General Manager  
Bharat Sanchar Nigam Limited  
Assam Telecom Circle  
Guwahati, Pin-781007

5. The General Manager  
Bharat Sanchar Nigam Limited  
Kamrup Telecom District  
Pan Bazar, Guwahati  
Pin 781001

Respondents

By Mrs. M.Das, for BSNL

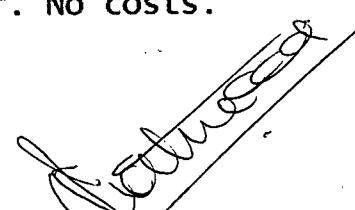
MADAN KR.CHATURVEDI, MEMBER(A):

Dr.J.L.Sarkar, Learned counsel for the Applicants submits that the facts of this case are almost identical to O.A.No.273 of 2009 with the difference that, no order of promotion was issued in this case. It was prayed that the aspect of promotion may be considered on the same lines.

Mrs. M.Das, Learned Sr.Standing counsel appearing for the BSNL has submitted that promotion cannot be claimed as a matter of right. It should be in confirmity with the scheme.

I have heard the rival submissions I hereby direct the Respondents to consider the aspect of promotion on the touchstone of the scheme and to expedite the matter within a period of three months by passing a reasoned order.

O.A. is accordingly, disposed of. No costs.

  
(MADAN KUMAR CHATURVEDI  
ADMINISTRATIVE MEMBER)

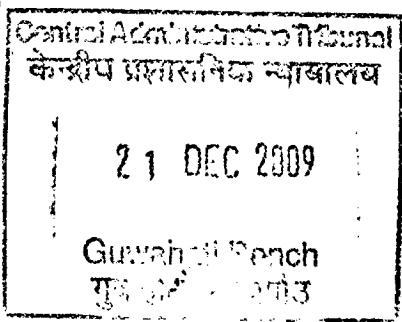
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :

O.A. NO. 274 Of 2009

Shri M.C.Kalita & Others  
\_Vs-  
Union of India & Others

SYNOPSIS

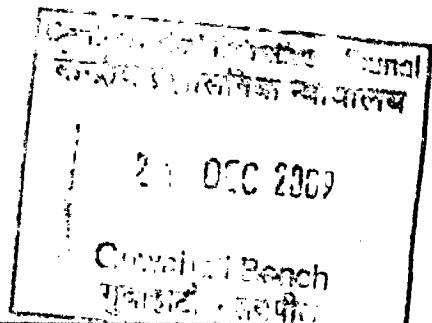


Applicants joined Department of Posts and Telegraphs as Telephone Operator on different dates. They were ultimately absorbed in B.S.N.L after corporatization of D.O.T i.e. Department of Telecommunication. They were initially promoted to the post of Telephone Operator Grade II as per the One Time Bound Promotion Scheme on completion of 16 years of service. Again as per the BCR i.e. Biennial cadre Review Scheme they were entitled to 2<sup>nd</sup> promotion i.e. Telephone Operator Grade III on completion of 26 years of service. Applicants got both the promotion in time. As per the avenue of promotion their next promotion is to the post of Telephone Operator Grade IV i.e. against 10% BCR Quota. The above promotion is given by up gradation of post on functional justification after the recommendation of DPC. DPC for the year 2001, 2002 etc. were not conducted for reasons best known to the Respondents. Subsequently DPC were conducted and promotions were given with retrospective effect. But while doing so Applicants were left out without any promotion though their juniors were promoted. Applicants espoused the matter with the administration at their individual capacity and also through their union. But Respondents did not consider their prayer. As such the Applicants this O.A. for their redressal of grievances.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :

O.A. NO. Of 2009

Sri M.C. Kalita & Others  
\_Vs-  
Union of India & Others

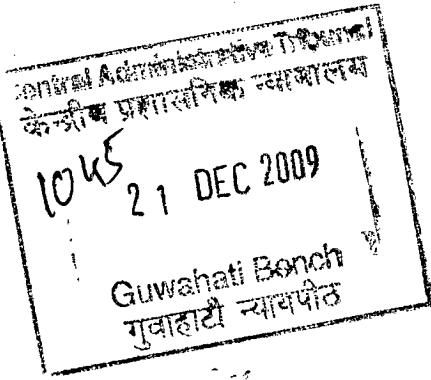


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,  
GUWHATI

(An application under Section 19 of the Administrative Tribunal Act-1985)



O.A. No. 275/2009

- (1) Shri M.C.Kalita  
S/O Late Bandhu Ram Kalita  
P.O. Noonmati  
Vill. No 2 Madhabpur G.R.C. Road  
Pin 781020
- (2) Shri Biman Kumar Deb  
S/O Lal Deb  
P.O. Vinovanagar  
Vill. Bhaskar Nagar  
Pin 781018
- (3) Shri Hiren Chandra Deb  
S/O Late I.Ch Deb  
P.O. Lalganesh (Govinda Nagar)  
Pin 781034
- (4) Shri D Goswami  
S/O Late M.Goswami  
P.O. Roopnagar  
Medical Birubari Road  
Pin 781032
- (5) Shri B.K.Goswami  
S/O Late Basudev Goswami  
P.O. Udayan Vihar  
Vill. Kundil Nagar, No 2 Birkuchi  
Pin 781171

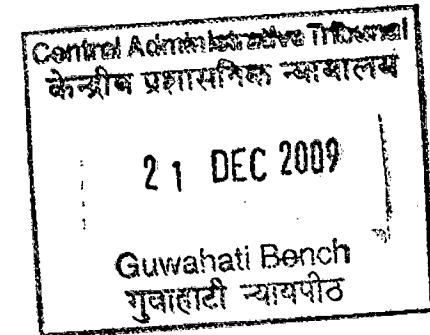
Filed by the : Application  
Trough S. N. Tumuli  
Advocate Date : 21/12/09

Copy received by  
S. P. Chakraborty on  
behalf of Mr. B. C. Pathak  
Advocate for BSNL on  
21/12/09 at present 2:00 PM.

mahech ch. Kalita

(6) Shri Sarat Das  
 S/O Late Nabin Chandra Das  
 P.O. Soalkuchi  
 Vill. Haripur  
 Pin 781130

(7) Shri D Lahkar  
 S/O Anath Lahkar  
 Anandapur  
 P.O. Dispur  
 Pin 781005



(8) Shri Golok Ch Kalita  
 S/O Late M.R.Kalita  
 P.O. Baranghati  
 Vill. Palpara  
 Pin 781351

(9) Shri Mati Ram Baishya  
 S/O Late Haro Baishya  
 P.O. Mukalmua  
 Vill. No Joysagar  
 Pin 781126

(10) Shri Maheswar Mali  
 S/O Late S.R.Mali  
 P.O. Kaniha  
 Vill. No Ischadagharria  
 Pin 781380

(11) Shri G.N.Sarma  
 S/O Late M.N.Sarma  
 P.O. Deb Kata Nagar  
 Krishna Nagar Down  
 Near Gosala Maligaon  
 Pin 781033

Mahesh ch. Kalita

(12) Shri Tapan Ch Pator  
 S/O Late J. Patar  
 P.O. Kharghuli  
 Vill. Litpur  
 Pin 781004

Cert. of Administrative Tribunal  
 कानूनी अदालत का स्वाक्षरता

21 DEC 2009

Guwahati Bench  
 गुवाहाटी न्यायपीठ

(13) Shri Lohit Ch Malakar  
 S/O Late Dehi Ram Malakar  
 P.O. Kahilipara, Vill. Bhagadutapur  
 Pin 781019

.....Applicants

-Vs-

(I) Union of Indian Represented by the Secretary  
 Ministry of Communication Department of  
 Telecom  
 Sanchar Bhawan  
 New Delhi, Pin-110001

(II) The Chief Managing Director,  
 Bharat Sanchar Nigam Limited  
 Corporate Office 102-B  
 Statesman House.  
 148 Barahhumba Road  
 New Delhi, Pin-110001

(III) The Chief Managing Director  
 B.S.N.L Corporate office  
 102-B statesman House  
 148 Barahhumba Road  
 New Delhi, Pin-110001.

(III) The Chief General Manager  
 Bharat Sanchar Nigam Limited  
 Assam Telecom Circle  
 Guwahati, Pin-781007

mahech ch. kalita

21 DEC 2009

(V) The General Manager.  
 Bharat Sanchar Nigam Limited  
 Kamrup Telecom District  
 Pan Bazar, Guwahati  
 Pin 781001

Guwahati Bench  
গুৱাহাটী ন্যায়পৌঠ

.....Respondents

DETAILS OF THE APPLICATION:(1) PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION IS MADE:

This application is made for grant of 10% BCR Grade IV Performa promotion to the applicants of scale up gradation and for grant of consequential benefits including pension

2. JURISDICTION OF THE TRIBUNAL:

The applicant declare that subject matter of the application is within the jurisdiction of this Hon'ble Tribunal

3. LIMITATION:

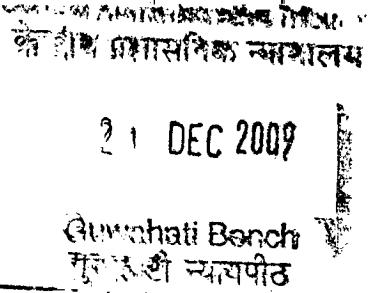
The applicant further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act-1985

4. FACTS OF THE CASE:

4.1 That the applicants are citizens of India and as such are entitled to the rights and privileges guaranteed by the Constitution of India and Laws framed there under from time to time.

4.2 That all the applicants are retired employees of Bharat Sanchar Nigam Limited (herein after referred as B.S.N.L in short), and have a common cause of action and have a common relief prayed for and as such pray before your Lordships to grant permission to move a joint Original Application under Rule (5) (a) of Central Administrative Tribunal (Procedure) Rules – 1987

mahesh ch. Kalita



4.3. That all the applicants initially joined service under Indian Post and Telegraphs Department, N.E. Circle, Shillong on different dates as given in the chart given below as Telephone Operators, Gr.C. posts. Subsequently with the bifurcation of N.E. circle in to Assam Circle and N.E. Circle all the applicants falls under Assam Telecom Circle. With the Corporatisation of Telecom Department/Service in the year 2001 i.e. on 1/10/2000 applicants were absorbed under B.S.N.L. and become the employee of B.S.N.L. After serving in the Department of Post and Telegraph than Department of the Telecom and ultimately B.S.N.L. applicants retired from services on various dates without any blemish or stigma in their service life. For easy appraisal of the Hon'ble Tribunal a chart giving details of the applicants, such as their date of entry in service various promotion and date of retirement is given below.

SL No	Name	Date of entry in service	OTBP on completion of 16 years of service	BCR Promotion on completion of 16 years of service	Date of retirement
1	Shri Lohit Ch Malakar	14.05.67	30.05.81	31.12.92	30.04.05
2	Shri Tapan Ch Pator	24.05.67	30.05.84	30.05.94	30.06.06
3	Shri G.N.Sarma	05.05.72	05.05.88	01.07.98	31.01.07
4	Shri Maheswar Mali	06.08.66	-	-	30.04.07
5	Shri Mati Ram Baishya	06.08.66	-	-	31.01.06
7	Shri D Lahkar	27.05.68	27.04.85	01.07.94	28.02.05
8	Shri Sarat Das	05.05.68	-	-	28.02.05
9	Shri B.K.Goswami	18.06.65	-	-	28.02.05
10	Shri D Goswami	18.01.65	30.11.83	26.10.91	31.08.03
11	Shri Hiren Chandra Deb	02.03.63	30.11.83	1.12.90	31.03.02
12	Biman Kumar Deb	30.08.60	30.11.83	1.12.90	31.12.01
13	Shri M.C.Kalita	01.10.65	31.11.85	26.10.91	31.03.03

4.4 That on the basis of scale of pay posts of telephone operators is classified in to four grades as given under

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21 DEC 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

(a) Telephone Operator (Scale of pay Rs. 5,700-160-8100) 5<sup>th</sup> CPC

↓

(b) Telephone Operator Grade II (Scale of pay Rs. 7100-200-10100 5<sup>th</sup> CPC)

↓

(C) Telephone Operator Grade III (Scale of pay Rs. 7800-225-11,175, 5<sup>th</sup> CPC)

↓

(D) Telephone Operator Grade IV (Scale of pay Rs. 8570-245-12,245  
5<sup>th</sup> CPC)

Initially first promotion i.e. Telephone Operator to Grade II was given on the basis of Departmental Examination under "The Post and Telegraph Department of Telecommunication Branch (selection Grade posts) i.e. Recruitment Rules 1979". But in the year 1983 Department of Telecommunication formulated a scheme known as One Time Bound Promotion Scheme (herein after referred as OTBP Scheme in short) to grant promotion from basic Grade i.e. Telephone Operator to Telephone Operator Grade II. The scheme inter alia provide that promotion to grade II post on the basis of departmental examination was be abolished ultimately Grade II promotions were given from amongst Telephone Operator on completion of 16 years of service. Applicants were also promoted by following this OTBP Scheme on completion of 16 years of service.

4.5. That in the year 1990 Department of Telecommunication (DOT in short) introduced another scheme of promotion i.e. 2<sup>nd</sup> time bound promotion on completion of 26 years of service in basic grade vide latter No: DOT No 224/87-TE II (1) dated 16/10/1990. This scheme provider that those staff for whom OTBP is applicable on completion of 16 years and entered service on or before 1/1/1990 will be governed by this scheme. This scheme provider that Biennial Cadre Review (once in two year) will be conducted in respect of eligible cadres at the circle level and at the time of review the number of officials who have completed and would be completing 26 years of service in the basic grade (including time spent in higher scale/OTBP) will be ascertained and promotion will be granted by up-graduation of posts on the basis of functional justification. This scheme is called Biennial Cadre Review (herein after referred as BCR scheme in short). Applicants in the present O.A. were granted promotion initially on completion of 16 years of service as per OTBP Scheme on various dates as given in the chart in para 4.3. Subsequently under BCR scheme dated 16/10/1990 applicants were granted 2<sup>nd</sup> promotion i.e. from Grade II to Grade III, on completion of 26 years in basis grade Dates of their promotion to grade III is given in the chart in para 4.3.

A copy of the letter dated 16/10/1990 is enclosed as  
Annexure 1

mahech ch. kalita

21 DEC 2009

Guwahati Bench

4.6 That next promotion of the Telephone Operator Grade III which includes applicants is to the post of Telephone Operator Grade IV (Scale of pay Rs. 8570-245-12,245, 5<sup>th</sup> CPC). These promotions are given amongst the eligible officials in Grade III i.e. Telephone Operator Grade III by up gradation of 10% the post in grade III i.e. 10% BCR posts. Ministry of Communications, Department of Telecom, Sanchar Bhawan -New Delhi vide letter dated 13/12/1995, No 22-6/94-TE-II, issued procedure for promotion to 10% BCR posts (Grade IV posts) as per judgment of Hon'ble Supreme Court. This letter states as follows:

"...it has now been divided Grade- VI may be given amongst officials in Grade III on the basis of their seniority in the basic grade. The promotion would be subject to fitness determined by the DPC as usual"

A copy of the letter dated 13/12/95 is enclosed as Annexure 2

4.7 That following the about order various promotion orders were issued granting promotion to Grade III officials against 10% BCR Quota from time to time. These orders were issued giving retrospective effect depending upon availability of vacancies determined by biennial cadre review. But while granting the aforesaid promotion certain senior persons were ignored and were left out without any promotion though their juniors were promoted retrospectively. The above promotion orders were issued in casual manner without proper scrutiny of the seniority list. It is worthwhile to mention here that with the introduction of new technology by BSNL telephone operators were asked to give option for training in new technology. Those who opted for such training were called Opties (in pre structured cadre) and those who do not exercise such option were called non opties (in pre structured cadre). The above BCR (10%) Quota is for the non opties i.e. (in pre structure cadre) persons who did not opt for such training. And opties were granted financial benefit i.e. scale up gradation to the extent of the non opties who were granted such promotion depending upon their seniority. For example if A who is a non optee and granted BCR promotion to Grade IV against 10% BCR Quota than B who is a optee and senior to A will get financial up grading to the extent of A.

As mention above 10% BCR vacancies are filled amongst the non optees and senior non optees will be given benefit by financial up gradation to the extent of their juniors. Vide O.M. date 12/10/1998 issued by Ministry of Personnel, Public

Mahech Ch. Kalita

21 DEC 2009

Guwahati Bench

Grievances and Pension, (Dept of Personnel and Training) circulated the procedure to be followed by DPC in respect of retired employee who were eligible for consideration in a particular year and retired subsequently in cases where DCP could not be held for reasons beyond control even through vacancies arises during the year(s). As per this memorandum it was clarified that eligible employee for a particular year but not actually in service when the DPC is being held may be included in the panels. Its is humbly stated that such officials/ employees will have no right for actual promotion but their pay will be fixed notionally.

A copy of the letter date 12/10/98is enclosed as Annexure-3

4.8 That for the reasons best known to the Respondents DCP for Grade IV promotion was not conducted for the year 2001, 2002 etc. Subsequently DCP was conducted and panels of eligible candidates were prepared and promotion orders were issued to various eligible candidates but surprisingly while doing so applicants though senior and eligible for promotion were left out and junior persons were promoted for example vide promotion order dated 28<sup>th</sup> August 2007, Memo No GMT/EST-382/Gr-IV/Sr TOA(P)-STS (Loose)/Part-1/2007-08/24 grade IV (10% BCR) promotion was granted to a large number of employees. In the aforesaid promotion order names of K.P.Choudhury , Sri Munindra Borgohain (against SL No 9), Sri Sarbeswar Sarma (against SL No10) , Sri Rupen Kumar Choudhury (against SL NO 11) appeared and were granted grade IV promotion against 10% BCR quota giving retrospective effect from 1/1/2003. It is worthwhile to mention here that all these persons are junior to the applicants. This shows that promotion orders in Assam Telecom Circle were issued hastily in total violation of existing guidelines, ignoring circle level seniority in basic grade. The promotion orders were issued in total non application of mind and with intention to do favour of the junior staff ignoring eligible senior staffs. This was done in violation of various constitutional provisions embodied in Article 14 and 16 of the constitution and in violation of various Government of India's instructions contained in various O.M.S. issued from time to time.

A copy of the promotion order dated 28/8/2007 is enclosed of  
Annexure 4

4.10 That vide letter dated 30/10/2008 (letter No GM/Est-382/Gr-IV/ all cadre / 08-09/26) issued by the General Manager Kamrup Telecom District and letter dated 22/11/2008 and Latter No STES-9/29/Pt-IV/168) issued by the Dy. General Manager

Mahesh Ch. Talita

21 DEC 2009

Guwahati Bench  
Guwahati न्यायपीठ

(Admn.) in the subject of Granting BCR-IV promotion to retired official with retrospective effect guidelines were issued In para 6 of the above guidelines it is stated that

*"Further as per B.S.N.L. instruction vide letter No 22-6/94/ PHE-ii (Vol-II) dtd. 29.10.2009 it has been instructed that while granting the promotion to retired Gr. IV officials, the pay is to be fixed notionally and the revise the pension accordingly (Annex II)"*

As such it is clear that retired employees are entitled to such promotion and national pay fixation. But B.S.N.L Authorities deprived the applicants of such fixation and financial benefits thereof. It is stated that applicants are entitled to get actual promotion and pay fixation as per the scheme.

Copies of the letter date 30/10/08 and letter date 22/11/08 are enclose a Annexure 5 & 6 respectively.

4.9 Those B.S.N.L authorities deprive the applicants of their legitimate claim by misinterpreting circulars /memorandum and Constitutional Provisions etc. This has happened due to non application of mind and as such is against the established produce of law. B.S.N.L authorities' completely ignored their care without any valid reasons. Due to non fixation of pay in higher grade applicants are getting Less pensions than other similarly placed persons. This is illegal.

4.10 That the matter regarding promotion of these applicants and few others was taken up with the B.S.N.L authorities by B.S.N.L Employees Union on several occasions but B.S.N.L authorities took no interest in the matter and kept the matter pending. General Secretary of the union to Sri D.P.De, GM (Estt.) B.S.N.L. vide letter dated 12/2/2009 sought clarification from the administration and requested him to rectify the error which is still pending.

A copy of the letter dated 12.02.09 is enclosed of Annexure 7

##### 5. GROUNDS WITH LEGAL PROVISIONS:

- 5.1 For the applicants are entitled to Grade IV Performa promotion (10%) BCR Quota from the date on which their juniors were promoted and are entitled to get financial benefits as applicable under the .
- 5.2. For that no consideration of applicants for 10% BCR Grade IV promotion is violative of Article 14 and 16 of the constitution of India.

Mahesh Ch. Kalita

Guwahati Bench  
N.C.T. of Assam

- 5.3. For that non consideration of applicants for the above promotion is clear violation of the various guidelines issued by B.S.N.L. and Govt. of India.
- 5.4. For that their last pay in the higher grade should be calculated for fixation of pension and other benefits.
- 5.5. For that non fixation of pension in the higher grade applicants are continuously suffering.

Applicants crave for the liberty of this Hon'ble Tribunal to give additional grounds at the time of hearing.

6. DETAILS OF THE REMIDIES EXHAUSTED:

There is no remedy under any Rule and this Hon'ble Tribunal is the only forum for redressal of the grievances. The matter was taken up with the BSNL Authorities by the recognized union i.e. B.S.N.L. employees union of which applicants were member but without any fruit

7. MATTER NOT PREVIOUSLY PENDING BEFORE ANY OTHER COURT:

The applicant declares that they have not filed any original application or petition in any Tribunal or Court

8. RELIEF SOUGHT FOR:

Under the facts and circumstances mentioned above applicants pray for following reliefs:

- 8.1. The applications be granted Grade IV promotion (10% BCR) Grade from the date on which their juniors were promoted.
- 8.2. The applicants be granted are as salary and other consequential benefits in the higher grade with retrospective effect.
- 8.3. The pension of the applicants be revised in the higher grade with payment of arrear.
- 8.4. The any other relief or relief's as the Hon'ble Tribunal may think deem fit and proper.

The above relief (5) are prayed on the grounds stated in para 5 above.

9. This application is filed through an advocate

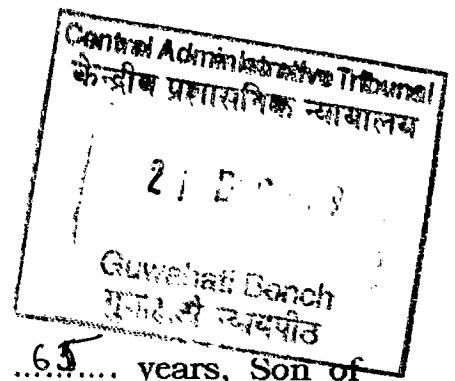
10. Particulars of the IPO

- (i) IPO No.....3.0.5 4333 69
- (ii) Date of issue....19/12/09
- (iii) Issued from.....G.I.ubani P.O.
- (iv) Payable at.....G.I.P.O. Guwahati

11. Enclosures : As stated in the index.

manish cl. 10th

**VERIFICATION**



I, Shri M.C. KALITA.....aged about 65.... years, Son of  
Late BANDHU RAM KALITA.....resident Naonmohi of  
...District. Kamrup...Guwahati... do hereby verify that the  
statements made in paragraphs 1, 4, 6, 7, 8, 9, 10, 11, 12 are true to  
my knowledge and those made in paragraphs 2, 3 and 5 are true as per  
legal advice and I have not suppressed any material facts.

AND I sign the verification this 16... day of December 2009 at  
Guwahati.

Place: Guwahati.

Date: 16/12/09

*Mahest Ch. Kalita*  
Signature

-12-

## 6. ECR (2<sup>nd</sup> Promotion)

(Introduction)

DOT No. 224/87-TE II(1) dated 16.10.90

## ANNEXURE 1

For some time in the past, the Staff Unions have been pressing for acceptance of their demand for Second Time Bound Promotion on completion of 26 years of service in the basic grade.

After careful consideration, it has been decided that this concept is not acceptable.

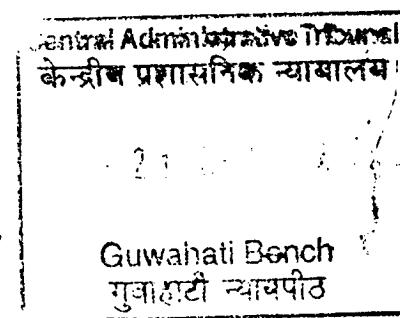
2. However, with a view to provide relief from stagnation in the grade, the Government has accepted the need for a biennial cadre review, i.e. (once in two years), under which posts could be upgraded on the basis of functional justification. The following instructions are accordingly issued:

- i) Biennial cadre reviews will be applicable for only those cadres in Groups C&D, for which scheme of One Time Bound Promotion on completion of 16 years of service in the basic grade already exists.
- ii) This Scheme of Biennial Cadre Reviews will be applicable only to those regular employees who are in service as on 1.1.90 and not for later entrants.
- iii) Biennial Cadre Reviews will be conducted in respect of the eligible cadres at the Circle, levels who control these cadres.
- iv) At the time of review the number of officials who have completed/ would be completing 26 years of service in the basic grades (including time spent in higher scales/OTBP) will be ascertained.

The persons will be screened by the duly constituted Review Committee to assess the performance and determine their suitability for advancement.

1. ECR (2<sup>nd</sup> Promotion) - available 'number of posts'

34



Attested



Advocate

Government of India  
Ministry of Communications  
Department of Telecom.  
Sanchar Bhawan, New Delhi-11.



Dated, 13-12-95

Ref. 22-6/94-TE-II

*SDR (P.W.D.)*

*Sumit*

All Heads of Telecom. Circles,  
Pro-Directors, Area Managers,  
Subject Circles and all other  
Heads of Administrative Units.

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

Your kind reference is invited to the instructions contained in this office letters No. 27.4/87-TE-II dated 7.1.92 and 13.2.94 and in G.O.M.R. No. 27-11/94-TE-II dated 30.8.94 which stipulate promotion to Grade IV in the scale of Rs.2000-3200 (against 10% posts in the BCR) upon completion of seniority condition in Grade III. The said procedure had been followed by the CAT Principal Bench by issuing O.A. No. 145/91.

The Hon'ble CAT vide its judgement dated 7.7.92 directed that the promotions in 10% posts in the scale of Rs.2000-3200 would have to be based on seniority in the basic cadre subject to fulfillment of other conditions of the BCR viz. those who are regular employees (including higher grades) and had completed 26 years of service in the basic Grade, (including higher grades). The DCR filed an SLP against the said judgement and the Hon'ble Supreme Court vide their order dated 9.9.93 upheld the judgement of CAT Principal Bench, New Delhi. Similar applications had also been filed before other CAT benches in the country and in these cases as well, the judgements in line with the judgement of Principal Bench, New Delhi had been given.

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

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Attested

*[Signature]*  
Advocate

11/12/95

21 Oct 1999

-2-

In the case of promotion to the next Grade-IV in the scale of Rs. 100-3200 against 10% posts under the BCR scheme may be reviewed and the same may be regulated accordingly restricting the number of official posts prompted strictly to 10% of the posts placed in Grade-III (scale of Rs. 1500-2660) as provided in the BCR Scheme.

(B.S. VERMA)  
Director (TE)

## gypto -

1. **Plato Chairman, Telecom. Commission, New Delhi.**
2. **All Members/Advisors, Telecom. Commission, New Delhi.**
3. **Administrative Secretary, I.T. Deptt., New Delhi.**
4. **DIG (EST)/DGM (P), I.T.D./ITD/DOGCA/DOGCA (EST/EST), Mysore Dist.**
5. **DIG (EST)/DGM (EST-1)/S1-1/DOG (SR)/DGM (EST-2)/DGM (EST-3).**
6. **DGM (EST-4).**
7. **DGM (NCU)/ADC (SGT)/(EST)/P.M. Y (EST-1), D.Y.T. New Delhi.**
8. **Ministers/Parliamentary Secretaries, I.T.D./ITD/DOGCA/DOGCA (EST/EST), Mysore Dist.**
9. **All Unrecognised Federations/Unions/Associations.**
10. **Secretary, Staff Departmental Council (JG).**
11. **All Members, Staff Development Council (JG).**
12. **O.L. Section, Lok Hindi Vidyapeeth.**
13. **Spare copies-50.**

7.2'10<sup>9</sup> 9.1'10<sup>9</sup> (13-11)

No. 85/2/P.C. 1/80 Dated at Guwahati, the 12-12-95.

Copy for information, guidance and necessary action to

12. The Area Manager Telecom/ Guwahati/ Dibrugarh.

13. The Telecom District Manager/ Guwahati/ Dibrugarh.

14. The T.D.E./Tezpur/Bagjan/Silchar/Dehing/pong, Dagon.

15. The A.G.M. (Tele. office, Dehing, Dagon).

16. The T.D.E. (Dehing, Dagon, Dagon).

17. The Block Secretary, Dagon / Dagon, Dehing.

18. Spare.

For : Chief General Manager, Telecom  
Assam Telecom Circle, Gauhati

Attested

Advocate

Ministry of Personnel, Public Grievances and Pensions  
(Department of Personnel and Training)

North Block, New Delhi 110001  
October 12, 1998

Office Memorandum

Subject:- Procedure to be followed by the Departmental Promotional Committees (DPCs) in regard to retired employees.

The undersigned is directed to invite reference to the Department of Personnel and Training (DOP&T) Office Memorandum No.22011/5/86-Estt(D) dated April 10, 1989 containing the consolidated instructions on DPCs. The provisions made in paragraph 6.4.1 of the aforesaid Office Memorandum lay down the following procedure for preparation of year-wise panel(s) where for reasons beyond control, DPC(s) could not be held for the year(s) even though vacancies arose during the year(s):

- (i) Determine the actual number of regular vacancies that arose in each of the previous year(s) immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.
- (ii) Consider in respect of each of the years, those officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards.
- (iii) Prepare a 'Select List' by placing the select list of the earlier year above the one for the next year and so on.

2. Doubts have been expressed in this regard as to the consideration of employees who have since retired but would also have been considered for promotion if the DPC(s) for the relevant year(s) had been held in time.

3. The matter has been examined in consultation with the Ministry of Law (Department of Legal Affairs). It may be pointed out in this regard that there is no specific bar in the aforesaid Office Memorandum dated April 10, 1989 or any other related instructions of the Department of Personnel and Training for consideration of retired employees, while preparing year-wise panel(s), who were within the zone of consideration in the relevant year(s). According to legal opinion also it would not be in order if eligible employees, who were within the zone of consideration for the relevant year(s) but are not actually in service when the DPC is being held, are not considered while preparing year-wise zone of consideration/panel and, consequently, their Juniors are considered (in their places) who would not have been in the zone of consideration if the DPC(s) had been held in time. This is considered imperative to identify the correct zone of consideration for relevant year(s). Names of the retired officials may also be included in the panel(s). Such retired officials would, however, have no right for actual promotion. The DPC(s), may, if need be, prepare extended panel(s) following the principles prescribed in the Department of Personnel and Training Office Memorandum No. 22011/8/87-Estt(D) dated April 9, 1996.

4. Ministries/Departments are requested to bring these instructions to the notice of all concerned including their attached and subordinate offices. *केन्द्रीय प्रशासनिक स्वास्थ्यलय*

21 DEC 1998

*S. Jha*  
(K.K.JHA)

Director(Establishment)

To

All Ministries/Departments of the Government of India

Copy to:-

The Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi 110011

Attested

*[Signature]*

Advocate

(74)

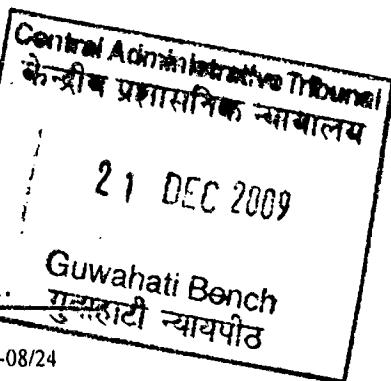


**BHARAT SANCHAR NIGAM LIMITED**

(A Govt. of India Enterprise)

OFFICE OF THE GENERAL MANAGER,

KAMRUP TELECOM DISTRICT PANBAZAR, GUWAHATI-781 001.



Memo No: GMT/EST-382/Gr-IV/Sr TOA(P)- STS(Loose)/Part-I/2007-08/24  
Dated at Guwahati the 28<sup>th</sup> August, 2007.

The General Manager (BSNL), Kamrup Telecom District, Guwahati is pleased to revise the effect date of granting 10% BCR Grade ( Grade IV ) in partial modification of this office earlier Memo No. as indicated in " remarks " to 33 & 34 in the old scale of pay of Rs 8570-245-12,245/- p.m. with effect the dates mentioned against them i.e. from the date of their juniors ( Sri Akhil Chandra Bhattacharjee, Sri Rajendra Prasad Boro, Sri Umesh Chandra Das and Mrs. Jaymati Saikia Patowary ) have been given this benefit as per seniority in the basic grade of the old cadre, on purely temporary and ad-hoc basis until further order.

Pay of the officials will be fixed under F.R.22 ( 1 ) ( a ) ( i ).

This granting of 10% BCR grade ( Grade - IV ) is purely temporary and ad-hoc and does not bestow upon the officials any claim for regular absorption in the grade. This ad-hoc promotion is liable to terminated at any time without assigning any reason thereof.

Sl No.	Name, Designation and Emp. No	W.E.F.	Remarks	Working Unit
01	Sri K. P. Choudhury, Sr.TOA(P), Emp. No.-3080	01-07-2002	In partial modification of this office earlier Memo No. GMT / EST-382/STS, CTS(P)/05-06/204 dated 27-02-06 in which his effect date was shown as 01-07-2005 is now revised and advanced to 01-07-2002.	SDE( Trunk ), Panbazar,
02	Sri Subhas Chandra Das ( II ), Sr.TOA(P), Grade IV, Emp No. 3166	01-07-2002	-do-	SDE ( OCB ), Dispur
03	Md. Siddique Ali, Sr.TOA(P), Gr-IV, Emp No.-3055	01-01-2003	In partial modification of this office earlier Memo No. GMT/EST-382/STS, CTS(P)/05-06/204 dated 27-02-06 in which his effect date was shown as 01-07-2005 is now revised and advanced to 01-01-2003.	SDE( M/C ), Panbazar
04	Sri Manik Chandra Deka, Sr.TOA(P), Gr-IV, Emp No.-3122	01-01-2003	-do-	SDE ( Trunk ), Panbazar
05	Sri Chaya Ram Rabha, Sr.TOA(P), Gr-IV, Emp No.-3057	01-01-2003	-do-	DE ( NS ), Panbazar
06	Sri Debasish Moitra, Sr.TOA(P), Gr-IV, Emp No.-3070	01-01-2003	-do-	DE ( Pig ), KTD/GH
07	Sri Dulal Chandra Bora, Sr.TOA(P), Gr-IV, Emp No.-3023	01-01-2003	-do-	SDE ( Mobile ), Panbazar
08	Sri Bhupen Chandra Patgiri, Sr.TOA(P), Gr-IV, Emp No.-3086	01-01-2003	-do-	SDOP ( C-II ), Ambari
09	Sri Munindra Borgohain, Sr.TOA(P), Gr-IV, Emp No.-3124	01-01-2003	-do-	A.O.(Cash), KTD.GH-I
10	Sri Sarbeswar Sarma, Sr.TOA(P), Gr-IV, Emp No.-3114	01-01-2003	-do-	SDE( CSC ), Ulubari
11	Sri Rupen Kumar Choudhury, Sr.TOA(P), Gr-IV, Emp No.-3184	01-01-2003	-do-	SDE ( Trunk ), Panbazar
12	Sri Swapan Kumar Basumatary, Sr.TOA(P), Gr-IV, Emp No.-3184	01-01-2003	-do-	Sr A.O.( TR Comp), CTO, Panbazar

Attested

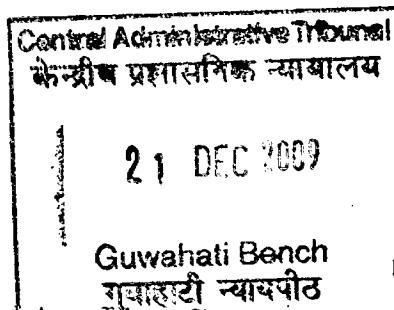
Advocate

	Sri J. N. Barman, Sr.TOA(P), Gr-IV, Emp No.-3078	01-07-2003	In partial modification of this office earlier Memo No. GMT/EST-382/STS, CTS(P)/05-06/204 dated 27-02-06 in which his effect date was shown as 01-07-2005 is now revised and advanced to 01-07-2003.	SDE( Int'l.), Panbazar Central Administrative Tribun केन्द्रीय प्रशासनिक न्यायालय
14	Mrs. Nirmali Basumatary Sr.TOA(P) Gr.IV, Emp.No.3179.	01-07-2003	- Do -	SDE (RSU) Kalapahar, Guwahati Bench DE (CTO) Panbazar, गुवाहाटी न्यायालय
15	Sri Madan Mohan Talukdar, Sr.TOA(P) Gr.IV, Emp.No.3178.	01-07-2003	Do -	
16	Sri Hem Ch. Saloi Sr.TOA(P) Gr.III Emp.No.3106.	01-07-2003	Nil	Managar Telemart. Dispur.
17	Sri Tarun Talukdar, Sr.TOA(P) Gr.III Emp.No.3202.	01-07-2003	Nil	SDE (OCB-II) Panbazar
18	Sri Satya Nath Kakoti, Sr.TOA(P) Gr.III Emp.No.3163	01-07-2003	Nil	SDE (E-10B) Panbazar.
19	Mrs. Aruna Das, Sr.TOA(P) Gr.III Emp.No.3085	01-07-2003	Nil	SDE (OCB) Dispur.
20	Sri Bidhan Ch. Choudhury, Sr.TOA(P) Gr.III Emp.No.3016	01-07-2003	Nil	DE (EXT-II) Dispur.
21	Sri Pradip Kr. Sarania Sr.TOA(P) Gr.III Emp.No.3135	01-07-2003	Nil	SDOP/Kalapahar.
22.	Sri Shyamalendu Bhattacharjee, Sr.TOA(P) Gr.III Emp.No.3164	01-07-2003	Nil	SDOP/Kalapahar
23.	Sri Mahendra Das, Sr.TOA(P) Gr.III Emp.No.3126	01-07-2003	Nil	DE/CTO. Panbazar.
24	Sri Mahendra Ch. Rabha, Sr.TOA(P) Gr.III Emp.No.3174	01-07-2003	Nil	SDE/Trunk. Panbazar.
25	Sri Khagendra Nath Deka, Sr.TOA(P) Gr.III Emp.No.3043	01-07-2003	Nil	SDOP/Ulibar-I
26.	Sri Trailokya Ch. Das, Sr.TOA(P) Gr.III Emp.No.3169	01-07-2003	Nil	SDE(Mobile) Panbazar
27	Sri Ugra Kanta Boro Sr.TOA(P) Gr.III Emp.No.3172	01-07-2003	Nil	SDE/Trunk. Panbazar.
28	Mrs Anjali Dutta, Sr.TOA(P) Gr.III Emp.No.3006	01-07-2003	Nil	SDE (E-10B) Panbazar
29	Sri Taruk Ch. Medhi, Sr.TOA(P) Gr.III Emp.No.3170	01-07-2003	Nil	SDE (RSU) Kalapahar
30	Sri Prabodh Ch. Patgiri, Sr.TOA(P) Gr.III Emp.No.3141	01-07-2003	Nil	SDE(MC) Panbazar
31	Sri Amrit Ch. Das, Sr.TOA(P) Gr.III Emp.No.3100.	01-07-2003	Nil	SDE (OPN) Borjhar
32	Mrs. Kamala Das, Sr.TOA(P) Gr.III Emp.No.3111	01-07-2003	Nil	AO(TR) KFD/GII
33	Sri Debendra Nath Pathak Sr.TOA (P) Gr.III Emp.No.3071	01-07-2003	Nil	SDE(MC) Panbazar
34	Sri Kiran Ch. Kalita, Sr.TOA(P) Gr.III Emp.No.3205	01-07-2003	Nil	SDE (OPN) Borjhar
35	Sri Subhash Ranjan Dutta, Sr.TOA(P) Gr.IV Emp.No.3189	01-01-2005	In partial modification of this office earlier Memo No. GMT/EST-382/STS, CTS(P)/05-06/204 dated 27-02-06 in which his effect date was shown as 01-07-2005 is now revised and advanced to 01-01-2005.	SDE(MC) Panbazar

Attested

Advocate

36	Mrs. Aparna Das, Sr.TOA(P) Gr IV Emp.No.3099	01-01-2005	-do-	SDE ( E-10-B ), Adabari
37	Sri Ram Kumar Bhattacharjee, Sr.TOA(P) Gr IV Emp.No.3151	01-01-2005	-do-	SDE ( Int ), Silpukhuri
38	Sri Sibu Ranjan Nag, Sr.TOA(P) Gr IV Emp.No.3190	01-01-2005	-do-	SDE(MC) Panbazar
39	Sri Gobinda Rabha, Sr.TOA(P) Gr IV Emp.No.3073	01-01-2005	-do-	SDE ( OCB ) Dispur.
40	Sri Jogendra Nath Basumatary, Sr.TOA (P) Gr III Emp.No.3223	01-01-2005	Nil	SDE ( E-10-B ), Panbazar
41	Sri Gajendra Boro, Sr.TOA(P) Gr III Emp.No.	01-01-2005	Nil	DGM ( Mtcc )/ETR, Silpukhuri
42	Sri Praneswar Bhattacharjee, Sr.TOA (P) Gr III Emp.No. 3137	01-01-2005	Nil	A.O. ( Cash ), KTD/GH
43	Sri Prabhat Chandra Dawka, Sr.TOA (P) Gr III Emp.No. 3138	01-01-2005	Nil	SDE(MC) Panbazar
44	Sri Gautam Kanta Baruah, Sr.TOA (P) Gr III Emp.No. 3074	01-01-2005	Nil	DE ( Mobile ), Pabazar
45	Md. Ayub Ali, Sr.TOA (P) Gr III Emp.No. 3005	01-01-2005	Nil	SDOP ( Central-II ), Ambari
46	Sri Pradip Kuamr Bhagawati, Sr.TOA (P) Gr III Emp.No. 3139	01-01-2005-	Nil	DE ( OCB ), Panbazar
47	Sri Rakeswar Boro, Sr.TOA (P) Gr III Emp.No. 3153	01-07-2006	Nil	DE ( OCB ), Dispur
48	Sri Kiran Chandra Rabha, Sr.TOA (P) Gr III Emp.No. 3042	01-07-2006	Nil	DE ( OCB ), Panbazar
49	Sri Ramesh Chandra Deka, Sr.TOA (P) Gr III Emp.No. 3154	01-07-2007	Nil	AMT ( U ), Panbazar



( C. Dey )  
Divisional Engineer ( Admn )

Copy to:

01. The CGM ( BSNL ), Assam Telecom Circle, Guwahati-1
02. The AMT ( U ), Guwahati-1
03. The DGM ( Mtcc ), ETR, Silpukhuri, GH-3
- 04-10. The DE ( NS )/ Plg/ CTO/ Extl-II/ Mobile/ OCB, Panbazar/ OCB, Dispur
- 11-13. The SDOP, Kalapahar/ Ulubari-II/ Central-II, Ambari.
- 14-25. The SDE ( Trunk )/ OCB, Dispur/ MC/ Mobile/ CSC, Ulubari/ Int, Panbazar/ RSU, Kalapahar/ OCB-II, Panbazar / E-10-B, Panbazar/ E-10-B, Adabari/ Opn, Borjhar/ Int, Silpukhuri.
- 26-28. The A.O. ( Cash )/ TR ( Comp )/ TRA.
29. The Manager Telemart, Dispur.
30. The CSS ( Pay Bill ), o/o the GM TD/ Kamrup.
- 31-79. Official concern.
- 80-176. Service Book/Personal File of the official.
- 177-180. Spd Cell/ ITR Package/ S-7/ S-4.
181. The District Secretary, BSNL, Kamrup Tele Distt, Panbazar, GH-1
182. Spare.

For GM ( BSNL ), KTD/ GH

Attested

  
Advocate

CHARALALI DAK NIKAM LIMITED  
(A Govt. of India Enterprise)  
Office of the General Manager Telecom  
Kamrup Telecom District  
Guwahati-781001.

ANNEXURE

5

To. GM/Est-382/Gr-IV/allcadre/08-09/26

Dated at Guwahati, the 20.10.08

The Dy. General Manager (Admin.)  
O/o CGMT, Assam Circle  
Panbazar, Guwahati -781001

Sub: Granting BCR Gr-IV promotion to retired official with retrospective effect  
Ref: your office letter No: STES-9/29/Pt-IV/166 Dt: 18.10.2008

It is reiterated that the case regarding granting BCR Grade IV to retired officials has already been referred in detail to your kind office vide this office letter No. GMT/EST-382/Gr-IV/allcadre/08-09/18 dated 29.8.08 & No. GMT/EST-382/Gr-IV/allcadre/08-09/17 dated 24.07.08 for seeking guidance & instruction in the matter. In reference to above referred letter the case is again stated as below -

1. As per existing norms for granting 10 % Grade IV BCR promotion in the particular periodic half year , the Grade IV BCR promotion is to be granted to Non-Optees ( Pre-structure cadre) and scale upgradation is to be given to all the senior Optees ( Restructure cadre) . This means that all the 10 % BCR generated vacancies are only supposed to be filled with non-optees .
2. Earlier in Kamrup SSA , while granting the BCR Gr IV promotions , number of scale upgradation cases of the Optee officials were being adjusted in subsequent grade IV vacancies i.e . while calculating 10 % BCR for subsequent periodic half year for granting Gr. IV promotion , all the Optees & Non -optees of previous half year were being treated as Gr. IV promotees therefore number of grade IV promotions ( to non optees) were always less than the actually due.
3. This error was highlighted by the then GMTD on 24.3.2007 and it was directed to admin cell to correct this procedure forthwith. ( Annex-1)
4. Because of this mistake, actual beneficiaries of Gr. IV ( i.e some non-optee) were left out from getting the BCR Gr. IV from due date & have retired subsequently.
5. The demand has been raised from union platform that all such left out cases should be reviewed from introduction of the BCR scheme & the officials who have been given such BCR Gr IV, their promotion to be considered from retrospective date.

Attested

Advocate

A.D (S.M.F)

for note

10/11/08

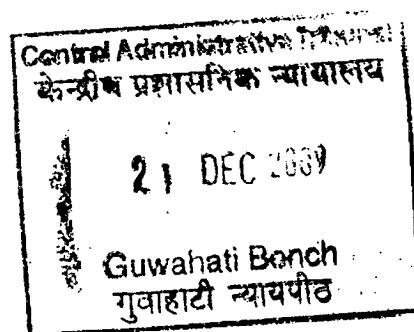
6. Further, as per BSNL instruction vide letter No. 22-6/94/ PHE-II ( Vol-II) Dt: 29.10.2002 it has been instructed that while granting the promotion to retired Gr. IV officials, the pay is to be fixed notionally and to revise the pension accordingly. ( Annex-2)
7. If the above adopted procedure is reviewed then around 120 No. left out cases have been identified from Januray 2001 and are as under -
  - a. The retired non optees officials who have not got the BCR Gr IV promotion ----- 14 No.
  - b. The retired non optee officials who got promoted and now required to advance the date of promotion ----- 14 No.
  - c. If above (a) & (b) is considered then the No. of optees retired officials for whom the scale to be updated accordingly----- 92 No.
8. The above case were examined in this office as per opinion given by the then General Manager, Kamrup ( Annex-3 ), but in light of DCF vide order No. 34-34/2004 -Pen(1) dated 13.12.2005 further endorsed vide circle office vide letter No. Esit-4/32/OTBP/BCR/5 dt. 17.11.2006 ( Annex-4 ), in which it was stated that pension is not admissible on notional pay so it is not correct to revise the pension on the basis of notional pay , the case was sent to Circle office for guidance for further disposal of the matter .

This is for kind information and further guidance in the matter pl.

(H. Samanta)  
GMTD, Kamrup

Encl: As Above

Januray - 2001. (Total - 6 sheets)



Attested

  
Advocate

B/2009/22/18  
2009/22/18

-21- **ANNEXURE 6**  
BHARAT SANCHAR NIGAM LIMITED  
(A GOVERNMENT OF INDIA ENTERPRISE)  
OFFICE OF THE CHIEF GENERAL MANAGER, ASSAM CIRCLE  
PANBAZAR :: GUWAHATI-781001

No. STES-0/29/Pt-IV/168

Dated at Guwahati the 22.11.2008

To

Sri Pitambar Sahoo,  
Deputy Manager (Pers-III.)  
Personnel Section  
BSNL Corporate Office  
4<sup>th</sup> Floor  
Bharat Sanchar Bhawan  
Opposite Hotel Janpath  
Janpath Road  
New Delhi-110 00

Sub:-

Granting BCR Grade-IV to retired officials with retrospective effect.

Ref:-

Corporate Office No.250-3/2008/Pers-III dated 19.09.08.

Kindly refer to the subject and correspondence cited above. The details of the case relating to granting BCR Grade-IV to retired officials with retrospective effect is mentioned below -

1. As per existing norms for granting 10% Grade IV BCR promotion in the particular periodic half year, the grade IV BCR promotion is to be granted to Non-Optees (Pre-structure cadre) and scale upgradation is to be given to all the senior Optees (Restructure cadre). This means that all the 10% BCR generated vacancies are only supposed to be filled with non-optees.

2. Earlier in Kamrup SSA, while granting the BCR IV promotions, number of scale upgradation cases of the Optee officials were being adjusted in subsequent grade IV vacancies i.e, while calculating 10% BCR for subsequent periodic half year for granting Grade IV promotion, all the Optees & Non-optees of previous half year were being treated as Gr. IV promotees therefore number of Grade IV promotions (to non-optees) were always less than the actually due.

3. This error was highlighted by the GMTD on 24.03.2007 and it was directed to admin cell to correct this procedure forthwith. (Annex-I). Contd....

Attested  
  
Advocate

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
21 DEC 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ

Page-2

4. Because of this mistake, actual beneficiaries of Gr. IV (i.e, some non-optee) were left out from getting the BCR Gr. IV from due date & have retired subsequently.

5. The demand has been raised from union platform that all such left out cases should be reviewed from introduction of the BCR scheme & the officials who have been given such BCR Gr. IV, their promotion to be considered from retrospective date.

6. Further, as per BSNL instruction vide letter No. 22-6/94/PHE-II(Vol-II) dtd. 29.10.2002 it has been instructed that while granting the promotion to retired Gr. IV officials, the pay is to be fixed notionally and to revise the pension accordingly. (Annex-II).

7. If the above adopted procedure is reviewed then around 120 no. left out cases have been identified from January 2001 and are as under –

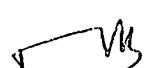
- a) The retired non optees officials who have not got the BCR Gr.IV promotion ----- 14 No.
- b) The retired non optee officials who got promoted and now required to advance the date of promotion ----- 14 No.
- c) If above (a) & (b) is considered then the No. of optees retired officials for whom the scale to be updated accordingly ----- 92 No.

8. The above case were examined in this office as per opinion given by the General Manager, Kamrup (Annex- III), but in light of DOT vide order No. 34-34/2004-Per(T) dtd. 13.12.2005 further endorsed vide Circle Office vide letter No. Estt-4/32/OTBP/BCR/5 dtd. 17.11.2006 (Annex-IV), in which it was stated that pension is not admissible on notional pay so it is not correct to revise the pension on the basis of notional pay, the case was sent to Circle Office for guidance for further disposal of the matter.

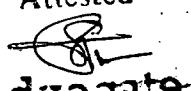
Regarding the comment of Circle IFA, it is opined that the retired officials will neither get pay benefit nor get pension benefit therefore it is recommended for granting the retrospective benefit.

You are therefore requested to examine the case and communicate your decision so that the matter can be settled amicably.

An early action is requested.

  
(P.S.Bhattacharya)  
Dy. General Manager (Admn)

Attested

  
Advocate

21 DEC 2007

Guwahati Bench  
গুৱাহাটী ন্যায়পৌর



# BSNL EMPLOYEES UNION

V. A. N. Namboodiri  
General Secretary

Recognised Union in BSNL  
(Registered Under Indian Trade Union Act 1926. Regn No. 4896)

BSNLEU /506(BCR)

12.02.2009

To

Shri D.P. De,  
GM (Estt), BSNL  
Bharat Sanchar Bhawan  
New Delhi – 110001

Sir,

Sub: Granting of BCR Gr. IV Promotion to retired officials with retrospective effect.

Ref: CGMT, Assam Circle Letter No. STES- 9/29/Pt-IV/166 dt 22.11.2008.

Your kind attention is invited on the letter referred to above. 120 officials of Telecom District Kamrup, Assam Circle were not granted BCR Gr. IV promotion on due date due to administrative lapses. CGMT, Assam wants clarification on few points to rectify the error committed GMTD Kamrup in adopting procedure for granting Gr. IV promotion.

I, therefore, request you to kindly issue required clarification so that BCR Gr. IV promotion may be granted to the above mentioned officials with retrospective effect.

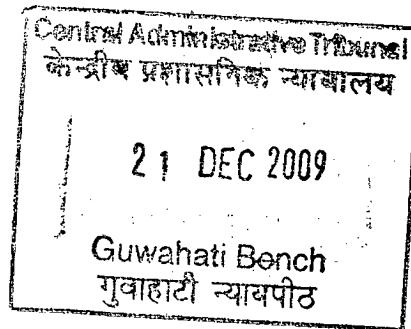
*Yours sincerely,*

*V.A.N. Namboodiri*

[V.A.N. Namboodiri]  
General Secretary

Copy to:-

Com. Homeswar Deka, Circle Secretary, BSNIEU, Assam Circle, Guwahati.



Attested

*[Signature]*  
Advocate