

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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15/6/2015

Ben  
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SECTION OFFICER (JUDL.)

10.7.2015

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

ORDERSHEET

1. Original Application No: 31 / 2009

2. Miscellaneous Petition No                     

3. Contempt Petition No                     

4. Review Application No                     

Applicant(s) Smti Nivedita Pathak & ORs

Respondant(s) U.O.I & ORs

Advocate for the Applicant(s): Mr. S. Sarma

Mr. H. K. Das

Advocate for the Respondant(s): BSNL, Kankan Das Addl. Counsel

Notes of the Registrar	Date	Order of the Tribunal
<p>this application is in form is filed in Form No. 50/- deposited with IPC/BD No. 48780865-74 (10) Dated 20.2.09 Dy. Registrar 24/2/09</p> <p>Steps taken with envelopes - Excess Rs. 25/- has been deposited, vide slip No. 2871 dated 24/02/09</p> <p>24/2/09</p>	25.02.2009	<p>O.A. No. 31/09 &amp; M.P. No. 16/09</p> <p>Challenging certain unilateral action of the Respondents, the Applicants (8 in number) approached the Hon'ble Guwahati High Court in W.P.(C) No. 2362 of 2008 in which Rule was issued by the Hon'ble High Court on 14.07.2008. During pendency of the said case in the Hon'ble Court, orders have been passed on 16.01.2009 to the total prejudice of the Applicants. After withdrawing the said case from the Hon'ble Court on 09.02.2009, the Applicants have approached this Tribunal (with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985) challenging the last order dated 16.01.2009 of the Respondents. Copies of this O.A have already been supplied to Mr Kankan Das, learned Addl. Standing counsel for Union of India and also to Mr B.C. Pathak representing BSNL.</p>

2  
V  
O.A. 31/09

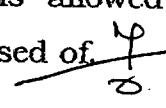
25.02.2009

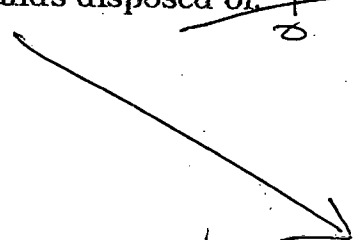
It is stated by Mr H.K.Das, learned counsel appearing for the Applicants, that before passing the orders dated 16.01.2009 (to the prejudice of the Applicants) no opportunity were given to the Applicants to have their say in the matter and, as such, the impugned orders dated 16.01.2009 are out-come of "gross violation of the principles of natural justice" and that, on that count alone, the same (impugned orders of 16.01.2009) are not sustainable in touch stone of judicial scrutiny.

On giving preliminary hearing to parties, this case is admitted. Notices be issued to the Respondents asking them to file their written statement by 08.04.2009.

In the meantime, there shall be ad-interim stay of the orders dated 16.01.2009 passed against the Applicants. While passing the ad-interim order liberty is hereby granted to the Respondents to file their objection (to the ad-interim order) and/or move for vacation/modification of this ad-interim order at any time even prior to next date.

By way of filing M.P.16/2009 the Applicants have sought permission to prosecute this case jointly. Copies of the same have already been <sup>served</sup> sent on the State counsel and also on the counsel representing BSNL. Heard. Prayer to prosecute this case jointly is allowed.

M.P.No.16/2009 stands disposed of. 



O.A. 31/09

3

25.2.09

Pl. issue Notice to the Respondents asking them to file their NTS by 25.2.09

Pl. send copies of this order to each of the Applicants. a/w Notice to the addressees given in the O.A.

Free copies of this order be handed over to the Advocates for both the parties. Mr. K. Das, Addl. Counsel and Mr. B.C. Pathak.

25.2.09

Order dt. 25-2-09 sent to B/Sectn for list of Applicant and to each of the Respondent along with Notice. Free copy handed over to Ld. Counsel both the parties. M.N. 1308 to 1315

17.3.09

Received copy dt. 19-3-09

25.2.09 Adv. for applicants

3.4.09

Memo appearance filed by Mr. Addl. Csl. K. Das. on 3.4.09.

27.4.09

Notice duly served on R-10, 3, 9

N/S not filed.

6-3-09

lm

25.02.2009

Send copies of this order to each of the Applicants and to each of the Respondents (along with notices) in the address given in the O.A.

Free copies of this order be handed over to the Advocates for both the parties. Mr K.Das, Addl. Standing counsel and Mr B.C.Pathak, Advocate have undertaken to file their appearance Memos/Vakalatnama by next date.

(M.R.Mohanty)  
Vice-Chairman

08.04.2009

Mr. H.K.Das, learned counsel appearing for the Applicant is present. No written statement has yet been filed by the Respondents. Mr.B.C.Pathak, learned Counsel appearing for BSNI, prays for four weeks time to file written statement.

Call this matter on 27.05.2009 awaiting written statement from the Respondents. Mr. K. K. Das, learned Addl. Standing Counsel appearing for the Union of India also undertakes to file written statement by the next date/27.05.2009.

Send copies of this order to <sup>all</sup> the Respondents in the address given in the O.A.

(M.R. Mohanty)  
Vice- Chairman



O.A.31 of 2009

Copies of order  
dt- 8/4/09 send to  
D/Sec. for issuing  
to respondents by  
post.

D/No-1984 to 1993

Comp D/- 24-4-2009  
21/4/09

Vakalatnama filed  
by Mr. B.C. Pathak,  
Mr. B. Pathak & Mr.  
H.K. Gogoi, for R.No.  
5 to 10.

23  
24.4.09.

N/S not filed.

23  
26.5.09.

27.05.2009 Mr. H.K.Das, learned counsel  
appearing for the applicant is present.  
Mr. K. K. Das, learned Addl. Standing  
Counsel representing the  
Respondents No. 1, 2 & 4 undertakes  
to file a written statement in course of  
the day. He also undertakes to serve  
the copy thereof on the learned  
counsel for the Applicant and Mr. B.  
C. Pathak, learned counsel for the  
BSNL. Mr. B. C. Pathak, learned  
counsel for the BSNL, undertakes to  
file written statement by the next  
date.

Call this matter on  
17.06.2009 awaiting written  
statement from BSNL.

Rejoinder, if any, in the  
meantime, may be filed by the  
Applicant.

(N.D. Dayal)  
Member(A)

(M.R. Mohanty)  
Vice-Chairman

17.06.2009

Mr.H.K.Das, learned counsel for the  
Applicant is present. Mr.Kankan Das, learned  
Addl. Standing representing the Govt. of India is  
present.

On behalf of Respondent Nos.1, 2 & 4, a  
written statement has already been filed after  
serving copies thereof counsel for the Applicant  
and co-Respondents.

Mr.B.C.Pathak, learned counsel for the  
BSNL is present. He prays for more time to file  
written statement. Prayer is allowed. Call this  
matter on 10.08.2009 awaiting written  
statement from the BSNL.

Contd...

1.6.09  
N/S filed by  
the Respondents  
No. 1, 2 & 4.  
Copy served to  
the A/Adv. for the  
Applicant and  
Standing Counsel  
for BSNL on  
27.5.09  
28/5/09

O.A.31/2009 & M.P.59/2009

Contd.  
17.06.2009

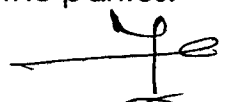
Mr.H.K.Das, learned counsel for the Applicant, by way of filing a Misc. petition No.59/2009, has sought to implead the Chief General Manager of BSNL, Task Force, North Eastern Region at Uzan Bazar Guwahati - 3 as Respondent No.11. Copies of this M.P. No.59/2009 have already been served on Mr.Kankan Das, Addl. Standing counsel for the Govt. of India; on Mr.B.C.Pathak, counsel for the BSNL and also on Mr.Yadab Doloi, Advocate fro BSNL Task Force.

Heard. Prayer to implead the Chief General Manager of BSNL Task Force, North Eastern Region at Uzan Bazar Guwahati - 3 as Respondent No.11 is, hereby, allowed. The M.P. No.59/2009 stands disposed of.

Mr.H.K.Das is permitted to record the details of newly added Respondent No.11 in the cause title page of the O.A. in presence of the Court Officer. He undertakes to file extra copies of this O.A. in the Registry along with required postages and fees in course of the day.

Registry to issue notice to the newly added Respondent No.11 requiring him to file written statement by 10.08.2009.

Copies of this order be supplied to learned counsel appearing for the parties.

  
(M.R.Mohanty)  
Vice-Chairman

K. Das  
Issue notice to  
newly added Resp. 11.

  
18/6/09

Received copy.  
Has.  
23.6.09.

24.6.09  
Mr. H.K. Das,  
Advocate for  
Applicant  
Paid Rs 60/-  
as cost of  
notice  
Respondent  
No 11 vide Receipt  
9. Extra copy  
for same.

Received copy  
26.6.09

Copy of notice  
along with order  
dated 17/6/09 send  
to D/Sec. for issuing  
to newly added /bb/  
resp. no- 11 by speed  
post, A/D at cost of  
applicant. D/No  
26/6/09 D/-

Copies of order  
dated 17/6/09  
sent to D/Sec.  
for issuing to  
L/c counsel for  
both the parties.

10.08.2009

In this case written statement  
has already been filed by BSNL.  
Mr.H.K.Das, learned counsel for the  
Applicant prays for four weeks time  
to file rejoinder.

Call this matter on  
11.09.2009 awaiting rejoinder from  
the Applicant.

(M.K.Chaturvedi)  
Member(A)

(M.R.Mohanty)  
Vice-Chairman

W/s filed on behalf  
of R. No- 5 to 10. /lm/

11.09.2009

Mr.H.K.Das, learned counsel for the  
Applicant prays for more time to file  
rejoinder. Prayer is allowed.

Call this matter on 23.10.2009  
awaiting rejoinder from the Applicant.

(M.K.Chaturvedi)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

No rejoinder  
filed.

1. No W/s from R. no-11.  
2. Rejoinder not  
filed.

23.10.2009

Mr.B.C.Pathak, learned counsel for  
Respondent Nos.5 to 10 seeks more time to  
obtain instruction from Respondent No.11.  
Mr.Kankan Das, learned Addl.C.G.S.C. appears  
for Respondent Nos.1, 2 & 4. None for  
Respondent No.3. Rejoinder has also not yet  
been filed by Applicant, for which four weeks  
time is prayed for by Mr.H.K.Das, counsel for  
Applicant.

List on 02.12.2009.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/bb/

No rejoinder filed.

1.12.09

02.12.2009 Rejoinder has been filed. Pleadings are completed.

List the matter on 08.01.2010.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

The case is ready  
for hearing.

/lm/

7.1.2010

08.01.2010

On the written request of Mr B.C.Pathak, learned counsel for the respondents, because of his illness, case is adjourned to 9.2.2010.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kr. Gupta)  
Member (J)

The case is ready  
for hearing.

8.2.2010

/pg/

09.02.2010

List the matter on 26<sup>th</sup> February 2010.

(Madan Kumar Chaturvedi)  
Member (A)

The case is ready  
for hearing.

25.2.2010

/PB/

26.02.2010

On written request of Mr.H.K.Das, learned counsel for the Applicant, adjourned to 15.03.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

The case is ready  
for hearing.

12.3.2010

/bb/

15.03.2010

List before Division Bench on 20.4.2010.

(Madan Kr. Chaturvedi)  
Member (A)

pg

20.04.2010

On the written request of Mr  
B.C.Pathak, learned counsel for BSNL  
(respondents) adjourned to 30.4.2010.

The case is ready  
for hearing.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kr. Gupta)  
Member (J)

29.4.2010

/pg/

30.04.2010

Heard learned counsel for the parties.

For the reasons recorded separately, O.A. is  
allowed. No costs.

Received copy  
21/5/10

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

Copy received  
21/5/2010

(Madan Kumar Chaturvedi)  
(Mukesh Kumar Gupta)

Copy received  
order dtd 30/4/10  
by M.D 249, Advocate  
for B.C. Pathak. (Respondent)  
No. 5-10  
26/5/10

26-5-2010

Judgment/Final order  
dated 30/4/2010 Prepared  
and sent to the S/Section  
for issuing to all the respondents/  
applicant by Post  
vide No —

dated —  
Copy handed over to Advocate  
for both sides,

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

\*\*\*\*\*

O.A.No.31 of 2009

DATE OF DECISION: 30.04.2010

Smt Smt Nivedita Pathak & 7 others

.....Applicant(s)

Mr H.K. Das

Advocate(s) for the  
Applicant (s)

- Versus -

Union of India and others

Respondent(s)

Mr B.C. Pathak for respondent Nos.5-10

Advocate(s) for the  
Respondent(s)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Whether reporters of local newspapers may be allowed to see the Judgment?
2. Whether to be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?

Yes/No

Yes/No

Yes/No

Member (J)

\*\*\*\*\*

10


CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.31 of 2009

Date of Order: This the 30<sup>th</sup> day of April 2010

The Hon'ble Sri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Smt Nivedita Pathak,  
W/o Late Aswini Kumar Pathak,  
Namghar Path, Lakhimi Nagar,  
Hatigaon, Dispur,  
Guwahati-6.
  2. Smt Supriya Choudhury,  
D/o Late Ranjit Kumar Choudhury,  
Bishnupur, Bharalumukh,  
Jagadish Ghose Lane,  
Guwahati-16.
  3. Smt Nahanita Deka,  
D/o Late Basudhar Deka,  
Bishnu Path, Zoo Road,  
Guwahati-24.
  4. Smt Poonam Sunwar,  
D/o Late Gyana Bahadur Sunwar,  
P&T Otr. (CTO Compound),  
Guwahati-1.
  5. Smt Rehati Das,  
W/o Late Apurba Kumar Das,  
Gandhibasti, P.O. Sikpukhuri,  
Guwahati-3.
  6. Shri Tarun Kumar Ojha,  
B/o Late Motilal Ojah,  
Vill.- Sarumotoria, Kalaguru Path,  
8<sup>th</sup> Bye Lane, Hengrabari,  
Guwahati-36.
  7. Shri Anjan Sarma,  
S/o Late Anil Chandra Sarma,  
Forest Gate, Nazarpur,  
P.O.- Narengi,  
Guwahati-22.
- 

8. Shri Premananda Injal,  
S/o Late Lagan Chandra Injal,  
Vill.- Dharban, P.O.- Dhopguri,  
Dist.- Kamrup, 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.
2. The Deputy Director General (Estt.),  
Ministry of Communications,  
Department of Telecom,  
Government of India,  
20, Ashoka Road, New Delhi-1.
3. The Director (Establishment), Assam,  
Department of Telecommunications,  
Government of India,  
Ulubari, Guwahati-7.
4. The Secretary to the  
Government of India,  
Department of Personnel & Training,  
New Delhi-1.
5. Bharat Sanchar Nigam Limited,  
Represented through the  
Chairman-cum-Managing Director,  
Corporate Office,  
10<sup>th</sup> Floor, Statesman House, New Delhi-1.
6. The Assistant Director General (SR-1),  
BSNL, 5<sup>th</sup> Floor, A-Wing, Statesman House,  
Barakhamba Road, New Delhi-1.
7. The Deputy Director General (SR)  
BSNL, New Delhi-1.
8. The Joint Deputy Director General (CA),  
BSNL, Corporate Office,  
New Delhi-1.
9. The Chief General Manager (Telecom)-  
Assam Circle,  
Administrative Building, Guwahati-1.
10. The General Manager (Telecom)  
Kamrup Telecom District,  
Guwahati-1.



11. The Chief General Manager  
BSNL Task Force,  
North Eastern Region,  
Uzan Bazar, Guwahati-3.

..... Respondents

By Advocate Mr B.C. Pathak for respondent Nos.5-10.

.....

### ORDER (ORAL)

#### MUKESH KUMAR GUPTA, JUDICIAL MEMBER

At the outset learned counsel for the respondent produced before us a co-ordinate Bench (Chandigarh) Judgment and Order dated 22.01.2010 in T.A.No.35-PB of 2009, T.A.No.37-PB-2009 and T.A.No.38-PB-2009 wherein identical facts and law had been considered as to whether the applicants whose fathers had been working in the Department of Telecom and died in active service before 30.09.2000 and their wards appointed based on compassionate grounds after 01.10.2000, are entitled to the benefits of GPF Scheme or not. On examination of the matter with reference to above judgment/order vis-à-vis facts of the present case, we find that there is no iota of difference, though attempt was made by the respondents to contend that said judgment of the Chandigarh Bench is sub silentio namely, the provisions of Rule 37-A and Rule 37-A (23) of CCS (Pension) Rules, 1972 had not been taken into consideration by the co-ordinate Bench.

2. On examination of the matter we are of the considered view that this plea had not been raised either before the Chandigarh Bench or pleaded in the reply filed to present case. This plea has been raised before us for the first time during the course of arguments. We



may note that the counter affidavit filed by the respondents did not raise such plea. In other words in both the cases this plea had not been raised. Thus, we find parity on facts as well as law as far as the case before the Chandigarh Bench and present case are concerned. For the sake of brevity we reproduce below relevant portion of said judgment:

"We have heard learned counsel for the parties and perused the material on the file.

It is not in dispute that the first clarification was issued by Head Office of BSNL on 16.1.2003 (Annexure R2) which clearly indicated that Casual Labourers/ Temporary Status Mazdoors who are regularized by BSNL on or after 1.10.2000 and the persons who were appointed by BSNL on compassionate ground on or after 1.10.2000 as nominees of the employees of DOT/DTS/DTO died in harness up to 30.9.2000 will be covered by General Provident Scheme and not by EPF/GPF Scheme. The persons appointed by BSNL on compassionate grounds on or after 1.10.2000 as nominees of employees of DOT/DTS/DTO died in harness up to 30.9.2000 will come under GPF Scheme. This clarification has never been withdrawn by the respondents till date. The position that exists as on date on the basis of said instructions is that persons who were appointed on compassionate grounds on or after 1.10.2000, whose breadwinner, died in harness up to 30.9.2000, will come under the GPF Scheme. The category of persons coming under these instructions are a class by themselves.

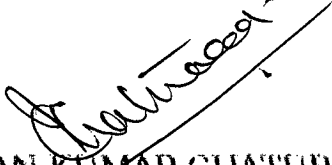
Resultantly, the impugned order, Annexure A-10 dated 8.8.2008 is hereby quashed and set aside with direction to the respondents to restore the benefit of GPF Scheme to the applicants as per Rules applicable in their case. With these directions and observations, these three Original Applications stand disposed off. No costs."

(emphasis supplied)

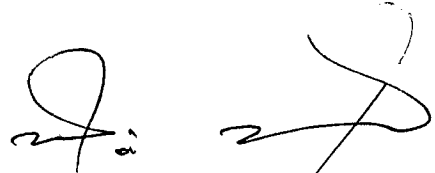
3. It is not the case of the respondents that said judgment and order of Chandigarh Bench has either been in appeal or set aside by any higher court till date.

4. Thus, O.A. is allowed. Orders dated 04.05.2007, 21.06.2007, 24.08.2007, 06.05.2008 and 16.01.2009 are quashed and set aside. Respondents are directed to extend benefit of said judgment.

to the applicants in present case and they will be regulated by the GPF scheme and not EPF scheme. No costs.



(MADAN KUMAR CHATURVEDI)  
ADMINISTRATIVE MEMBER



(MUKESH KUMAR GUPTA)  
JUDICIAL MEMBER

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI

OA No. 31 of 2009

Smt. Nivedita Pathak and Others ..APPLICANTS

- Vs -

Union of India & Ors. ...RESPONDENTS

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38.	<b>Annexure- 34</b> (Clarification dated 24.8.2007).....	77
39.	<b>Annexure- 35</b> (Impugned Order dated 6.5.2008)..	78 - 80
40.	<b>Annexure- 36</b> (Order dated 26.9.2000).....	81
41.	<b>Annexure- 37</b> (Impugned order dated 16.1.2009).	82 - 83
42.	<b>Annexure- 38</b> (Order in WP(C) 2362/08 dated 9.2.2009).....	84 - 88

43 W/S Res. Nos 1, 2 & 4 - 89-93

44 W/S Res. Nos 5 to 10 - 94-131

45 Reforinder - 132-138

Filed by  
*H. M.*  
Advocate

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

**OA No. 31 of 2009**

Smt. Nivedita Pathak and Others ...APPLICANTS

- Vs -

Union of India & Ors. ...RESPONDENTS

**S Y N O P S I S**

The applicants are presently working as Telecom Operating Assistants (G) in Group- C posts under the establishment of Bharat Sanchar Nigam Limited. The Government of India incorporated Bharat Sanchar Nigam Limited from the erstwhile Department of Telecommunication (DOT). All the existing staff of DOT has been absorbed in the BSNL w.e.f. 01.10.2000. Prior to the crucial date of 1.10.2000 i.e. prior to coming of the BSNL the High Power Committee on 29/30 December, 1999 recommended the names of the applicants for appointment on compassionate ground. The Government of India approved said recommendation of the High Power Committee vide communication dated 31.12.1999. Thereafter, 39 posts of Telecom Operating Assistant (G) in Group- C and 4 posts of Group- D were created to implement the recommendation of the High Power Committee. After that by two communications dated 02.05.2000 and 10.05.2000 the applicants were directed to submit the necessary documents. The applicants submitted the necessary documents. By a communication dated 17.07.2000 the respondents directed the applicants to report for in service training commencing from 24.07.2000. Accordingly, the applicants completed the training successfully and appointed to the posts created under the respondents. Thereafter, due to the conversion of erstwhile DOT to BSNL options were sought from the applicants to get absorbed in BSNL. The applicants placed their options and the Presidential Orders dated 02.01.2000, 16.01.2000, 21.01.2000 and 24.01.2000 were issued granting the applicants certain benefits. According to the said Presidential orders the applicants are eligible for family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 as amended from time to time. In addition to the other

privileges and rights created by the said Presidential orders the applicants were also eligible for General Provident Fund benefits as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972.

After passing of 7 years the respondent No. 6 now issued an order dated 04.07.2007 withdrawing the benefits granted by the Presidential Orders. It is noteworthy to mention here that the respondent No. 6 is not the appropriate authority to pass such an order. The respondents thereafter issued another order dated 21.06.2007 directing all the Heads of Circle to recover the arrears of EPF from the applicants up to May, 2007. Immediately on 23.06.2007, the applicants submitted representations seeking protection under Rule 37- A of the CCS (Pension) Rules, 1972 as DOT employee absorbed in BSNL. The respondent No. 6 issued clarifications holding the same stand as taken in the communication dated 4.05.2007 and taking shelter of FR. 17A and sub- rule (2) which is not at all applicable in the instant case. Further, the respondents issued another order dated 06.05.2008 confirming the stand taken in the communication dated 4.5.2007 and directed all the heads to take necessary action recover the arrears of EPF. Thereafter, assailing the legality and validity of the impugned orders dated 4.05.2007, 4.04.2007, 6.05.2008 the applicants approached the Hon'ble Gauhati High Court by filing WP(C) No. 2362/08. During the pendency of the said writ proceeding the respondents in a most illegal and arbitrary manner issued another order dated 16.01.09 revoking the Presidential Orders dated 02.01.2000, 16.01.2000, 21.01.2000 and 24.01.2000. Now the respondents are making a move to recover the arrears of EPF w.e.f 01.10.2000 without issuing any notice to the applicants causing serious prejudice to their defense. The applicants demanded justice and same have been denied to them and having no other alternative have come before this Hon'ble Court for redressal of their grievances.

Hence the present original application.

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Filed by



Advocate

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

OA No. 31 of 2009

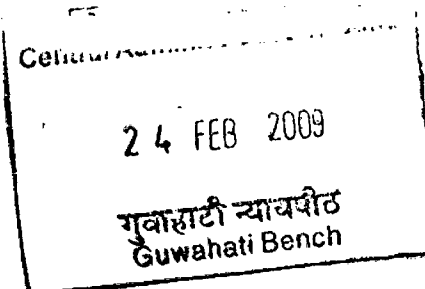
**LIST OF DATES**

- 29/30.12.99 Minutes of the High Power Committee of C.G.M.T, Assam Circle, DOT for appointment of 18 persons in Group- C posts and 21 persons in Group- D posts subject to availability of vacancies. [Annexure- 6] [Page- 39]
- 31.12.1999 Government of India vide letter No. WLF-1/II/AC/GH/PT-II/122 approved the recommendation of the High Power Committee for appointment on compassionate ground. [Annexure- 7] [Page- 41]
- 03.01.2000 Letter NO. ESTT-2/ 10/ 8 issued by the Government of India, DOT sanctioning as many as 39 posts of Group- C and 4 posts of Group- D for appointment of the applicants including others on compassionate ground. [Annexure- 8] [Page- 44]
- 23.03.2000 Communications giving information about the distribution of the petitioners against the posts sanctioned. [Annexure- 9 and 10] [Page- 44, 47]
- 02.05.2000 Letter No. STES-10/8/PT.I/26 issued by the respondents directing the applicant No. 1 and 2 to submit certain necessary documents for verification and further action. [Annexure- 11] [Page- 48]
- 10.05.2000 Letter No. No. GMT/EST-27/Gr-C/2000-2001/24 issued by the respondents directing the applicant No. 3, 4, 5 and 6 to submit certain necessary documents for verification and further action. [Annexure- 12] [Page- 49]
- 17.07.2000 Letter No. STES-10/8/Pt-I/66 and No. GMT/EST-27/G.C./00-01/43 issued by the respondents directed the applicants to report for training. [Annexure- 13 and 14] [Page- 50, 51]



- 22.09.2000 Letter No. E-106/ 2000-2001/279 by which the applicants were released for practical training of 1 (one) month. [Annexure- 15] [Page-53]
- 25.09.2000 Letter No. STES-10/8/Pt. I/2 and No. GMT/EST-27/Gr-C/00-01 issued by the respondents placing the applicants under different departments for training. [Annexure- 16 and 17] [Page-54,55]
- 19.10.2000 Letter No. GMT/EST-27/Gr-C/2000-01/56 indicating the salaries paid to the applicants. [Annexure- 18] [Page-56]
- 30.09.2000 O.M. vide No.2-31/ 2000- Resig issued by the Department of Telecommunication effecting the transformation of Department of Telecommunication to "Bharat Sanchar Nigam Limited. [Annexure- 1] [Page-16].
- 26.09.2000 Order No. STES- 13/8/27 issued to one Sri Jon Kumar Das, who was selected and approved by the said common orders and whose name appears at serial No. 21 of the said lists both recommended and approved by the competent authorities. Sri Das has been granted the benefits of the Presidential Orders whereas the similarly situated persons i.e. the applicants are denied. [Annexure- 36] [Page-81].
- 01.10.2000 The Government of India as a matter of New Telecom Policy, 1999 decided to incorporate a new company in the name and style "Bharat Sanchar Nigam Limited" and to transfer all the assets and liabilities including the existing staff and management of the erstwhile Department of Telecommunications.
- 23.10.2000 Order issued vide No. STES-10/8/PT-II/95 appointing the applicants. [Annexure- 19] [Page-57]
- 25.10.2000 Order issued vide No. GMT/EST-27/RC/2000-2001/57 appointing the applicants. [Annexure- 20] [Page-59]
- 02.11.2000 Posting order No. TF-NE/Staff-39/Vol-XII/108 issued to Sri Tarun Kumar Ojha. [Annexure- 21] [Page-60]
- 02.01.2001 Letter No. BSNL/ 4/ SR/ 2000 approving certain proposals including the option of staff for absorption in BSNL, changeover to IDA pay scales and time frame for various post absorption activities etc. [Annexure- 3] [Page-33]

- 3/4.01.2001 Communication under D.O No. BSNL/4/SR/2000 duly approving the resolutions of the BSNL and the Employees Federations dated 02.01.01. **[Annexure- 4]**  
**[Page- 36]** :
- 08.01.2001 Communication issued by the Deputy General Manager (Admn), O/o the Chief General Manager, Assam Telecom Circle carrying direction to the various subordinate authorities to carry on the process of absorption and to finalize the pay fixation as per dates targeted. **[Annexure- 5]** **[Page- 38]**
- 23.01.2001 Gazette notification issued by President of India represented by the Department of Telecommunications resolving to transfer all the assets and liabilities of the DOT to the said BSNL with effect from 1.10.2000. **[Annexure- 2]** **[Page- 41]**
- 02.01.2002 Presidential order issued to the 1<sup>st</sup> applicant under No. 27-1/ASSAM/CO/043/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972 along with other benefits. **[Annexure- 22]** **[Page- 41]**
- 02.01.2002 Presidential order issued to the 2<sup>nd</sup> applicant under No. 27-1/ASSAM/CO/042/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972 along with other benefits. **[Annexure- 23]** **[Page- 42]**
- 16.01.2002 Presidential order issued to the 3<sup>rd</sup> applicant under No. 27-1/ASSAM/KAMRUP/0019/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972, along with other benefits. **[Annexure- 24]** **[Page- 43]**



- 16.01.2002 Presidential order issued to the 4<sup>th</sup> applicant under No. 27-1/ASSAM/KAMRUP/0027/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972 along with other benefits. [Annexure- 29] [Page-48]
- 16.01.2002 Presidential order issued to the 8<sup>th</sup> applicant under No. 27-1/ASSAM/KAMRUP/0084/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972 along with other benefits. [Annexure- 25] [Page-64]
- 21.01.2002 Presidential order issued to the 5<sup>th</sup> applicant under No. 27-1/ASSAM/KAMRUP/0103/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972 along with other benefits. [Annexure- 26] [Page-65]
- 21.01.2002 Presidential order issued to the 7<sup>th</sup> applicant under No. 27-1/ASSAM/KAMRUP/0514/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972 along with other benefits. [Annexure- 28] [Page-67]
- 24.01.2002 Presidential order issued to the 6<sup>th</sup> applicant under No. 27-1/ASSAM/Task Force/004/2001 by the Director (Estt.), Assam, DOT granting the benefits of family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 and General Provident Fund as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972 along with other benefits. [Annexure- 27] [Page-66]

24 FEB 2009

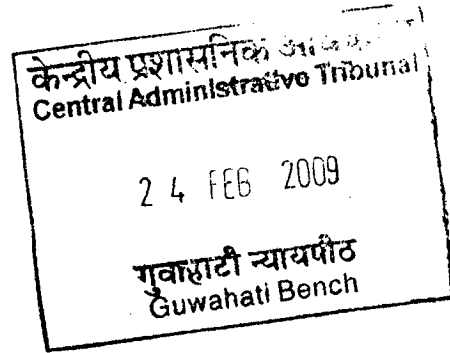
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গুৱাহাটী ন্যায়ালয়  
Guwahati Bench

- 04.05.2007 Impugned communication under No. BSNL/ 4/ SR/ 2002.Vol.II issued by the respondent No. 6 overriding the Presidential Orders denying the benefits granted by the said Orders. [Annexure- 30] [Page-61]
- 21.06.2007 Impugned communication under No.500 5/CA.II/BSNL/ EPF /Vol. III issued by respondent No. 8 directing recovery of EPF dues payable up to May, 2007 in respect of the applicants. [Annexure- 31] [Page-71]
- 23.06.07 Representation submitted by the 1<sup>st</sup> applicant making seeking protection under Rule 37- A of the CCS (Pension) Rules, 1972 as DOT employee absorbed in BSNL. [Annexure- 32] [Page-72]
- 28.06.07 Communication under No. letter No. STES- 10/ 5/ Loose-II/ 07-08/69 issued by the respondent No. 9 to the respondent No. 8 seeking clarification of the impugned order dated 04.05.07. [Annexure- 33] [Page-75]
- 24.08.2007 Clarification issued by the respondent No. 6 vide his letter No. BSNL/4/SR/2002 (Vol. III) pursuant to the communication made by the 9<sup>th</sup> respondent denying the benefits of the PO's resorting to the provisions of FR. 17A and provisions of Sub-Rule (2). [Annexure- 34] [Page-77]
- 06.05.2008 Order under No. 1-29/07-PAT (BSNL) reaffirming the instructions given in letter dated 4.5.2007 and directing all the respondents to take necessary action for recovery of the EPF Contribution from those employees who were appointed on compassionate ground after 1.10.2000 in BSNL. [Annexure- 35] [Page-78]
- 16.01.09 Impugned order No. STES-BSNL/Assam/2-58/06-07/Pt-II/83 issued by the Respondent No. 3 during the pendency of the WP(C) 2362/08 revoking all the Presidential Orders. [Annexure- 37] [Page-82]
- 09.02.09 Order passed in the WP(C) no. 2362/08. [Annexure- 38] [Page-84]

Filed by

Advocate



31  
Filed by:  
the Applicant's  
through  
Hridip Das, Asst.  
Associate  
20.2.09

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

**OA No. 31 of 2009.**

**BETWEEN**

1. Smt. Nivedita Pathak, W/O Late Aswini kumar Pathak, Namghar Path, Lakhimi Nagar, Hatigaon; Dispur, Guwahati - 6.

2. Smt. Supriya Choudhury, D/O Late Ranjit Kumar Choudhury, Bishnupur, Bharalumukh, Jagadish Ghost" Lane, Guwahati - 16.

3. Smt. Nabanita Deka, D/O Late Basudhar Deka, Bishnu Path, Zoo Road, Guwahati - 24.

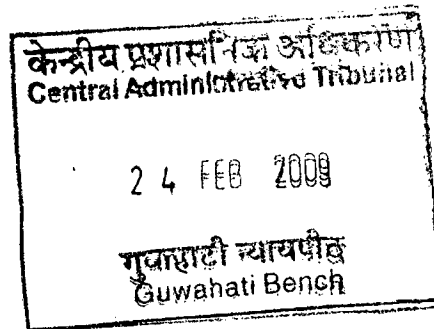
4. Smt. Poonam Sunwar, D/O Late Gyana Bahadur Sunwar, P & T Qtr (CTO Compound), Guwahati - 1.

5. Smt. Rebati Das, W/O Late Apurba Kumar Das, Gandhibasti, P.O. Silpukhuri, Guwahati- 3.

6. Sri Tarun Kumar Ojha, B/O Late Motilal Ojah, Vill- Sarumotoria; Kalaguru path, 8<sup>th</sup> bye lane, Hengrabari. Guwahati - 36.

7. Sri Anjan Sarma, S/O Late Anil Chandra Sarma, Forest Gate, Nizarpar, P.O - Narengi, Guwahati - 22.

Nivedita Pathak



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8. Sri Premananda Injal, S/O  
Late Lagan Chandra Injal, Vill-  
Dharban, P.O- Dhopguri, Dist-  
Kamrup. Assam.

APPLICANTS

**-Versus-**

1. Union of India

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

2. The Deputy Director General  
(Estt.), Ministry of  
Communications, Department of  
Telecom Government of India, 20  
Ashoka Road, New Delhi - 1.

3. The Director (Establishment),  
Assam, Department of  
Telecommunications, Government of  
India, Ulubari, Guwahati- 7.

4. The Secretary to the  
Government of India, Department of  
Personnel & Training, New Delhi-1.

5. Bharat Sanchar Nigam Limited,  
Represented through the Chairman-  
cum Managing Director, Corporate  
Office, 10<sup>th</sup> Floor, Statesman  
House, New Delhi-1.

6. The Assistant Director  
General (SR-1), BSNL, 5<sup>th</sup> Floor, A-  
Wing, Statesman House, Barakhamba  
Road, New Delhi-1.

Nivedita Pathak

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

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7. The Deputy Director General (SR), BSNL, New Delhi- 1.

8. The Joint Deputy Director General (CA), BSNL, Corporate Office, New Delhi- 1,

9. The Chief General Manager (Telecom), Assam Circle, Administrative Building, Guwahati - 1.

As per order dtd. 12.6.09 passed in M.P. No. 59/09

⑩ 11. The Chief General Manager, BSNL Task force, North Easter Region, Uzan Bazar, Guwahati - 3.

10. The General Manager (Telecom) Kamrup Telecom District, Guwahati - 1.

⑩

#### RESPONDENTS

#### DETAILS OF APPLICATION

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

The present application is made against the impugned orders dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and order dated 16.01.09. (ANNEXURE: 30, 31, 34, 35 and 37).

#### 2. JURISDICTION OF THE TRIBUNAL:

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

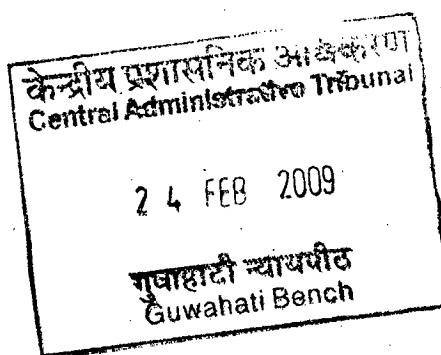
#### 3. LIMITATION:

The applicant further declares 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 Operating Assistants (G) in Group- C posts under

Nivedita Pathak

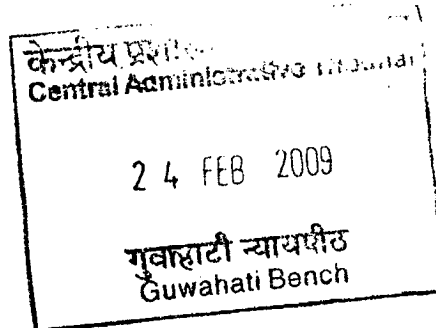


the establishment of Bharat Sanchar Nigam Limited (in short BSNL).

4.2 That it is pertinent to state here that as a matter of New Telecom Policy, 1999, the Government of India decided to incorporate a new Company under the name and style as "Bharat Sanchar Nigam Limited" and to transfer all the assets and liabilities including the existing staff and management of the erstwhile Department of Telecommunications except some policy matter with effect from 1.10.2000. From that crucial date the existing staff/manpower have been considered to be employees of the Govt. of India on deemed deputation to the BSNL subject to absorption in BSNL. Accordingly the DOT issued the O.M. vide No.2-31/ 2000- Resig dated 30.9.2000 and effected the said transfer of assets and liabilities. At the same time the President of India represented by the Department of Telecommunications issued the Gazette notification on 23.1.2001 thereby resolving to transfer all the assets and liabilities of the DOT to the said BSNL with effect from 1.10.2000. By the said O.M. dated 30.9.2000 and the Gazette Notification dated 23.1.2001 it was also made clear that the BSNL would be solely responsible for honouring all the existing contracts, agreement and MOU for due performance and in case of disputes to sue and be sued as the successor/ assignee and shall be liable for any defaults, delays or non- performance. All the disputes/ litigation involving the DOT prior to the said period of such transition and transformation of the erstwhile DOT to BSNL from 1.10.2000 were as extended continued up to 31.12.2000 and it was BSNL only to act on behalf of the DOT as their successor or assignee for such purpose. The issue raised in this original application relates to matter prior to the crucial date of 1.10.2000 and the cause of action arising on 25.10.2000. Hence the BSNL and the authorities cannot shift their responsibility to the DOT now. Prior to the said gazette notification dated 23.1.2001 the respondents BSNL represented by the respondent No. 5 agreed to the Employees Union/ Federations and "approved certain

Nivedita Pathak





proposals including the option of staff for absorption in BSNL, changeover to IDA pay scales and time frame for various post absorption activities etc., which was communicated vide letter No. BSNL/ 4/ SR/ 2000 dated 2.1.2001. It was also agreed by the BSNL and the Employees Federations that the BSNL will absorb the employees, who opt on+8 as is where is basis, meaning thereby that all the existing employees including the applicants in the same condition and position without any modification as they were under the DOT be absorbed in BSNL by issuing orders in such condition and position. "As is where is" means without any modification or change which may be derogatory to the existing interest, privileges and rights of the employees.

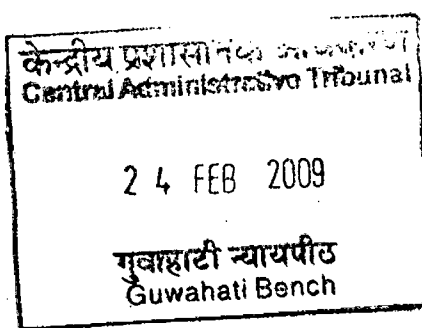
The copies of the O.M. dated 30.9.2000, Gazette notification dated 23.1.2001 along with type copy and letter dated 2.1.2001 are annexed herewith and marked as **ANNEXURE- 1, 2 and 3.**

4.3 That the aforesaid resolutions of the BSNL and the Employees Federations dated 02.01.01 were duly approved by the BSNL as communicated by D.O No. BSNL/4/SR/2000 dated 3/4 January, 2001. By the said approval it was duly agreed to complete the process of absorption of employees of DOT to BSNL. In pursuance to the said communication, the respondent no. 6 issued direction to the various subordinate authorities to carry on the process of absorption and to finalize the pay fixation as per dates targeted. This was communicated vide letter no. STES-BSNL/Assam/2-58/2 dated 08.01.01.

Copies of the communication dated 3/4 January, 2001 and letter dated 08.01.01 are annexed herewith and marked as **ANNEXURE- 4 & 5.**

4.4 That the Government of India, Ministry of Communications, DOT through the respondent no. 2 issued the draft proforma of the Presidential order, which were to be

Nivedita Pathak



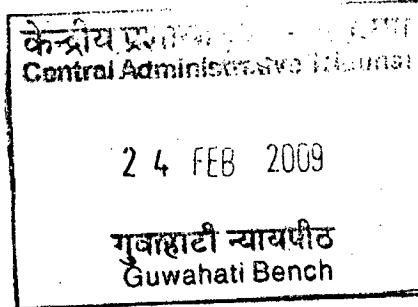
issued and completed by 19.02.02. By the said order it was also categorically fixed that the DDG (Estt.) the respondent No. 2 will sign the Presidential orders in the capacity as Director (Estt), respondent no. 3. By the said communications No. 27-1/2001-SNG dated 13.11.01 it was further instructed that a complete list of such official, who have not opted for BSNL be supplied to the said respondent No. 4. By the said communication a draft proforma of Presidential order and the name of officer to act as Director (Estt) were also annexed.

4.5 That while the aforesaid process of transformation and transfer of assets and liabilities including the existing manpower from the DOT to the BSNL were going on, prior to that the DOT acting through the respondent No. 8 has recommended as many as 18 persons for appointment on compassionate ground in Group- C posts and as many as 21 persons in Group- D posts subject to availability of vacancies. This appointment on compassionate ground was carried out under the 1998 Scheme of the Government of India including the DOT. The names of all the applicants were also recommended by the said High Power Committee in its meeting held on 29th and 30th December, 1999. The Government of India through the respondent No. 8 had also duly accorded its approval of the said recommendation of the High Power Committee for appointment of the said approved candidates including the applicants vide letter No. WLF-1/II/AC/GH/PT-II/122 dated 31.12.1999.

The copies of the said recommendation of High Power Committee dated 29<sup>th</sup> and 30<sup>th</sup> December, 1999 and the letter dated 31.12.1999 are annexed herewith and marked as ANNEXURE- 6 and 7.

4.6 That in order to give effect and implement the said recommendation and the approval as aforesaid, the Government of India, DOT created as many as 39 posts of Telecom Operating Assistant (G) in Group- C and as many as

Nivedita Pathak



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4 posts of Group- D. This was done vide letter NO. ESTT-2/10/ 8 dated 03.01.2000.

A copy of the said letter dated 03.01.00 is annexed herewith and marked as **ANNEXURE- 8**.

4.7 That after the sanction/ creation of the posts as stated above, the applicants were distributed against the available vacancies and under different authorities. The applicants were also accordingly informed about their selection and approval for appointment. The respondent No. 8 allocated the applicants Smt. Supriya Choudhury and Smt. Nivedita Pathak against the vacancy under the respondent No. 8 while the remaining 6 applicants were allocated against the vacancies under the respondent No. 9. This was done vide letter No. WLF-1/II/AC/GH/PT-II/99-2000/138 dated 27.04.00. By the said communications it was also indicated that for the Group- C posts training would be imparted to the applicants, while for Group- D posts no such provision of training was made.

The copies of such information issued to some applicants are annexed herewith and marked as **ANNEXURE- 9 and 10**.

4.8 That the respondents as per aforesaid allocation of posts wrote to the applicants thereby directing them to submit certain necessary documents for verification and further action. This was done vide letter No. STES-10/8/PT.I/26 dated 02.05.2000 and No. GMT/EST-27/Gr-C/2000-2001/24 dated 10.05.2000.

The copies of the said letter dated 02.05.00 and 10.05.00 are annexed herewith and marked as **ANNEXURE- 11 and 12**.

4.9 That thereafter the respondents directed the applicants to report for training to be commenced from 24.07.2000 vide their letter No. STES-10/8/Pt-I/66 dated 17.07.2000 and No. GMT/EST-27/G.C./00-01/43 dated 17.07.2000. By the said communications it was indicated there would be theoretical training for 2 (two) months and practical training for 1(one) month. The applicants successfully completed their theoretical training held from 24.07.2000 to 22.09.2000 and they were released for

Nivedita Pathak

practical training of 1 (one) month vide letter No. E-106/2000-2001/279 dated 22.09.00 issued by the Principal, Circle Telecom Training Centre, Guwahati.

The copies of the said letters dated 17.07.2000 and 22.09.2000 are annexed herewith and marked as **ANNEXURE- 13, 14 and 15.**

4.10 That the applicants thereafter were placed in different Departments under the respondent No. 9 and 10 for their 1 (one) month's practical training as indicated against their names as communicated vide letter No. STES-10/8/Pt. I/2 dated 25.09.2000 and No. GMT/EST-27/Gr-C/00-01 dated 25.09.2000.

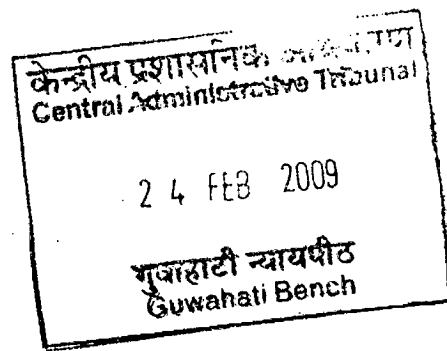
The copies of the said letters dated 25.09.2000 are annexed herewith and marked as **ANNEXURE- 16 and 17.**

4.11 That during the period of training the applicants were paid Rs.2135/- per month as with DA as admissible. One such communication indicating the payment was communicated vide letter No. GMT/EST-27/Gr-C/2000-01/56 dated 19.10.2000.

A copy of the said communication dated 19.10.2000 is annexed herewith and marked as **ANNEXURE- 18.**

4.12 That after successful completion of the training both theoretical and practical the applicants were appointed against the available vacancies as created for that purpose with effect from 25.10.2000 in the pay scale of Rs.3200-85-4900/- pm plus usual allowances as admissible from time to time. The said orders of appointment were issued vide No. STES-10/8/PT-II/95 dated 23.10.2000 and No. GMT/EST-27/RC/2000-2001/57 dated 25.10.2000. It is also pertinent to state here that the applicant, Sri Tarun Kumar Ojha has been allocated against the vacancy under the CGM, Task Force, Guwahati- 3 vide posting order No. TF-NE/Staff-39/Vol-XII/108 dated 2.11.2000.

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The copies of the said appointment letters dated 23.10.2000 and 25.10.2000 and posting order dated 2.11.2000 are annexed herewith and marked as **ANNEXURE 19, 20 and 21.**

4.13 That as stated hereinabove, the process of permanent absorption of employees of DOT in BSNL started in accordance with the policy decision of the Govt. of India as stated hereinabove and the Presidential orders were issued to all those, who opted for permanent absorption in the BSNL under the agreed terms and conditions "on as is where is basis". Along with other such employees who opted for absorption, the applicants also exercised their option for permanent absorption in BSNL. Accordingly the respondent No.3, the competent and designated authority to exercise the power of the President of India, issued the Presidential orders thereby permanently absorbing all the applicants in BSNL with effect from 1.10.2000 and they were entitled to all the rights and privileges as fixed by the said Presidential orders. According to the said Presidential orders the applicants are eligible for family pensions as provided under Rule 37-A read with Rule 54(13-B) of the CCS (Pension) Rules, 1972 as amended from time to time. In addition to the other privileges and rights created by the said Presidential orders the applicants were also eligible for General Provident Fund benefits as provided under sub-Rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, 1972. The Presidential orders were issued in respect of the applicants as indicated below:

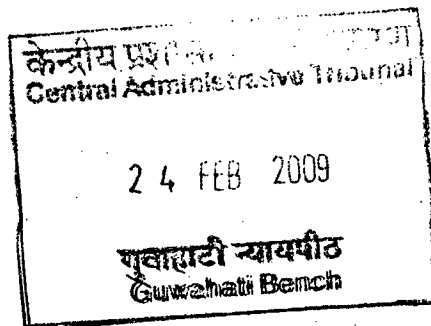
SL No	Name of the applicants	P.O. order No	Date
1	Nivedita Pathak	27-1/ASSAM/CO/043/2001	2.1.02
2	Supriya Choudhury	27-1/ASSAM/CO/042/2001	2.1.02
3	Nabanita Deka	27-1/ASSAM/KAMRUP/0019/2001	16.1.02
4	Poonam	27-1/ASSAM/KAMRUP/0084/2001	16.1.02

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	Sunwar		
5	Rebati Das	27-1/ASSAM/KAMRUP/0103/2001	21.1.02
6	Tarun Kumar Ojha	27-1/ASSAM/Task Force/004/2001	24.1.02
7	Anjan Sarma	27-1/ASSAM/KAMRUP/0514/2001	21.1.02
8	Premananda Injal	27-1/ASSAM/KAMRUP/0027/2001	16.1.02

The copies of the Presidential orders are annexed herewith and marked as **ANNEXURE- 22, 23, 24, 25, 26, 27, 28 and 29.**

4.14 That while the applicants were in service of the erstwhile DOT and they having been transferred to the BSNL as per policy of the Government of India and by virtue of the Presidential orders and having been put in their continuous service for about 7 years, the respondent No. 6 issued a letter to all the Chief General Managers, BSNL, including the respondent No.8 vide letter No.BSNL/4/SR/2002.Vol.II dated 4.5.2007. By the said letter it was conveyed that as revised clarification, options from compassionate ground appointment case, where appointment order issued after 30.9.2000 by BSNL will not be cased for and such appointees will be treated as BSNL recruited employee only. In case option from any such appointee has been called for and PO issued, it shall be treated as null and void. By the said letter it is also clarified that prior to the said revised clarification dated 4.5.2007 the date of option was to be treated as date of appointment as per authority conveyed under No. BSNL/ 4/SR- 2000 dated 30.4.2001. This impugned letter dated 4.5.2007 modifying/ altering the service conditions of the applicants are derogatory, punitive which amounts to reduction in rank, illegal, arbitrary and violative of the provisions of Article 14,16,21,53 and 73 of the Constitution of India and also the rules of natural justice, legitimate expectation and administrative fair play. Hence the said impugned letter dated 4.5.2007 is liable to be set aside and quashed



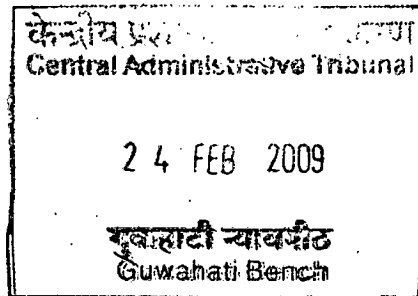
and the Presidential orders, which are still in force permanently absorbing the applicants in BSNL from DOT with all consequential benefits and service conditions as incorporated in the said Presidential orders pertaining to the applicants and the said Presidential Orders pertaining to the applicants be directed to be continued.

A copy of the said impugned order dated 4.5.2007 is annexed herewith and marked as **ANNEXURE- 30.**

4.15 That the respondent No. 8 vide impugned letter No.500 5/CA.II/BSNL/ EPF /Vol. III dated 21.6.2007 directed all the Heads of the Circles including the respondent No. 9 and thereby directed to treat the employees appointed on - compassionate ground after 30.9.2000 as BSNL recruited employees. In the said letter it was further directed that the Employees Provident Fund Contribution for such employee payable up to May, 2007 be deposited to the Employees' Provident Fund Organization by 30.6.2007. On receipt of said information one of the applicants immediately filed a representation dated 23.06.07 to the respondent No. 9 thereby seeking protection under Rule 37- A of the CCS (Pension) Rules, 1972 as DOT employee absorbed in BSNL. Under such circumstances the respondent No. 9 also took up the matter immediately vide letter No. STES-10/5/Loose-II/07-08/69 dated 28.6.2007 and requested to re-examine the specific cases on the following points:

(a) Whether the compassionate ground appointed TOA (G) referred to in Para 2 and 3 above who were recruited by DOT and appointed by BSNL, shall be treated as BSNL recruited staff?

(b) If these officials are treated as BSNL recruited staff whether it shall be tenable to introduce EPF Scheme in defiance of the expressed terms of the Presidential order without canceling the Presidential order.



(c) Who shall be the authority to cancel the Presidential order and what procedure shall be followed.

The copies of the said communications are annexed as ANNEXURE 31, 32 and 33.

4.16 That in response to the communications dated 28.6.2007 of the respondent No. 9 the respondent No. 6 issued the clarification vide his letter No. BSNL/4/SR/2002 (Vol. III) dated 24.8.2007. By the said letter the said authority referred to the provisions of FR. 17A and provisions of Sub-Rule (2) and clarified the queries as under:

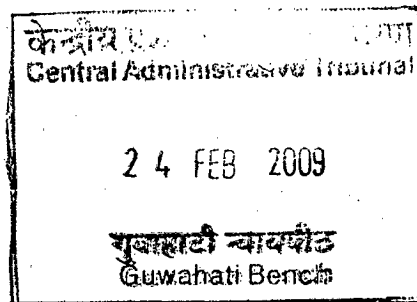
(a) Those employees will have to be treated only as BSNL employees in view of the fact that BSNL has issued their appointment orders.

(b) BSNL appointed employees will be covered under EPF Act as provided under the law. In so far as the question of legality concerned, the clarification issued vide letter No. BSNL/4/SR/2002 (Vol. III) dated 4.5.2007 is self explanatory,

(c) As far as cancellation of Presidential order is concerned, the presidential orders were issued on behalf of DOT by the Director (Estt) appointed by DOT as such the designated officer may cancel the P.O.s after getting approval from DOT.

This clarification is again issued most arbitrarily and without jurisdiction as the Presidential orders permanently absorbing the petitioners in BSNL by providing certain protection and privileges are still holding the field. More so there is no such provision as allegedly provided under FR. 17-A and sub-rule (2) as claimed by the said Authority. The FR. 17- A relates to unauthorized absence under various circumstances. The explanation 2 under the said FR. 17- A indicates the competent authority as appointing authority for the purpose of action under FR.

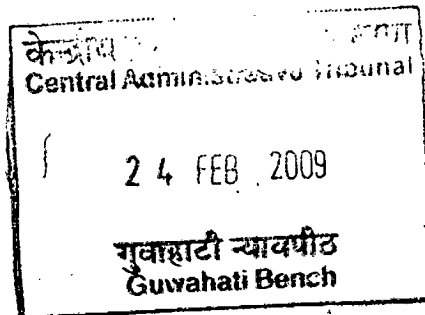




17- A and not otherwise. There is no such sub-rule (2) under the FR. 17- A. Hence it is not a case falling under FR. 17- A and the said impugned letter dated 24.8.2007 be is liable to be set aside and quashed as illegal and without authority. The respondents further issued another instruction vide No. 1-29/07-PAT (BSNL) dated 6.5.2008 thereby reaffirmed the instructions as given in letter dated 4.5.2007 and directed the other respondents to take necessary action for recovery of the EPF Contribution from those employees who were appointed on compassionate ground after 1.10.2000 in BSNL. The reference made in the said instruction dated 6.5.2008 regarding clarification alleged to have been given by DOT letter dated 20.10.2006 and BSNL letter dated 31.10.2006 does not relate to employees appointed on compassionate ground rather these are matter relating to Casual labour with temporary status. This further instruction is also illegal, arbitrary and is liable to be set aside and quashed.

Copies of the letter dated 24.8.2007 and 6.5.2008 (with letter dated 20.10.2006 and 31.10.2006) are annexed herewith and marked as ANNEXURE- 34 and 35.

4.17 That as explicit on record the applicants were selected and recommended for appointment by a common order and decision of the respondents as they were recommended by the High Power Committee for appointment against Group- C posts along with other persons so recommended and selected for appointment against Group - D posts (as in ANNEXURE- 6), both being for appointment on compassionate ground and so similarly situated. They were also approved by the competent authority for appointment on compassionate ground as Group - C along with Group - D candidates by a common order dated 31.12.1999 (as in ANNEXURE- 7). The posts of Group- C and Group- D) were also created by a common order by the competent authority (as in ANNEXURE- 8). One such candidate who was selected and approved by the said common orders is Sri Jon Kumar Das, whose name appears at serial No. 21 of the said lists both recommended and approved by the



competent authorities. Whereas the selected and approved-Group - D candidates were directly appointed without any training imparted to them immediately after such sanction of posts. One such instance of immediate appointment has been made vide order dated STES- 13/8/27 dated 26.9.2000 and such employees in Group - D has been treated as employee of DOT and permanently absorbed as BSNL employees with full protection in the similar Presidential orders. This differentiation in the appointment of Group- C and Group- D with provisions of training and without provisions of training and being selected, approved and post being created by the common orders by the same authority are highly arbitrary, discriminatory and cannot stand in the eye of law. The provisions of training to the Group - C is an augmentation of better services and not to be regarded as a minus point. As such Group- D candidates were appointed prior to 30.9.2000 they had been given all the protection as provided under the said Presidential order, whereas the applicants in Group- C posts being recruited prior to 30.9.2000 and being formally appointed on 25.10.2000 just less than a month's time after from the said date of 30.9.2000 cannot be discriminated and singled out to deny and withdraw from the benefits and privileges of Presidential orders permanently absorbing them as BSNL employees from the employees of DOT.

A copy of such appointment order dated 26.9.2000 of one of a Group- D employee is annexed herewith and marked as **ANNEXURE- 36**.

4.18 That the applicant begs to state that the training imparted to the applicants was a training which was the part of employment and it was a part of the service rendered by the applicants. During the period of training the applicants worked under DOT, i.e. the CGMT/GH and GMT/KMP. It is worthwhile to mention here that the period of training i.e. 24.07.2000 to 24.10.2000 has been counted towards the length of service because the applicants earned due increments during the said period. Therefore, having counted the period of training for the length of service the respondents have

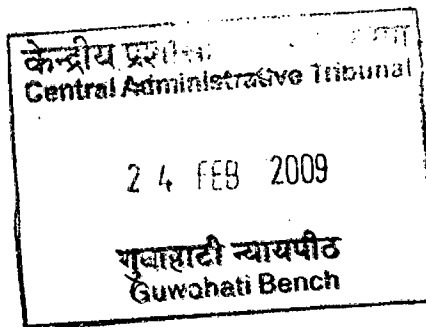
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committed gross illegality by excluding the period of training in the matter of absorption which is contrary to the Constitutional provisions and law of land.

It is further stated that the present applicants were selected and approved for appointment on compassionate ground in relaxation of normal recruitment rules and supernumerary posts of Telecom Operating Assistant (G) were created for appointing the applicants. In fact the posts in question were the posts prior to coming of the BSNL. Therefore, the respondents are duty bound to give appointment to the applicants. Moreover it is stated that, the purpose of training imparted to the applicants was only to get them acquainted with the job responsibilities of Telecom Operating Assistants (G) and nothing else. Hence, under this peculiar fact situation of the case the respondents ought to have granted the benefits of the Presidential Orders to the Group- C appointees likewise the Group- D.

The applicants crave leave of this Hon'ble Court to direct the respondents to produce the service book at the time of hearing of the case.

4.19 That the applicant making a prayer for setting aside the orders dated 21.06.07, 24.08.07 and 6.5.08 along with a prayer for upholding the orders dated 02.01.02, 02.01.02, 16.01.02, 21.01.02, 24.01.02 and 21.01.02 respectively, with a further prayer for ensuring their protection, privileges and accrued rights had to move the Hon'ble High Court by instituting writ proceeding which was registered and numbered as WP(C) 2362/08. The Hon'ble High Court on 14.07.08 was pleased to issue Rule in the above noted writ petition and fixed the case for hearing. During the pendency of the writ petition the respondents issued the identical impugned orders dated 16.01.09 to all the applicants by which the earlier orders absorbing them in BSNL from DOT are revoked thereby withdrawing all the rights and privileges granted to the petitioners by the Presidential Orders dated 02.01.02, 16.01.02, 21.01.02 and 24.01.02.



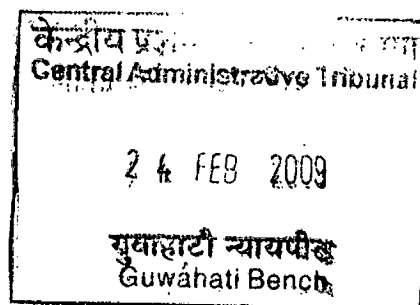
One of the copies of the impugned order dated 16.01.09 is annexed herewith and marked as ANNEXURE- 37.

4.20 That it has been learnt that the Government of India, Ministry of Personal, Public Grievance and Pension by notification dated 11.10.08 has brought the Bharat Sanchar Nigam Limited under the jurisdiction of the Central Administrative Tribunal. Therefore, the writ petition No. 2362/08 has been withdrawn with liberty to approach the appropriate forum. The Hon'ble High Court vide judgment and order dated 09.02.09 was please to close the writ petition.

A copy of the judgment and order dated 09.02.09 passed in WP(C) 2362/08 is annexed herewith and marked as ANNEXURE- 38.

4.21. That the applicants beg to state that they were appointed on compassionate ground and the DOT had approved their cases and created posts after providing the relaxation to the normal recruitment rules. The above process was completed during the period when the BSNL was not in operation. The applicants were directed to report training during that period when the BSNL was not in operation only the formal posting order was issued by the BSNL and thereby the BSNL authority can not say that the applicants are employees of BSNL by dint of the appointment. In fact due to the aforesaid fact options were sought from the applicants for coming to BSNL from DOT and taking into consideration such option only the presidential orders at Annexures 22 to 29 were issued to them. In such circumstances now the respondents are estopped from issuing any order detrimental to the service condition of the applicants as has been issued now. The respondents before issuance of the impugned orders have not issued any notice to the applicants and that too the said respondents have issued the impugned orders during the pendency of the writ petition before the Hon'ble High Court. The respondents before issuance of the said impugned orders did not even sought permission from the Hon'ble Court.

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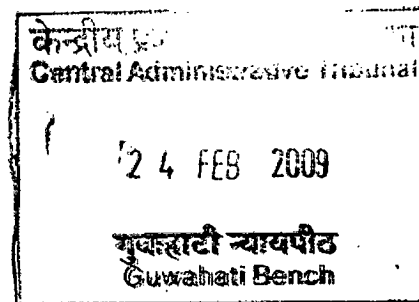


The issuance of the impugned orders has put the applicant's service in jeopardy and same amounts to termination of their services. In that context it is stated that the applicants were selected and recommended for the posts in DOT on the date when BSNL was not in operation and they were subjected to a particular service condition and the respondents now by issuing the impugned order has sought to down grade the service condition of the applicant to which they were never recruited. In such an eventuality the issuance of the impugned orders amounts to termination of service of the applicants which is unconstitutional and same is required to be interfered with by the Hon'ble Tribunal. Apart from issuance of the impugned orders the respondents have now sought to recover the amount deposited by the applicants as GPF (the differences) without any notice. Law is well settled that the condition of service can not be altered retrospectively. In the instant case the respondents have not only sought for retrospective change in service condition but at the same time they sought such change which is non-existent so far it relates to the present applicants. Law is also well settled that the subsequent amendments in recruitment rules concerning the service condition will not guide the recruitments made through the unamended rules. Taking into consideration all these aspect of the matter the impugned orders are required to be interfered with by the Hon'ble Tribunal.

4.22 That the applicants beg to state that the impugned order dated 16.01.09 is not at all sustainable in the eye of law. The respondents in a most arbitrary manner and with a malafide exercise of power during the pendency of the WP(C) No. 2362/08 has issued the impugned order dated 16.01.09 revoking the presidential orders (Annexure- 22, 24, 25, 26, 27, 28, 29 and 29) which illegal and liable to be interfered with by this Hon'ble Tribunal.

4.23 That it is well settled by the Hon'ble Supreme Court that the period of training/apprenticeship, which is otherwise a service as per rules cannot be excluded from

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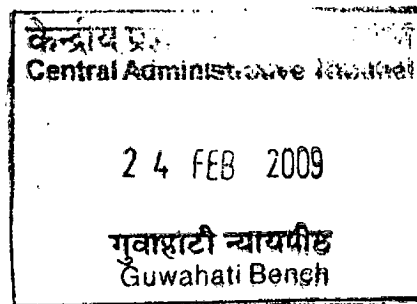


qualifying service of an employee. The petitioners were in training as "Telecom Operating Assistant (G)" both theoretical and practical from 24.07.2000 to 24.10.2000 and they were allowed to join on 25.10.2000. But the period of said training has not been counted as service from 24.07.2000 as entry date in service although they were paid salary/pay and DA during the said period.

4.24 That the applicants are regulated by the provisions of CCS (Pension) Rules, 1972 by virtue of their absorption in BSNL and the BSNL up till now has not made any such pension rules. The Rule 22 of the CCS (Pension) Rules, 1972 provides that the Government may by order decide whether the time spent by a Government servant under training immediately before appointment to service under that Government shall count as qualifying service. The Government of India by their executive orders vide G.I. Dept. of Personnel & A.R O.M. No.28/32/81-Pension Unit dated 2.12.1983 had provided that in respect of Group 'C' and 'D' employees, who are required to undergo departmental training relation to jobs before they are put on regular employment, training period may be treated as qualifying service for pension, if the training is followed immediately, by an appointment. This benefit will be admissible to all Group-'C' and 'D' employees even if the officers concerned are not given the scale of pay of the post but only a nominal allowance. Here all the applicants are in service in Group-C post. Hence the Presidential Orders issued to the petitioners giving certain service benefits under Rule 37-A of the CCS (Pension) Rules, 1972 with effect from 1.10.2000 cannot be interfered with by any authority more so after the lapse of more than seven/ eight long years of time.

4.25 That the process of recruitment/ appointment of the applicants started well ahead of the crucial date of 1.10.2000, i.e. on 29<sup>th</sup> and 30<sup>th</sup> December, 1999 and the select list was prepared and approved on 31.12.1999. The posts for appointment of the applicants were created on 3.1.2000. The applicants were informed by the respondents

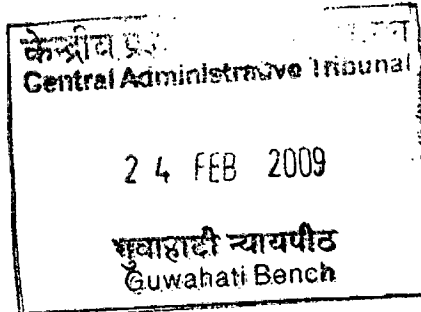
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on 23.3.2000 that their names have been approved for appointment. By the communication dated 2.5.2000/10.5.2000, the applicants were directed to submit certain documents in support of their candidature and to execute an undertaking in a given proforma. By order dated 17.7.2000, the respondents directed the applicants to join in job training programme commencing from 24.7.2000, which was completed on 24.10.2000. But in the meantime, the OM dated 30.9.2000 and the Gazette notification dated 23.1.2001 were issued by fixing the crucial date as 1.10.2000. But the said OM dated 30.9.2000 and the notification dated 23.1.2001 were silent about the treatment to be meted out to the persons like the applicants nor any restriction has been imposed debarring the respondents from giving the service benefits from 1.10.2000 as has been done by the said Presidential Orders. It is also pertinent to state here that the law is also settled that the recruitment process includes the process of appointment. As the recruitment process started prior to the OM dated 30.9.2000 and notification dated 23.1.2001, the benefit of service must be given as accrued to the applicants as given by the said Presidential Orders. Hence the impugned letters dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and order dated 16.01.09 cannot sustain in law and the same are liable to be set aside and quashed.

4.26 That the impugned letters dated 4.5.2007, 21.6.2007, 4.8.2007, 6.5.2008 and order dated 16.01.09 have been issued without any notice to the applicants. Whereas law is well settled that no administrative order could be issued by the authority having civil consequences without issuing notice to the employee concerned and such action amounts to violation of rules of natural justice, which is the very aspects of the Article 14 of the Constitution of India. An administrative order issued against any statutory provisions, is subject to judicial review under Article 226 of the Constitution of India. The respondents are carrying out all such exercise in a very tacit manner and acting malafide. That respondents were sitting upon the matter and

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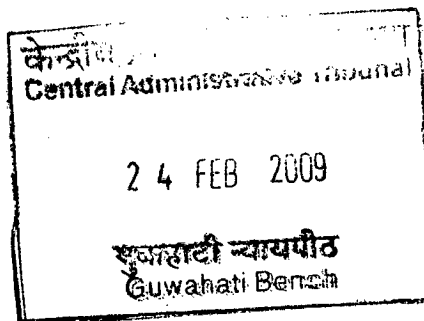
kept the applicants in dark and after a long period of more than 7/8 years they have risen from the deep slumber and issued the said letters most whimsically, unreasonably and capriciously. Therefore, the said impugned orders dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and 16.01.09 are issued in gross violation of the provisions of Article 14, 16 and 21 of the Constitution of India and also the provisions of rules of natural justice, administrative fair-play and legitimate expectations.

4.27 That the applicants are already members of the G.P. Fund and they are entitled to all the benefits of permanent absorption from DOT to BSNL as provided under Rule 37- A of the CCS (Pension) Rules, 1972 inducting pension. The members of the family of the applicants are also entitled to family pension as provided under Rule 37- A read with Rule 54 (13-B), benefits of G.P.F under Rule 37-A, sub-rule 24 (a) and leave under Rule 37- A, sub-rule 24 (b) of the said CCS (Pension) Rules, 1972. The applicants are also entitled to all other such service benefits that have been accrued under the said provisions of law from time to time.

4.28 That in view of the aforesaid facts and circumstances of the case the respondents are now making a move to recover the arrears of EPF from the date of their appointment denying the benefits of the Presidential Orders which is per se illegal and arbitrary. Hence the present case is a fit case wherein the Hon'ble Tribunal may be pleased to pass an interim order staying the effect and operation of the impugned order No. STES-BSNL/Assam/2-58/06-07/Pt-II/83 dated 16.01.09. The Hon'ble Tribunal may also be pleased to give an interim direction not to recover arrears of EPF and to allow them to deposit GPF without the leave of the Hon'ble Tribunal during the pendency of this application. The applicants have made out a prima facie case of 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

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is not passed by the Hon'ble Tribunal.

4.29 That in any view of the matter, provisions of law and the evidence available on records, the impugned orders dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and 16.01.09 are liable to be set aside and quashed and the Presidential Orders (as in ANNEXURE 22, 23, 24, 25, 26, 27, 28, and 29) be upheld as legally valid and proper ensuring the protection, privileges and accrued rights of the applicants on the strength of the said Presidential Orders.

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

4.31 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.

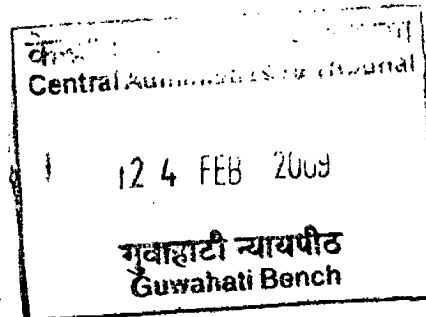
4.32 That the applicant files this application bonafide for securing the ends of justice.

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

5.1 Because the respondents have issued the impugned orders 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and 16.01.09 in clear violation of natural justice and no opportunity was given to the applicants to place their say in the matter causing serious prejudice. Hence on this ground alone the impugned orders are liable to be set aside and quashed.

5.2 Because both the Group- C and Group- d employees appointed on compassionate ground and approved by the competent authority by a common order date 31.12.1999 and posts of Group- C and Group- D were also created by a common order. The Group- D employees have been extended with the benefits of the Presidential orders whereas the respondents are denying the similar benefits to the Group- C employees i.e. the applicants. Therefore, the respondents

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being model employer ought to have granted similar benefits to the applicants. The respondents have passed the impugned orders in clear violation of Article 14 and 16 of the Constitution of India only with the sole purpose to deny the benefits of the Presidential orders. Hence the impugned orders are liable to be set aside and quashed.

5.3 Because the rules are ambiguous regarding the absorption of the employees who were in training on the crucial date. The respondents taking advantage of such ambiguity and overriding Government of India, Dept. of Personnel & A.R O.M. No.28/32/81-Pension Unit dated 2.12.1983 have issued the impugned orders illegally, arbitrarily and capriciously. Hence the respondents have erred in holding the applicants to be BSNL recruits and as such the impugned orders are liable to be set aside and quashed.

5.4 Because all the processes of recruitment i.e. preparation of select list, creation of posts, approval of the applicants, document verification and commencement of training programmes have been completed before the crucial date of 1.10.2000. Therefore, the respondents have committed grave illegality by revoking the Presidential orders denying them to be BSNL absorbs. Hence the impugned orders are to be interfered with by this Hon'ble Tribunal and liable to be set aside and quashed.

5.5 Because the Rule 21 of the CCS (Pension) Rules, 1972 provides that the time spent on training is counted as qualifying service for pension. Therefore, taking into consideration Rules 21 the Presidential orders were issued granting benefits under Rule 37-A of the said Rules. However, the respondents now in a most arbitrary manner after a lapse of about 7 years are making a move withdraw the service benefits as extended by the Presidential orders and passed the impugned order dated 16.01.09 during the pendency of the WP(C)2362/08 revoking the Presidential orders. Hence the impugned order dated 16.01.09 is not at

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all sustainable in the eye of law and liable to be set aside and quashed.

5.6 Because the impugned order dated 16.01.09 has been issued during the pendency of the WP(C) 2362/08 without giving any opportunity of hearing to the applicants and in gross violation of natural justice. Hence only on this ground the impugned order dated 16.01.09 is liable to be set aside and quashed.

5.7 Because from the sequence of events it is clear that the impugned orders were issued denying the similar benefits as has been extended to the similarly situated Group- D employees. Hence on this ground alone the impugned orders are liable to be quashed.

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.

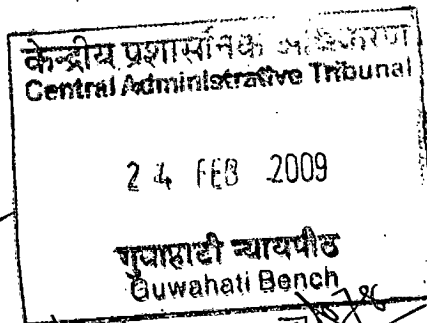
**6. DETAILS OF THE REMEDIES EXHAUSTED:**

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.

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8. RELIEF(S) SOUGHT FOR:

8.1 Quash and set aside the impugned orders dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and 16.01.09 and grant all other consequential service benefits.

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:

Stay the operation and effect of the orders dated 16.01.2009 (ANNEXURE-37) issued revoking the Presidential Orders dated 2.1.02, 16.1.02, 21.1.02 and 24.01.02 and/or to direct the respondents not to recover arrears of EPF during the pending disposal of the instant original application and to allow them to deposit GPF.

10. The application is filed through Advocates.

11. PARTICULARS OF THE IPO:

(I) IPO No.

(II) Date of Issue

(III) Issued from

(IV) Payable at

: 43C 780868, 43C 780869, 43C 780867, 43C 780866,  
43C 780870, 43C 780871, 43C 780872, 43C 780873,  
: 43C 780874, 43C 780865 dated 20.2.09

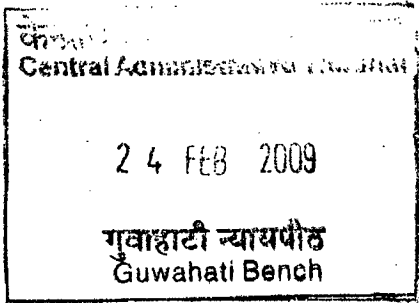
: Guwahati

: Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

...Verification



### VERIFICATION

I, Smt Nivedita Pathak, wife of late Aswini Kumar Pathak, aged about 49 years, resident of Namghar Path, Lakhimi Nagar, Hatigaon, Dispur, Guwahati- 6 (Assam), do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.4, 4.7(partly), 4.13(partly), 4.14(partly), 4.16(partly), 4.17(partly), 4.18, 4.21, 4.22, 4.23, 4.24, 4.25, 4.26, 4.27, 4.28 and 4.29 are true to my knowledge, those made in paragraphs 4.2, 4.3, 4.5, 4.6, 4.7(partly), 4.8, 4.9, 4.10, 4.11, 4.12, 4.13(partly), 4.14(partly), 4.15, 4.16(partly), 4.17(partly), 4.19 and 4.20 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 sign this verification on this the 19<sup>th</sup> day of February, 2009 at Guwahati.

Mrs. Nivedita Pathak

APPLICANT

No. 2-3172005-1000g  
Government of India  
Ministry of Communications  
Department of Telecommunication Services

केन्द्रीय प्रशासनिक  
Central Administrative

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

New Delhi, the 30<sup>th</sup> September, 2000.

OFFICE MEMORANDUM

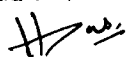
Subject: Transfer and assigning of existing and subsisting contracts, agreements and Memoranda of Understanding of the Department of Telecommunications, Department of Telecom. Services and Department of Telecom. Operations to Bharat Sanchar Nigam Limited.

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision, functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services(DTS) and the Department of Telecom Operations(DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1<sup>st</sup> October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom. services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1<sup>st</sup> October 2000. The Government has decided to retain the functions of policy formulation, licensing, wireless spectrum management, administrative control of PSUs, standardisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission.

3. Government of India has decided to transfer all assets and liabilities, (except certain assets which will be retained by Department of Telecommunications required for the units and offices under control of DoT, to be worked out later on), to the Company with effect from 1<sup>st</sup> October 2000. All the existing contracts, agreements and MoUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and

Attested



Advocate.

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Guwahati Bench

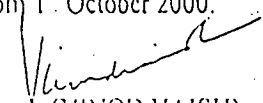
dividends in respect of supply of apparatus and plants, materials, land and buildings and supply of services, subsisting on date of transfer of business and/or required for operations of the Company and with subscribers of all types of services to be provided by the Company, will also stand transferred and assigned to the Company with effect from 1<sup>st</sup> October, 2000. The Company will be solely responsible for honouring these contracts, agreements and MoUs for their due performance and in case of disputes to sue and be sued as the successor/assignee under the contract, agreement and MoU.

4. The Company, Bharat Sanchar Nigam Limited will file suitable required appearances/memos in all pending cases before the Courts, Tribunals, Arbitrators, Adjudicators in all matters except issues of licensing and policymaking which are with the Department of Telecommunications. The Company may get substituted or become an additional party as the case may be, or just conduct the cases as assigns or successor in interest of the Government/Department of Telecommunications, as permissible. This may, in so far practicable, be completed by 31<sup>st</sup> December 2000.

5. In respect of matters relating to personnel (Government servants) pending before various Administrative Tribunals, High Courts and Supreme Court the Company will defend as assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the Company.

6. Any judgement/order/award delivered by an Authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the Company, in accordance with rules, regulations, directions and statutes.

7. These instructions will come into force with effect from 1<sup>st</sup> October 2000.

  
(VINOD VAISII)

Secretary to the Government of India

To  
To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology) Telecom Commission.
7. Additional Secretary(D) and Secretary Telecom Commission.

24 FEB 2009

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Guwahati Bench

9. Joint Secretary(A), DoT.
10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.
11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
12. All Principal Chief Engineers / Chief Engineers - Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
13. Chief Architects - Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.
14. All Chief General Managers - Telecom Factories, with request to communicate these orders to all units working under their administrative control.
15. Sr.DDG(TEC)
16. Sr.DDsG-(BW)(ARCH)(ELECT)
17. Sr.DDG(MI.) - with request to communicate these orders to all PSUs working under their administrative control.
18. Sr.DDG(IC & A)
19. Executive Director, C-DOT.
20. Sr.DDG(Vigilance), DoT
20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited



गुवाहाटी न्यायपीठ  
Guwahati Bench

**ANNEXURE-2**

**Advocate**

applicant was also not in engagement on the cold date.

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Guwahati Bench

in Telecom Operations (DIO) which were earlier provided by Department of Telecommunications (DoT) has been transferred to the newly formed company viz. Bharat Sanchar Nigam Limited (BSNL) with effect from 1st October 2009.

2. All assets & liabilities (except certain assets which will be retained by DoT required for the units and offices under control of DoT) of the Department of Telecom Services (DTS) and the Department of Telecom Operations (DIO) stand transferred to BSNL w.e.f. the said date.

3. All the existing contracts, agreements and MOUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and individuals in respect of supply of apparatus and plants, materials, purchase of land and building and supply of services, subsisting on date of transfer of business shall be required for operations of BSNL also stand transferred and assigned to BSNL w.e.f. 1st October 2009.

4. BSNL is solely responsible for honouring these contracts, agreements and MOUs for due performance and in case of disputes to be and be sued as the success or assignee under the said contract agreement and MOU and shall be liable for any defaults, delays or non-performance.

5. With effect from 1st October 2009 any reference in any correspondence, bills, notices, and other

documents to the Department of Telecom Services or the Department of Telecom Operations having been issued before 1st October 2009 by either the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read as reference to the BSNL.

6. With effect from 1st October, 2009 any bill, notice or other document issued by the BSNL bearing any reference to the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read to be a reference to the BSNL.

7. With effect from 1st October, 2009 all cheques, drafts/other instruments under which payment is to be made in favour of the Government of India in respect of monies owed to the Department of Telecom Services and/or the Department of Telecom Operations shall, wherever the context so permits and allows, be drawn in favour of Bharat Sanchar Nigam Limited.

ORDER

ORDERED that a copy of this resolution be communicated to all State Governments, all Ministries and Departments of Govt. of India.

ORDERED that the resolution be published in the Gazette of India for general information.

HARISH KUMAR  
Director (Regis.)

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गुवाहाटी न्यायपीठ  
Guwahati Bench

Published in the Gazette of India, Part-I, Section-1 dtd 17<sup>th</sup> March 2001

MINISTRY OF COMMUNICATIONS  
(DEPARTMENT OF TELECOMMUNICATIONS)  
New Delhi, the 23<sup>rd</sup> January 2001

RESOLUTION

No. 2-31/2000-Restg. By virtue of the Memorandum of understanding dated 30<sup>th</sup> September 2000 entered into between the President of India, (acting through the secretary to the Government of India, Ministry of Communications, Department of Telecommunications (DOT) and Bharat Sanchar Nigam Limited, the business of providing telecom services on the country, maintaining the telecom network/ running the telecom factories by the Department of Telecom Services (DTS) and the Department of Telecom operation (DTO) [ which were earlier provided by Department of Telecommunications (DOT) ] has been transferred to the newly formed company viz. Bharat Sanchar Nigam Limited (BSNL) with effect from 1<sup>st</sup> Oct' 2000.

2. All assets & liabilities (except assets which will be retained by DOT required for the units and offices under control of DOT of the Department of Telecom Services (DTS) and the Department of Telecom operations (DTO) stand transferred to BSNL w.e.f the said date.

3. All the existing contracts, agreements and MOUs entered into by the Department of Telecommunications, Department of Telecom Services and the Department of Telecom operations with various suppliers, Contractors, Vendors, Companies and individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, subsisting on date of transfer of business and/or required for operation of BSNL also stand transferred and assigned to BSNL w.e.f 1<sup>st</sup> Oct 2000.

4. BSNL is solely responsible for honouring these contracts, agreements and MOU for due performance and in case of disputes to sue and besued as the successor/assignee under the said contract agreement and MOU and shall be liable for any defaults, delays or non performance.

5. With effect from 1<sup>st</sup> Oct' 2000 any reference in any correspondence, bills, notices and other documents to the Department of Telecom services on the Department of Telecom operations having been issued before 1<sup>st</sup> Oct' 2000 by either the Department of Telecom

Attested

*H. S.*

Advocate.

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Guwahati Bench

es or the Department of Telecom Operations shall wherever the contract so permits and  
ws, be read as reference to the BSNL.

6. With effect from 1<sup>st</sup> Oct' 2000 any bill, notice or other documents issued by the BSNL bearing any reference to the Department of Telecom Services or the Department of Telecom Operations shall wherever the context so permits and allows be read to be a reference to the BSNL.

7. With effect from 1<sup>st</sup> Oct' 2000 all cheques/drafts/other instruments under which payment is to be made in favour of the Government of India in respect of monies owed to the Department of Telecom operations shall wherever the context so permits and allows, be drawn in favour of Bharat Sanchar Nigam Limited.

#### ORDER

ORDERED that a copy of this resolution be communicated to all state Governments, all Ministers and Departments of Govt. of India.

ORDERED that the resolution be published in the Gazette of India for general information

HARISH KUMAR  
Director (Restg.)

Bharat Sanchar Nigam Limited,  
(A Government of India Enterprise)

NO.BSNL/4/SR/2000

Dated the 2<sup>nd</sup> January, 2001

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Subject: Record of discussions held on 2.1.2001 in the meeting with the three Federations presided by CMD, BSNL regarding terms and conditions for absorption of Group C & D staff in BSNL.

In connection with the absorption of Group C & D staff working in BSNL, preliminary meetings were held with the three Federation(s). The decisions taken were discussed in the BSNL Board meeting held on 09.11.2000, which empowered the Management to negotiate with Unions. Accordingly, a meeting was held with the three Federations on 2.1.2001 and the following proposals were approved.

1. IMPLEMENTATION OF STANDING ORDERS OF THE INDUSTRIAL EMPLOYMENT ACT, 1946:

BSNL service rules are to be finalized after discussion with the recognized union formed by the optees of BSNL and the standing orders of Industrial Employment Act, 1946.

2. SERVICE RULES

In the meantime, it was agreed that Government will continue to apply existing rules / regulations. This is inline as per the provision of Rule 13B of Standing Orders of Industrial Employment Act, 1946. However, certain provisional terms and conditions for absorption are enclosed at Annexure I.

3. ABSORPTION OF CASUAL LABOURS

Orders have been issued by DoT for regularizing Ayaths & all casual labourers including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No.269-94/98-STN-II dated 29.9.2000.

4. OPTION OF STAFF FOR ABSORPTION IN BSNL

The BSNL will absorb the optees on as is where is basis. A list of optees will be made available to the three federations/unions.

Attested

*Har*

Advocate.

24 FEB 2009

गुवाहाटी ब्याचपीठ  
Guwahati Bench

## 6. OPTIONS OF STAFF FACING DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DOT. The appeal, petition cases for these employees will also be decided by DOT authorities.

## 6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of Standing Orders on promotional policy, the present OTBP/BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

## 7. CHANGE OVER TO IDA PAY SCALES

The pay scales and fitment formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending fitment in the IDA pay scales, the Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this, they will also be paid an adhoc amount of Rs.1000/- per month w.e.f. 1.10.2000 which will be adjusted from their IDA emoluments, perks and benefits on fixation of the same in revised IDA scales. The revised negotiated IDA pay scales will be applicable from the date of absorption i.e. 1.10.2000.

## 8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the options will be called in January, 2001 providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28<sup>th</sup> Feb. 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies, if any.

The existing system of informal meetings with applicant Unions, as on 30.9.2000 and formal meetings with the three Federations shall continue.

9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS Pension Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS(Pension)Rules, in PSU in the IDA pay scales shall be treated as emoluments.



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Central Administrative  
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10. DoT has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A means payment of pension as per Government Rules in force at that time. It has also been clarified by the DoT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

11. The Group C & D employees who appear for any promotional examination whether direct or departmental and qualify in such examinations / outsiders coming through direct recruitment process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they get absorbed in BSNL subsequently.

The above modalities have been worked out in consultation with the following three federations for termination of the deemed deputation status in BSNL and the parties have put their signatures in token of their consent and agreement on this date 02.01.2009.

The Proforma for exercising the option is enclosed.

(DR. D. S. SETHI)  
CMD, BSNL

(KRANTI KUMAR)  
DIRECTOR (HRD) BSNL

(S. P. P. WARR)  
DIRECTOR (FIN.) BSNL

(MALLIKARJUN)  
SECRETARY GENERAL, BTEE

(K. VALLINAYAGAM)  
SECRETARY GENERAL, FNTD

(O. P. GUPTA)  
SECRETARY GENERAL, NFTE

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CG PATHAK  
DY. DIRECTOR GENERAL (SR)

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**ANNEXURE 4**

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

D.O.No.BSNL/4/SR/2000  
Dated the 3<sup>rd</sup> January, 2001  
गुवाहाटी बेंच  
Guwahati Bench

**IMMEDIATE/BY FAX / POST**

CGM,

Consequent upon the Corporatisation of the DTS / DTO vide DoT orders dated the 30<sup>th</sup> September, 2000, an agreement has been signed with the three Staff Federations of Group C & D employees regarding option for absorption in BSNL. A list of provisional terms and conditions for absorption in BSNL has also been finalized in consultation with the three Staff Federations.

2. A copy of the agreement signed with the Federations along with the proforma for exercising option for absorption in BSNL / retention of Government status is enclosed (six pages).

3. The exercise for giving options and their acceptance shall be at SSA level for the staff in the field and at the office of CGM for circle office staff. For other units like Metro districts of Calcutta and Chennai, project circles, civil, electrical and architectural wings, maintenance regions, specialized telecom units namely Data Network, NCES, T&D, QA (except TEC), training institutions, other units like telecom factories, stores, electrification etc the concerned CGM will decide the level and nominate the concerned officer.

4. Four copies of the Option Form numbered 1 to 4 with one set of provisional terms and conditions will be sent to each employee of Group C and D latest by 15<sup>th</sup> January 2001 and the process of exercising option completed preferably within a period of one month and in no case later than 28<sup>th</sup> February, 2001. All the four copies of the Option Form will be got filled by each employee and dealt as follows:

- 1st copy to be kept by the Accepting Authority.
- 2<sup>nd</sup> copy to go to the Service Book of the employee.
- 3<sup>rd</sup> copy to be sent to the Circle Office for record, and
- 4<sup>th</sup> copy to be acknowledged by a Group B officer and returned to the employee for his record.

**Attested**

*H. A.*

Advocate.



24 FEB 2009

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गुवाहाटी न्यायपीठ  
Guwahati Bench

(2) -

The option exercised by the employee should be accepted by an officer not below the rank of Sr. Time Scale officer in charge of administration in the SSA. It should be ensured that the employee is not inconvenienced in the matter of exercising and acceptance of the option.

6. As per the strike agreement, the officials who opt for absorption in BSNL may be paid Rs.1000/- per month as adhoc payment w.e.f. 01.10.2000 to be adjusted against their IDA emoluments, perks and benefits admissible to them on finalization of the same in the revised IDA scales w.e.f. 1.10.2000 after taking necessary undertaking from the employee.
7. Efforts may be made to ensure that this adhoc payment along with arrears is paid to the optees only within 10 days of the acceptance of their option for absorption in BSNL. Necessary action for demanding required funds is to be taken to ensure payment as stated above. Suitable arrangements may also be made to ensure that there is no undue delay in acceptance of the options so exercised by the optees and adhoc payment along with arrears.
8. The list of optees for the BSNL and of those desiring to retain the Government status may be prepared SSA-wise and displayed prominently to rectify the inaccuracies, if any.
9. The figures regarding total number of optees in each SSA and those retaining Government status, should be consolidated circle-wise. These circle-wise figures should be furnished to Shri B Sharma, DDG(Pers.), BSNL (HQRS.) latest by 10<sup>th</sup> March, 2001 for record.

With regards,

Yours sincerely,

*A. K. Pathak*

(A K PATHAK)

3737887 fax  
3714232 To

To

All C Js.

Copy to:

All S. DDGs/DDGs in DoT/BSNL

BHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)  
OFFICE OF THE CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE:GUWAHATI-781 007.

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

NO. BTED-BSNL/Assam/2-58/2 DATED AT GUWAHATI, THE 08.01.2001

TO

01. The CGM, T/F, N.E. Telecom Region, Guwahati.
02. The CE(Civil/Elect.), Civil Wing, Guwahati.
- 03-06. The GMTD, Guwahati/Silchar/Jorhat/Dibrugarh.
- 07-09. The TDM, Nagaon/Bongaigaon/Tezpur.
10. The Director, RTTC, Guwahati.
11. The Director(Mtce.), ETR, Guwahati.
12. The Principal, CTTC, Guwahati.
13. The AGM(Admn), Circle Office, Guwahati.
14. The AGM(MM), Circle Office, Guwahati.
15. The CAO, Circle Office, Guwahati.
16. The DE(Installation), Circle Office, Guwahati.
17. The AGM(A/T), T&D Circle, Guwahati.

Sub: Permanent absorption in BSNL.

Ref: BSNL D.O.No.BSNL/4/SR/2000 dated 3/4.01.2001.

Please find enclosed herewith photocopy of the letter from Shri A.K.Pathak, DDG(SR), BSNL. The letter is self-explanatory. This is regarding the absorption of Group 'C' & 'D' officials in BSNL. They will get Rs.1000.00 per month as adhoc payment w.e.f. 01.10.2000 if they opt for BSNL which will be adjusted against their IDA emoluments perks and benefits admissible to them on finalization of the same in the revised IDA scales w.e.f. 01.10.2000. Necessary undertaking will be taken from the employees in this regard.

Hence the letter should be widely circulated to get options from each Group 'C' & 'D' officials for absorption/retention of Government status within time limits which are as under.

Sl.No.	Item	Target date
1.	Four copies of option forms plus terms & conditions to be give to all Group 'C' & 'D' employees.	15th January, 2001
2.	Exercising option to be completed preferably with one month.	15th February, 2001
3.	The list of optees for BSNL and of those desiring retain to Govt. status must reach Circle Office Guwahati and to be displayed prominently to rectify the inaccuracies.	28th February, 2001

The matter is most URGENT.

(Mahesh Shukla)  
Dy. General Manager(Admn)  
O/o the Chief General Manager  
Assam Telecom Circle, Guwahati-7.

Attested

H.S.

Advocate.

24 FEB 2009

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ANNEXURE: 6

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গুৱাহাটী অফিস  
MINUTES OF H.P.C. POWER COMMITTEE OF C.G.M.T.,  
ASSAM CIRCLE H.P.C. ON 29TH AND 30TH DEC'1999.

The Circle H.P.C. consisting of Sri J.M.Misra, CGMT, Assam Circle, Guwahati as Chairman, Sri G.D.Yadav, GMT/Guwahati, Sri C. Basu, GM(D), Sri B.P. Singh, GM(F) and Sri R.S.Tripathi, DGM(A) met on 29th and 30th Dec'1999 in the office chamber of CGMT/DI to consider the applications received for appointment on compassionate ground in group 'C' and group 'D' cadres.

51 (fifty one) applications (Grp.'C'=29 and Grp.'D'=22) of dependents of deceased had been placed in the H.P.C.

After thorough checked up all the applications taking into accounts all provisions of the rules, the following cases are recommended for consideration of appointment on compassionate ground subject to the availability of vacancies.

GROUP 'C'

1. Sri Premahanda Injal, S/O. Sri Lagan Ch. Injal, Ex-Peon under GMT/Guwahati.
2. Sri Arup Kumar, S/O. Late Munin Kumar, Ex-SDE(Plg) under TDM/DR.
3. Sri Dipak Ch. Borah, S/O. Late Phatic Ch. Borah, Ex-S.I. under TDM/JR.
4. Smt. Rohini Das, W/O. Late Bhupendra Ch. Das-I, Ex-SS(O) under GMT/Guwahati.
5. Miss Supriya Choudhury, D/O. Late Ranjit Kr. Choudhury, Ex-Tech under GMT/Guwahati.
6. Sri Anjan Sarma, S/O. Late Anil Ch. Sarma, Ex-ST(S) under GMT/Guwahati.
7. Miss Pooja Sunwar, D/O. Late Gyana Bahadur Sunwar, Ex-Care Taker, under GMT/Guwahati.
8. Mrs. Rebati Das, W/O. Late Apurba Kr. Das, Ex-SSS(O), under GMT/Guwahati.
9. Mrs. Hem Lata Das, W/O. Late Hari Krishna Das, Ex-JTO, under GMT/Guwahati.
10. Sri Tarun Kr. Ojah, Brother of Late Motilal Ojah, Ex-TM(O) under GMT/Guwahati.
11. Mrs. Tapato Chakraborty, W/O. Late Rathindra Chakraborty, Ex-JTO, under GMT/Silchar.
12. Mrs. Aparna Das, W/O. Late Subhash Ch. Das, Ex-Sr. T/S(P) under GMT/Silchar.
13. Mrs. Minima Hazarika, W/O. Late Rajen Hazarika, Ex-Tech. under TDM/Jorhat.
14. Mrs. Nivedita Pathak, W/O. Late Ashwini Kr. Pathak, Ex-ADT(S), Circle Office, Guwahati.
15. Smt. Lipi Dey, W/O. Late Debatosh Dey, Ex-JTO, under GMT/Silchar.
16. Miss Nababika Deka, D/O. Late Basudhar Deka, Ex-Sr. TM, under GMT/Guwahati.
17. Sri Philip Gogoi, S/O. Late Kripa Nath Gogoi, Ex-HTM, under TDM/Dibrugarh.
18. Sri Simanta Gogoi, S/O. Late Prafulla Gogoi, Ex-S.I. under TDM/Dibrugarh.

Attested

H. Bas.  
Advocate.

(J.M.MISRA)  
C.G.M.T.

(G.D.YADAV)  
GMT/KAMRUP

(G.C.BASU)  
GM(D)

(B.P.SINGH)  
GM(F)

(R.S. TRIPATHI)  
DGM(A)

Contd.....2/-

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Central Administrative Tribunal

24 FEB 2009 30

গুৱাহাটী ন্যায়ালয়  
Guwahati Bench

///2///

GROUP 'D'

1. Sri Tapan Kr. Dutta, S/O. Late Bhola Dutta, Ex-Store Chowkidar, under CE(C), Guwahati.
2. Sri Rajesh Gowala, S/O. Late Debaru Gowala, Ex-L.M. under TDM/Dibrugarh.
3. Sri Dharbipada Kr. Roy, S/O. Late Goleswar Roy, Ex-L.M. under TDM/Nagaon.
4. Sri Pradip Brahma, S/O. Late Dhani Ram Brahma, Ex-JS(O), under TDM/Tezpur.
5. Sri Sanjit Malakar, S/O. Late Sambhu Malakar, Ex-S.I(O) under TDM/Nagaon.
6. Sri Munna Basfore, S/O. Late Sukhia Basfore, Ex-RM, under GMT/Guwahati.
7. Mrs. Alpina Dewri, W/O. Late Ambeswar Dewri, Ex-TM, under TDM/Nagaon.
8. Mrs. Lily Devi, W/O. Late Mahendra Nath, Ex-R/M. under TDM/Tezpur.
9. Mrs. Manju Devi, W/O. Late Maheswar Ray, Ex-TM, under TDM/Bongaigaon.
10. Mr. Minu Rani Das, W/O. Late Kokil Moni Das, Ex-PM, under GMT/Silchar.
11. Mrs. Kalyani Singha, W/O. Krishna Prasad Singha, Ex-RM. under GMT/Silchar.
12. Mrs. Padmawati Bordoloi, W/O. Late Chaityen Bordoloi, Ex-S.I, under TDM/Nagaon.
13. Sri Sankar Malakar, S/O. Late Manindra Ch. Malakar, Ex-S.I. under GMT/Silchar.
14. Sri Amit Ghosh, S/O. Late Arabinda Ghosh, Ex-S.I. under GMT/Silchar.
15. Sri Jhuhna Prasad, S/O. Late Paramananda Prasad, Ex-Motor Cleaner under TDM/Tezpur.
16. Sri Mohendra Nath Bora, S/O. Late Nirjen Bora, Ex-R.M. under TDM/Jorhat.
17. Smt. Rajbanshi Devi, W/O. Late B.N. Shaw, Ex-RM, under CTSD, Guwahati.
18. Mrs. Juhu Prava Das, W/O. Late Rajeswar Das, Ex-LM, under TDM/Tezpur.
19. Mrs. Urmila Nath, W/O. Late Satya Ram Nath, Ex-TM, under GMT/Guwahati.
20. Mrs. Raju Boro, W/O. Late Lohit Ch. Boro, Ex-RM, under GMT/Guwahati.
- ✓ 21. Sri Jon Kr. Das, S/O. Late Dulal Ch. Das, Ex-Laskar, under CTSD, Guwahati.

(J.H. MITRA)  
C.H.M.T.

(G.D. YADAV)  
GMT/KAMRUJ

(G.C. BASU)  
GM(D)

(B.P. SINGH)  
GM(F)

(R.S. TRIPATHI)  
DGM(A)

Contd...3/-

24 FEB 2009

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ANNEXURE: 7

গুৱাহাটী ন্যায়পীঠ

GOVERNMENT OF INDIA

DEPARTMENT OF TELECOMMUNICATION

OFFICE OF THE CHIEF GENERAL MANAGER TELECOM::ASSAM CIRCLE  
ULUHARI::GUWAHATI-781007

NO.WLP-1/II/AC/GH/PT-II/122 Dated at Guwahati, the 31st Dec'1999.

The CIRCLE HIGH POWER COMMITTEE held on 29.12.99 and 30.12.99 has approved the following cases of appointment on compassionate ground in Group 'C' and 'D' cadres taking into account all provisions of the rules. The cases as listed below are hereby recorded in a pannel for appointment against availability of future vacancies.

GROUP 'C'

1. Sri Premahanda Injal, S/O. Sri Lagan Ch. Injal, Ex-Peon under GMT/Guwahati.
2. Sri Arup Kumar, S/O. Late Munin Kumar, Ex-SDE(Plg) under TDM/DR.
3. Sri Dipak Ch. Borah, S/O. Late Phatic Ch. Borah, Ex-S.I. under TDM/Jorhat.
4. Smt. Rohini Das, W/O. Late Bhupendra Ch. Das-I, Ex-SS(O) under GMT/Guwahati.
5. Miss Supriya Choudhury, D/O. Late Ranjit Kr. Choudhury, Ex-Tech. under GMT/Guwahati.
6. Sri Anjan Sarma, S/O. Late Anil Ch. Sarma, Ex-STS(O) under GMT/Guwahati.
7. Miss Ponam Sunwar, D/O. Late Gyana Bahadur Sunwar, Ex-Care Taker, under GMT/Guwahati.
8. Mrs. Rebat Das, W/O. Late Apurba Kr. Das, Ex-SSS(O), under GMT/Guwahati.
9. Mrs. Hem Lata Das, W/O. Late Hari Krishna Das, Ex-JTO, under GMT/Guwahati.
10. Sri Tarun Kr. Ojah, Brother of Late Motilal Ojah, Ex-TM(O) under GMT/Guwahati.
11. Mrs. Tapati Chakraborty, W/O. Late Rathindra Chakraborty, Ex-JTO, under GMT/Silchar.
12. Mrs. Aparna Das, W/O. Late Subhash Ch. Das, Ex-Sr. T/S(P) under GMT/Silchar.
13. Mrs. Minima Hazarika, W/O. Late Rajen Hazarika, Ex-Tech. under TDM/Jorhat.
14. Mrs. Nivedita Pathak, W/O. Late Ashwini Kr. Pathak, Ex-ADT(S), Circle Office, Guwahati.
15. Smt. Lipi Dey, W/O. Late Debatosh Dey, Ex-JTO, under GMT/Silchar.
16. Miss Nabanita Deka, D/O. Late Basudhar Deka, Ex-Sr. TM, under GMT/Guwahati.
17. Sri Philip Gogoi, S/O. Late Kripa Nath Gogoi, Ex-HTM, under TDM/Dibrugarh.
18. Sri Simanta Gogoi, S/O. Late Prafulla Gogoi, Ex-S.I. under TDM/Dibrugarh.

sted

H. M.

Advocate

Contd.....2/-

H. M. Gogoi

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केन्द्रीय प्रशासनिक  
Central Administrative Tribunal  
24 FEB 2009  
गुवाहाटी न्यायपीठ  
Guwahati Bench

///2///

GROUP 'D'

1. Sri Tapan Kr. Dutta, S/O. Late Bhola Dutta, Ex-Store Chowkidar, under CE(C), Guwahati.
2. Sri Rajesh Gowala, S/O. Late Debaru Gowala, Ex-L.M. under TDM/Dibrugarh.
3. Sri Dharpinda Kr. Roy, S/O. Late Goleswar Roy, Ex-L.M. under TDM/Nagaon.
4. Sri Pradip Brahma, S/O. Late Dhani Ram Brahma, Ex-JS(O), under TDM/Tezpur.
5. Sri Banjit Malakar, S/O. Late Sambhu Malakar, Ex-S.I(O) under TDM/Nagaon.
6. Sri Munna Basfore, S/O. Late Sukhia Basfore, Ex-RM, under GMT/Guwahati. 21<sup>st</sup> Sept 2000
7. Mrs. Alpana Dewri, W/O. Late Ambeswar Dewri, Ex-TM, under TDM/Nagaon.
8. Mrs. Lily Devi, W/O. Late Mahendra Nath, Ex-R/M. under TDM/Tezpur.
9. Mrs. Manju Dowl, W/O. Late Maheswar Ray, Ex-TM, under TDM/Bongaigaon.
10. Mr. Minu Rani Das, W/O. Late Kokil Moni Das, Ex-PM, under GMT/Silchar.
11. Mrs. Kalyani Singha, W/O. Krishna Prasad Singha, Ex-RM. under GMT/Silchar.
12. Mrs. Padmawati Bordoloi, W/O. Late Chaityen Bordoloi, Ex-STS, under TDM/Nagaon.
13. Sri Bankar Malakar, S/O. Late Manindra Ch. Malakar, Ex-S.I., under GMT/Silchar.
14. Sri Amit Ghosh, S/O. Late Arabinda Ghosh, Ex-S.I. under GMT/Silchar.
15. Sri Jhunna Prasad, S/O. Late Paramananda Prasad, Ex-Motor Cleaner under TDM/Tezpur.
16. Sri Mohendra Nath Bora, S/O. Late Nirjen Bora, Ex-R.M. under TDM/Jorhat.
17. Smt. Rajbanshi Devi, W/O. Late B.N. Shaw, Ex-RM, under CTSD, Guwahati.
18. Mrs. Janu Prava Das, W/O. Late Rajeswar Das, Ex-LM, under TDM/Tezpur.
19. Mrs. Urmila Nath, W/O. Late Satya Ram Nath, Ex-TM, under GMT/Guwahati.
20. Mrs. Raju Boro, W/O. Late Lohit Ch. Boro, Ex-RM, under GMT/Guwahati.
21. Sri Jon Kr. Das, S/O. Late Dulal Ch. Das, Ex-Laskar, under CTSD, Guwahati. 26<sup>th</sup> Sept 2000

This may be given wide publicity amongst the candidates

( R.S.Tripathi )  
Dy. General Manager Telecom. (Admn.)  
O/o. the Chief General Manager Telecom.  
Assam Circle::Guwahati-7.  
\*\*\*\*\*

Contd...3/-



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Central Administrative Tribunal 33

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

///3///

Copy forwarded for information and necessary action to:-

- 1-2. GMT, Guwahati/Silchar.
3. C.E. (Civil), Guwahati.
- 4-6. TDM. DR/JR/TZ/NGG/BGN.
9. DE (Stores) OTSD, Guwahati.
10. Notice Board.

( R.S.Tripathi )  
Dy.General Manager Telecom.(Admn.)  
O/o.the Chief General Manager Telecom.  
Assam Circle::Guwahati-7.  
\*\*\*\*\*

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ANNEXURE: 8

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Govt. of India  
Department of Telecommunications  
Office of the Chief General Manager Telecom.  
Assam Telecom Circle, Guwahati-781 007.

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी बेंच  
Guwahati Bench

ESTT-2/10/8

Dated at Guwahati the 03rd Jan. 2000

Sanction of the Chief General Manager, Assam Telecom Circle, Guwahati  
is hereby conveyed to the creation of the following supernumary posts to accommodate  
the candidates approved by I.P.C. for appointment on compassionate ground.

Name of the post.	Dist./SSA	No. of post.
1. Telecom Operating Assistant (G) (Scale of Pay - Rs. 3200-85-4900/-)	GMTD/Guwahati.	8
	GMTD/Silchar.	4
	TDM/Dibrugarh.	8
	TDM/Nowgaon.	4
	TDM/Jorhat.	2
	TDM/Tezpur.	3
	TDM/Bongaigaon.	3
	C.O., Guwahati.	7

Total ----- 39

2. Group D (Scale pay - Rs. 2550- 55-2660-60-3200/-)	TDM/Tezpur.	1
	TDM/Jorhat.	1
	TDM/Nowgaon.	1
	GM/D/Silchar.	1
	Total -----	4

The supernumary posts will be entertained to the extent which is actually  
required to accommodate the compassionate appointees after exhausting the existing  
vacancies in the respective cadres.

The supernumary posts will cease to exist as soon as regular vacancies in  
the cadre arises through creation/promotion/transfer/resignation/retirement etc. The head  
of SSA/Dist will communicate the particulars of the posts immediately on its falling  
vacant.

This sanction issues with the concurrence of IFA.

( R. S. Tripathi )  
Deputy General Manager (Admin)

Contd...P/2.

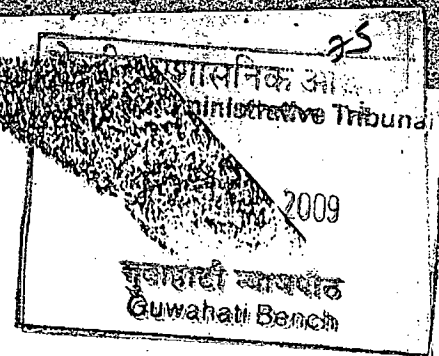
Attested

H.S.

Advocate.



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- 2 -

1/13 :-

- 1-2. The General Manager Telecom District.  
Guwahati / Silchar.
- 3-7. The Telecom District Manager,  
Dibrugarh/Jorhat/Nowgaon/Tezpur/Bongaigaon.
8. The Asstt. Director Telecom. (Staff), C.O., Guwahati.
- ✓ 9. The Asstt. Director Telecom. (Welfare), C.O., Guwahati.
- 10-15. Respective Divisional file for creation of TOA(G) posts.
16. Guard file

*[Signature]*  
For Chief General Manager Telecom  
Assam Telecom Circle, GHT 7

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ANNEXURE: 9

GOVT OF INDIA  
DEPARTMENT OF TELECOM SERVICE  
OFFICE OF THE GENERAL MANAGER TELECOM  
KAMRUP TELECOM DISTRICT  
GUWAHATI-781007.

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

No. GMT/EST-27/Recd. Gr-C/13

Dated at GH the 23.3.2000.

To

Miss Pannam Sunwar,  
C/T Old 1/B Pambazor, Guwahati.  
Care, J N Dutta, S/S/S, O/O D.E CTO, Guwahati

Sub:- Requested for appointment on compassionate ground.

Ref:- Your application Dtd 5-12-1998.

In response to your above cited application I have been directed to inform you that your name has been approved for appointment on compassionate ground in group C/X category.

Formal order for training etc will be issued in due course.

Accounts.

Sub-Divisional Engineer (Admn)  
O/O the General Manager Telecom  
Kamrup Telecom District.  
Guwahati-781007.

Attested

Hos.  
Advocate.

Certified to be true Copy.

Hemanta Kr. Gogoi  
Advocate

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ANNEXURE : 10

GOVT OF INDIA  
DEPARTMENT OF TELECOM SERVICE  
OFFICE OF THE GENERAL MANAGER TELECOM  
KAMRUP TELECOM DISTRICT  
GUWAHATI-781007.

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी ब्याच  
Guwahati Bench

No.GMT/EST-27/Rectt.Gr- c/11

Dated at GH the 28.3.2000.

To

Miss Nabanita Deka.  
Lele Basuchha Deka.  
Bishrupath. 200 Road.  
Guwahati-781024

Sub - Requested for appointment on compassionate ground.

Ref:- Your application Dtd. 28-7-1998.

In response to your above cited application I have been directed to inform you that your name has been approved for appointment on compassionate ground in group C/P category  
Formal order for training etc will be issued in due course.

Account.  
Sub-Divisional Engineer (Admn)  
O/O the General Manager Telecom  
Kamrup Telecom District.  
Guwahati-781007.

Attested

Hai.

Advocate.

GOVT. OF INDIA  
DEPTT. OF TELECOMMUNICATIONS  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM,  
ASSAM CIRCLE, GUWAHATI.

केन्द्रीय प्रशासनिक अदालत  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी बेंच  
Guwahati Bench

o. STES-10/8/pt.I/26, dated 02-05-2000

To

1. Miss Supriya Choudhury  
C/O Shree Guru Furniture,  
Jagadish Ghosh Lane,  
Bishnupur, Guwahati-16
2. Smt. Nivedita Pathak  
Lakhimi Nagar,  
Namghar Path, Hatigaon,  
Guwahati-6

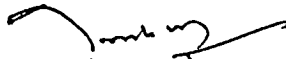
Sub:- Appointment on compassionate ground.

With reference to this office letter No. WLF-1/II/AC/GH/pt.-II/99-2000/138 dated 27-04-2000 on the subject you are hereby advised to submit the following certificates/ documents in original alongwith attested copies to the undersigned for verification and further action as under.

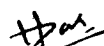
1. Bio-data and certificates in triplicate in the enclosed attestation. (Form duly filled by the candidate)
2. Health certificate
3. Age proof certificate
4. Certificate of educational qualification
5. Caste certificate from competent authority
6. Written undertaking to look after all dependents of the deceased employee after appointment duly countersigned by two witness.
7. Martial status in case of female candidate

This is URGENT

Enclo:- Triplicate  
Attestation Form

  
(P. Divakaran)  
Asstt. Director Telecom (Staff)

Attested



Advocate.

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70 ANNEXURE: 12

DEPARTMENT OF TELECOMMUNICATION.  
OFFICE OF THE GENERAL MANAGER, KAMRUP TELECOM DISTRICT.  
ULUBARI, GUWAHATI-781007.

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

GMT/EST-27/Gr-C/2000-2001/24 dated at Guwahati the 10th May'2000.

- 1) Sri Premananda Injal, S/O Sri Lagan Ch. Injal (EX-Peon) Vill-Dharban, PO.-Dhupguri, FO-Khetri, Kamrup Assam.
- 2) Sri Anjan Sarma, S/O Late Anil Ch. Sarma, (EX-STS(O). C/O Sri P.C. Das, G. Eriv arangi, MES(B.S.O) Dt. Kamrup. PO-Satgaon, Assam, GH-781027.
- 3) Miss Poonam Sunwar, D/O Late Gyan Bahadur Sunwar. (Ex-Care-Taker). C/O J.N. Dutta Sr. S.S O/O the D.E. CTO, Guwahati. Panbazar.
- 4) Mrs. Hemlata Das W/O Late Hari Krishna Das (EX-JTO) , C/O Late PONO Ram Das, Suakuchi, Pukhuripar, Kamrup.
- 5) Mrs Rebati Das, W/O Apurba Das, (EX-S.S.S(O) Gandhibasti, PO-Silpukhuri
- 6) Sri Tarun Kr. Ojha , Brother of Late Mtilal Ojha (EX-P/M(O) ) C/O Late Aditya Ram Ojha, Sarumataria., Dispur, GH-36.
- 7) Miss Nabanita Deka , D/O Late Basudhar Deka, (EX-(EX-SKTM) Bishnupath, Zoo Road. GH-34

Subj:- Appointment on Compassionate Ground in Gr. 'C'

The C.G.M.T Assam circle, Guwahati is pleased to select you for appointment on compassionate ground in Gr. 'C' Cadre under the territorial jurisdiction of General Manager, Kamrup Telecom District, GH.

In this connection you are requested to submit the following documents at an early date for processing your appointment.

- (1) Attestation form duly fill up (in triplicate). Form enclosed
- (11) Two Character Certificates from two Gazetted Officers.
- (111) Health Certificate from C.M.C/H.O.
- (1v) Certificates of your educational qualifications and date of birth etc. (original and duplicate copy of each certificate)

- (v) An undertaking accepting the liabilities for maintenance of the dependant family members of deceased employee.

J. C. Deka  
SUB DIVISIONAL ENGINEER (Admin)  
OFFICE OF THE GENERAL MANAGER TELECOMMUNICATION  
KAMRUP TELECOM DISTRICT.  
ULUBARI, GUWAHATI-781007.

Attested

Advocate.

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ANNEXURE : 13  
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Govt. Of India  
Deptt. of Telecommunications  
Office of the Chief General Manager Telecom,  
Assam Circle, Guwahati  
dated 17-07-2000

STES-10/8/pt.I/66

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Officer

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

1. Miss Supriya Choudhury,  
Bishnupur, Bharalumukh,  
Jagadish Ghose Lane, Guwahati-16  
Dist.Kamrup, Assam
2. Mrs. Nivedita Pathak,  
Namghar path, Lakhimi Nagar,  
Hatigaon, Dispur, Guwahati-781006

You are hereby directed to attend the Pre-Basic Training course of TOA(G) commencing from 24th July/2000 at CTTC/Guwahati. The training period will be as follows:-

Theoretical training- 2 months  
Practical training- 1 month

During the period of training allowances will be paid as per rule admissible from time to time.

You are directed to report for training on 24th July/2000 positively, failing which your candidature will be cancelled.

(P.Divakaran)  
Asstt. Director Telecom(Staff)

Copy to:-

1. The AO(A&P), Co/Guwahati
2. The Principal CTTC/Guwahati
3. The official concerned
4. Spare

For CGMT, Assam Circle, Guwahati.

Attested

H/S

Advocate.

Duplicate

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ANNEXURE: 14

DEPARTMENT OF TELECOMMUNICATION SERVICE  
OFFICE OF THE GENERAL MANAGER TELECOM  
KAMRUP TELECOM DISTRICT  
GUWAHATI-781 007.

No. GMT/EST-27/ G.C/00-01/43

Dated at GH. the 17 th July '2 K.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

To

Shri Premananda Injal,  
Vill- Dharban P.O-Dhopguri,  
Dist- Kamrup, Assam.

Shri Anjan Sarma,  
Forest Gate ( Nizarpar )  
P.O- Narangi,  
Dist- Kamrup, Guwahati-22.

Miss Poonam Sunwar,  
P & T Qr. (CTO Compound )  
Guwahati-781001.

Mrs. Rebati Das,  
Gandhi Basti,  
P.O- Silpukhari,  
Dist- Kamrup, Guwahati-781003.

Mrs. Hemlata Das,  
P.O-Soalkuchi,  
Dist-Kamrup .

Shri Tarun Kr. Ojha,  
Vill- Sarumotora ,  
Kalaguru Path 8 by Lane.  
Hangarbari ,Guwahati-36.

Miss Nabanita Deka,  
Bishnupath, Zoo Road,  
Guwahati-24.

Mrs. Rohini Das,  
South Sarania, Hemgiri Road,  
Ulubari, Guwahati-781007.

Sub:- Training for appointment Of TOA ( G ).

You have been selected for appointment as TOA ( G ) on compassionate Ground. The initial training of TOA ( G ) will be started at CTTC/Guwahati, with effect from 24-07-2000. The training period will be as follows.

Attested

H. M.

Advocate.

Certified to be true Copy.

Premananda Kr. Gogoi  
Advocate

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Central

12.4 FEB 2009

গুৱাহাটী জ্যামিনী  
Guwahati Bench

Theoretical Training ----- 2 Months.  
Practical Training----- 1 Month.

During the period, training allowances will be paid @ of Rs.2135/-PM.as per  
b. You are directed to report for training on 24-07-2000 positively, failing which your candidature  
will be cancelled.

Please note that no TA/DA will be paid for your journey. You are also directed to  
submit surety Bond in the enclosed form to the Principal, CTTC/Guwahati.

*Sd/-*  
Sub-Divisional Engineer ( Admn )  
Office of the General Manager Telecom.  
Kamrup Telecom District.  
Guwahati-781007.

Copy forwarded for information and necessary action to:-

01. The C.G.M.T.Assam Circle,Guwahati. This has a refferance to his  
No..STES-10/8/pt-1/67 dtd. 14-07-2000.
02. The Principal CTTC/ Guwahati.
03. The Accounts Officer ( Cash ) O/o the GMT/KTD/Guwahati.

*Sd/-*  
Sub- Divisional Engineer ( Admn )  
Office of the General Manager Telecom.  
Kamrup Telecom District.  
Guwahati-781007.



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ANNEXURE : -15

DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE PRINCIPAL, CIRCLE TELECOM TRAINING CENTRE  
BHARALUMUKH GUWAHATI-9

केन्द्रीय प्रशासनिक अदालत  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

106/2000-2001/279

Dated at Guwahati the 22nd Sept 2000

On successful completion of 2 months theoretical Training of TELECOM OPERATING ASSISTANT(G) " with effect from 24-07-2000 to 22-09-2000, the following trainees of batch No.76 are hereby released on the A/N of 22<sup>nd</sup> Sept. 2000 from the Circle Telecom Training Centre, Guwahati with direction to report to their respective recruiting unit for 1(one) month Practical training.

S/N.	Name of the Trainees.	Date of joining.	Recdt. Unit.
01.	Smt. Nivedita Pathak,	24.07.2000	CGMT/GH
02.	Smt. Supriya Chowdhury,	-do-	-do-
03.	Smt. Nabanita Deka,	-do-	GMT/KMP
04.	Smt. Poonam Sunwar,	-do-	-do-
05.	Smt. Rohini Das,	-do-	-do-
06.	Sri Premananda Injal,	-do-	-do-
07.	Sri Anjan Sharma,	-do-	-do-
08.	Sri Tarun Kumar Ojah,	-do-	-do-
09.	Sri Dipok Chandra Borah,	-do-	TDM/JRT
10.	Smt. Minima Hazarika,	-do-	-do-
11.	Smt. Apama Das,	-do-	GMT/SC
12.	Smt. Lipi Day,	-do-	-do-
13.	Smt. Mithu Chakraborty,	-do-	TDM/BGN
14.	Smt. Rebati Das,	-do-	GMT/KMP
15.	Smt. Hemlata Das,	-do-	-do-

sdl-

Principal  
Circle Telecom Training Centre  
Bharalumukh, Guwahati.

Copy for Information to:-

1. The Chief General Manager Telecom, Assam, Guwahati.
- 2-3. The General Manager Telecom, Kamrup, Guwahati/Silchar.
- 4-5. The Telecom District Manager, Bongaigaon/Jorhat.
6. The Sr. Accounts Officer(A&P) O/O the CGMT/GH. He is requested to draw the training allowances of the above mentioned trainees.
- 7-21. The trainees concerned.
22. The Office copy.

*[Signature]*

Principal  
Circle Telecom Training Centre  
Bharalumukh, Guwahati.

2(s)  
Attested

*[Signature]*

Advocate.

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ANNEXURE: 16.

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOM SERVICES  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM  
ASSAM CIRCLE :: ULUBARI :: GUWAHATI - 781007

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी बेंच  
Guwahati Bench

STES-10/8/pt I/2

Dated at Guwahati the 25.9.2000

On successful completion of 2 (Two) months of theoretical training Telecom Operating Assistant (G), w.e.f 24.07.2000 to 22.09.2000, at Circle Telecom Training Centre, Bharalumukh, Guwahati, the following trainees of Batch No.76 are hereby placed in the section below, against their names for practical on the job training of 1(one) month w.e.f 25.09.2000.

Sl.	Name of the Trainees	SECTION & DATE				
		25.9.2K to 29.9.2K	02.10.2K to 06.10.2K	09.10.2K to 13.10.2K	16.10.2K to 20.10.2K	23.10.2K to 24.10.2K
1.	Smt. Nivedita Pathak	Bldg.	A&P	CR	Phones	WLF.
2.	Smt. Supriya Chowdhury	Phones	Plg.	Staff	Estt.	A&P

Self -

(A.K. Challeng)

Asstt. General Manager (Admn.)

Copy to :

- 1) The Principal, CTTC, Guwahati for information w.r.t. his letter no. E-106/2000-2001/279, dated 22.09.2000.
- 2,3) The AGM (Admn.) / (Plg.), Circle Office, Guwahati.
- 4 to 9) The ADT (Genl.) / (Phones) / (WLF.) / (XP) / (Estt.) / (Staff).
- 10) The AE (Bldg.), Circle Office, Guwahati.
- 11) The Sr. A.O. (A&P), Circle Office, Guwahati. He is requested to pay necessary allowances to the above trainees.
- 12,13) The trainee concerned. Smt. Nivedita Pathak
- 14) Spare

For CGMT, Assam Circle / GH

Attested

Hm

Advocate.

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**ANNEXURE - 17**

**DEPARTMENT OF TELECOM SERVICES  
OFFICE OF THE GENERAL MANAGER TELECOM  
KAMRUP TELECOM DISTRICT  
GUWAHATI-781007**

No. GMT/EST-27/Gr-C/00-01/ Dated at Guwahati the 25<sup>th</sup> Sep 2000

On successful completion of 2(two) months Theoretical Training following Trainees are hereby directed to undergo practical training in the section as indicated against their name.

Sl	Name of Trainee	Period of Training	Section.
1.	Miss Nabanita Deka	25-09-2000 to 29-09-2000	Pay bill
		03-10-2000 to 06-10-2000	TRA
		09-09-2000 to 13-10-2000	Genl.
2.	Miss Punam Suhwar	16-10-2000 to 24-10-2000	S&E
		25-09-2000 to 29-09-2000	Planning
		03-10-2000 to 06-10-2000	S&E
		09-09-2000 to 13-10-2000	Genl. + 2 days commercial -
3.	Shri Premananda Injal	16-10-2000 to 24-10-2000	A O (cash)
		25-09-2000 to 29-09-2000	PAE
		03-10-2000 to 06-10-2000	S&E
		09-09-2000 to 13-10-2000	Paybill
4.	Shri Anjan Sarma	16-10-2000 to 24-10-2000	Planing
		25-09-2000 to 29-09-2000	Genl.
		03-10-2000 to 06-10-2000	Cash section
		09-09-2000 to 13-10-2000	TRA
5.	Shri Tarun Kr. Ojah	16-10-2000 to 24-10-2000	Paybil
		25-09-2000 to 29-09-2000	TRA
		03-10-2000 to 06-10-2000	Planning
		09-09-2000 to 13-10-2000	Cash Section
6.	Mrs. Rebati Das	16-10-2000 to 24-10-2000	Genl.
		25-09-2000 to 29-09-2000	Cash section
		03-10-2000 to 06-10-2000	Genl.
		09-09-2000 to 13-10-2000	TRA
7.	Mrs. Hemlata Das	16-10-2000 to 24-10-2000	Paybill
		25-09-2000 to 29-09-2000	TRA
		03-10-2000 to 06-10-2000	Genl.
		09-09-2000 to 13-10-2000	PRO
8.	Mrs. Rohini Das	16-10-2000 to 24-10-2000	Planning
		25-09-2000 to 29-09-2000	Planning
		03-10-2000 to 06-10-2000	PRO
		09-09-2000 to 13-10-2000	TRA
		16-10-2000 to 24-10-2000	S&E

SDE(Admin.)

O/o GMT/KTD/Guwahati.

Copy forwarded for information and necessary action to:-

- 01) The DE, Plg, O/o GMT/KTD/Guwahati
- 02) The CAQ, TR, O/o GMT/KTD/Guwahati.
- 03) The AO, Cash, O/o GMT/KTD/Guwahati.
- 04-08) The CSS, Pay Bill/Genl/Plg/TRA-I/TRA-II
- 09) The PRO, O/o GMT/KTD/Guwahati.
- 10) The PAE, O/o GMT/KTD/Guwahati.
- 11-18) The Trainees concerned.

**Attested**

*[Signature]*

**Advocate.**

*[Signature]*  
Divisional Engineer (Admin)  
General Manager Telecom

O/o GMT/KTD/Guwahati.

24 FEB 2009

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ANNEXURE : 18

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গুৱাহাটী ন্যায়পীঠ  
BHARATGAHAT NIGAM LIMITED.

Office of the General Manager Telecom, Kamrup  
Telecom District. Guwahati-7.

o.GMT/EST-27/Gr-C/2000-01/56

Dated at Guwahati the 19.10.00

Sanction of the Divisional Engineer(Admn), O/O the General Manager Telecom, Kamrup Telecom District. Guwahati is hereby accorded for payment of trg. allowances @ Rs.2135/-P.M. with D.A.as admissible to the following T.O.A(G) trainees for the period from 01.10.2000 to 24.10.2000 for practical training after completion of their theoretical training at CTC. Guwahati.

- ✓ 1. Miss Nabanita Doka.
- ✓ 2. Miss Punam Sunwar.
- ✓ 3. Shri. Promananda Injal.
- ✓ 4. Shri. Anjan Sarma.
- ✓ 5. Shri. Tarun Kr. Ojah.
- ✓ 6. Mrs. Robati Das.
- ✓ 7. Mrs. Hemlata Das.
- ✓ 8. Mrs. Rohini Das.

*Sd/*  
Divisional Engineer(Admn)  
O/O the General Manager Telecom,  
Kamrup Telecom District.  
Guwahati-7

- Copy to: 1. The Account Officer(Cash), O/O the GMT. Guwahati.  
2. The CSS, Pay bill, O/O the GMT. Guwahati.  
3-10. Trainees concerned.  
11-18. Personal files of the trainees.

*Ok*  
Divisional Engineer(Admn)  
O/O the General Manager Telecom,  
Kamrup Telecom District.  
Guwahati-7.

-oOo-

Attested

*H. as.*  
Advocate.

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ANNEXURE: 29

**BHARAT SANCHAR NIGAM LIMITED**  
**OFFICE OF THE CHIEF GENERAL MANAGER TELECOMMUNICATIONS**  
**ASSAM CIRCLE :: GUWAHATI - 781007**

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

STES - 10 / 8 / pt-II / 95

Dated at Guwahati the 23-10-2000

On successful completion of two months theoretical training and one month practical training on 24.10.2000 the following candidates are hereby appointed provisionally as TOA(G) Grade-I on compassionate ground in relaxation of normal rules, against the even no. of supernumerary posts created in the cadre of TOA(G) Grade-I approved by CGMT, Assam Circle, Guwahati, vide memo no. WLF-1 / II / AC / GH / pt-11 / 99-2000 / 138 dated 27<sup>th</sup> April 2000, in the pay scale of Rs. 3200-85-4900 P.M. plus usual allowances as admissible from time to time and is posted in the Circle Office, Guwahati under the section mentioned against each.

Name of the officials

Unit of posting

- |    |                            |                  |
|----|----------------------------|------------------|
| 1) | Miss Supriya Choudhury     | Under ADT ( TP ) |
| 2) | <u>Smt Nivedita Pathak</u> | Under AO ( A&P ) |

The terms and conditions of the appointment are as follows :-

- (1) The post is purely temporary but likely to be made permanent. In the event of its becoming permanent, his/her claim for permanent absorption will be considered in accordance with the departmental rules in force.
- (2) The appointment may be terminated at any time by giving one month's notice by either of the appointing authority or the appointee
- (3) The appointing authority reserves the right of termination of service of the appointee forthwith or before expiry of the stipulated period of notice by making payment to him/her a sum equivalent to the pay & allowances for the period of notice or the unexpired portion thereof
- (4) The appointment carries with it the liability to serve in anywhere within the territorial jurisdiction of Assam Telecom Circle and under special circumstances in any part of India. The appointee shall be liable for field service within India in the time of war or national emergency.
- (5) All other conditions of services will be governed by the relevant rules and orders in force from time to time.

sd/-  
(A.K.Chelleng)  
Asstt. General Manager (Admin)  
O/o the CGMT, Assam Circle, Ghy-7

Contd..2.

**Attested**

*Hur.*

**Advocate.**

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केन्द्रीय प्रशासन  
Central Administration

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24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Page No.2

Copy to :-

- 1) AGM (Plg), C.O., Ghy.
- 2,3) The AO (A&P) / AO (TA), C.O., Ghy.
- 4) The ADT (E&R), C.O., Ghy.
- 5) The ADT (WLF), C.O., Ghy.
- 6) The SDE (TP), C.O., Ghy.
- 7) Guard file.
- 8,9) Officials concerned. → Smt. Nivedita Pathak
- 10) Spare.

For CGMT, Assam Circle, Guwahati-7

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**BHARAT SANCHAR NIGAM LIMITED**  
(A Govt. of India Enterprise.)  
**OFFICE OF THE GENERAL MANAGER TELECOM**  
**KAMRUP TELECOM DISTRICT**  
**GUWAHATI-781007**

No. GMT/EST-27/RC/2000-2001/57  
Dated at Guwahati the 25<sup>th</sup> Oct 2000

ANNEXURE : 89 20

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Officer

24 FEB 2001

गुवाहाटी न्यायपीठ  
Guwahati Bench

On successful completion of 3(three) months training (two months theoretical and one month practical), the following Telecom Office assistant trainee are hereby appointed on compassionate ground against temporary post of Telecom Office Assistant in the scale of pay Rs. 3200-85-4900/- plus other usual allowances as admissible to the Central Govt. Employees with effect from the forenoon of 25-10-2000.

Sl.No.	Name of the official	Community	Unit of posting
01.	Miss Navanita Deka	OC	Staff section
02.	Miss Punam Sonwar	OC	JAO(Misc)
03.	Mrs Hemlata Das	SC	PRO
04.	Shri Anjan Sarma	OC	SDOP NMT
05.	Shri Tarun kr. Ojhata	OC	CGM. T/F. Guwahati
06.	Mrs. Reboti Das	SC	P.F. Guwahati
07.	Shri Premananda Injal	ST	DE(Admn.)
08.	Mrs. Rohini Das	OC	C.O-I

The terms and conditions of appointment are as follows:

- 01) The post is purely temporary but likely to be permanent. Their claim for permanent absorption will be considered in accordance with the Departmental rules in force.
- 02) The appointment may be terminated at any time by one month notice given by the appointing authority without assigning any reason. The appointing authority however reserves the right of termination of services of the appointee forthwith of before expiration of the stipulated period of notice by making payment to them of a sum equivalent to the pay and all allowances for the period of notice of the unexpired portion thereof.
- 03) The appointee shall be liable for service any where within India in the time of war or National Emergency.
- 04) Other conditions of Services will be governed by the relevant rules and others in force from time to time.

Sd/-  
Divisional Engineer(Admn.)  
O/o GMT/KTD/Guwahati.

Copy for information and necessary action :-

- 01) The CGMT, Assam Circle, Guwahati w.r.t. his letter No. WLF-I/II/AC/GH/PL-II/99-200/138, Dtd 24-07-2000
- 02) The CGM. T/F. Guwahati-3 for information and necessary action please.
- 03) Accounts Officer(Cash), O/o GMT/Guwahati for making provisions for payment of their monthly salary.
- 04) The JAO(Misc.) o/o GMT-KTD, Guwahati.
- 05) The C.O. I. KTD, Guwahati.
- 06) The P.R.O. o/o GMT-KTD, Guwahati.
- 07) The SDOP, Noonmati.
- 08-15) Officials Concerned.
- 16-23) P/F of the officials concerned.
- 24) CSS, Pay Bill.
- 25) E-3
- 26) S-7.
- 27) Spare.

Sd/-  
Divisional Engineer(Admn.)  
O/o GMT/KTD/Guwahati.

Attested

*[Signature]*

Advocate.



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ANNEXURE : 2.1

BHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)  
OFFICE OF THE CHIEF GENERAL MANAGER, TASK FORCE  
N.E. TELECOM. REGION, GUWAHATI-781 003.

No.TF/NE/Staff-39/Vol-XII/108

Dated-2-11-2000

Sub:- Posting order in respect of Shri Tarun Kumar Ojah, TOA.

Ref:- No.GMT/EST-27/RC/2000-2001/57 dt.25-10-2000.

In pursuance of the orders of GMT, Kamrup Telecom. District, Guwahati contained in the above cited letter, the following TOA is hereby posted as indicated below on purely temporary basis in the scale of pay Rs.3200-85-4900/- plus other usual allowances as admissible under the terms and condition of appointment mentioned in the letter under reference.

SL No.	Name of the candidate	Community	Date of joining	Place of posting
1.	Shri Tarun Kumar Ojah,	OC	25-10-2000	CGM Task Force, (F/N) Guwahati-3. (Admn Sec.)

34/-  
D.E. (Admn)  
O/o CGM Task Force  
NE Telecom. Region,  
Guwahati-3.

Copy forwarded to :-

1. The CGMT Assam Circle, Ulubari, Guwahati for favour of kind information.
2. The GMT Kamrup District w.r.t. his letter under reference.
3. The Sr.PA to CGM (TF), Guwahati-1.
4. The AO (Cash) O/o CGM (TF), Guwahati-3.
5. Official concerned.
6. O/c.

Attested

Hmr

Advocate.

2/11/2000  
D.E. (Admn)  
O/o CGM Task Force  
NE Telecom. Region,  
Guwahati-3.



Presidential OrderGOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

-1/ASSAM/CO/043/2001

Dated: 02-01-2002

ORDER

Subject:

Permanent absorption of Shri/Smt.

Nivedita Pathak

Designation

TOA(9)

Staff No.

ASSAM/CIRCLE/9n.c-

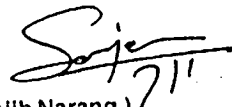
TOA(9)/0043

in Bharat Sanchar Nigam Limited.

24

गुवाहाटी  
Guwahati

- Pursuant to letter No. BSNL/4/SR/2000 dated 2.1.2001 on the above subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri/Smt./Kumari Nivedita Pathak a permanent/temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:
- Date of effect:** The permanent absorption shall take effect from 01.10.2000. forenoon.
- Pension/Gratuity:** Shri/Smt./Kumari Nivedita Pathak shall be eligible for pensionary benefits including gratuity as per the provisions of Rule 37-A of the CCS (Pension) Rules as amended from time to time.
- Family Pension:** The family of Shri/Smt./Kumari Nivedita Pathak shall be eligible for family pension as per provisions of Rule 37-A read with Rule 54 (13-B) of CCS (Pension) Rules 1972 as amended from time to time.
- Regulation of Pay on absorption:** To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW (D) dated 5.7.1989.
- Leave:** The Earned leave and Half Pay Leave at the credit of Shri/Smt./Kumari Nivedita Pathak stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24 (b) of Rule 37-A of the CCS (Pension) Rules.
- Provident Fund:** The amount of subscription together with interest there on standing to the credit of Shri/Smt./Kumari Nivedita Pathak in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules as amended from time to time.


(Sanjib Narang)  
Director (Estt.) Assam DOT

To,

Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

Copy to:

1. As AO (DWP), CO/GH SSA/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned. Smt Nivedita Pathak
3. CGM of the concerned recruiting Circle. Assam Circle

Attested

Hm

Advocate.

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ANNEXURE : 23

वे. प्र. प्र. 10 92  
Central Administration

24 Feb 2001

गुवाहाटी न्यायपीठ  
Guwahati Bench

Presidential Order

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

27-1/ASSAM/CO/042/2001

Dated : 02-01-2001

ORDER

Subject : Permanent absorption of Shri/Smt. Km. Supriya Choudhury  
Designation : TOA(4) Staff No. ASSAM/CIRCLE/9A-C-  
In Bharat Sanchar Nigam Limited. TOA(4)/0042

1. Pursuant to letter No. BSNL/4/SR/2000 dated 2.1.2001 on the above subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri/Smt./Kumari Supriya Choudhury a permanent/temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below :
2. Date of effect : The permanent absorption shall take effect from 01.10.2000, forenoon.
3. Pension/Gratuity : Shri/Smt./Kumari Supriya Choudhury shall be eligible for pensionary benefits including gratuity as per the provisions of Rule 37-A of the CCS (Pension) Rules as amended from time to time.
4. Family Pension : The family of Shri/Smt./Kumari Supriya Choudhury shall be eligible for family pension as per provisions of Rule 37-A read with Rule 54 (13-B) of CCS (Pension) Rules 1972 as amended from time to time.
5. Regulation of Pay on absorption : To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW (D) dated 5.7.1989.
6. Leave : The Earned leave and Half Pay Leave at the credit of Shri/Smt./Kumari Supriya Choudhury stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24 (b) of Rule 37-A of the CCS (Pension) Rules.
7. Provident Fund : The amount of subscription together with interest there on standing to the credit of Shri/Smt./Kumari Supriya Choudhury in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

Sanjib Narang  
(Sanjib Narang)  
Director (Estt.) Assam DOT

To,  
Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

Copy to :

1. Sh. AD(AR), W/GH SSA/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned. Km. Supriya Choudhury
3. CGM of the concerned recruiting Circle. Assam Circle

Attested

Han  
Advocate.

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ANNEXURE : 24

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Presidential Order

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

No: 27-1/ASSAM/KAMRUP/0019/2001

Date: 16<sup>th</sup> Jan'2002

ORDER

Subject: Permanent absorption of Shri / Smt. NABANITA DEKA,  
Designation TOA(G), Staff No. ASSAM/KTD/GR.C'TOA(G)/0019  
in Bharat Sanchar Nigam Limited.

1. Pursuant to letter no. BSNL/4/SR/2000 dated 02.01.2001 on the subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri / Smt/Kumari NABANITA DEKA a permanent /temporary employee of the Departmental of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:
2. **Date of effect :** The permanent absorption will take effect from 01.10.2000 forenoon.
3. **Pension/Gratuity:** Shri / Smt/ Kumari NABANITA DEKA shall be eligible for pensionary benefits including gratuity as per the provision of Rule 37-A of the CCS(Pension) Rules as amended from time to time.
4. **Family Pension:** The family of Shri/Smt/Kumari NABANITA DEKA shall be eligible for family pension as per provision of Rule 37-A read with Rule (13-B) of CCS (Pension) Rules 1972 as amended from time to time.
5. **Regulation of Pay on absorption :** To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW(D) Dated 05.07.1989.
6. **Leave :** The Earned Leave and Half Pay Leave at the credit of Shri /Smt/Kumari NABANITA DEKA stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of CCS (Pension) Rules.
7. **Provident Fund :** The amount of subscription together with interest there on standing to the credit of Shri / Smt /Kumari NABANITA DEKA in the General Provident Fund account will be transferred to his / her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

( Sanjeev Narang )  
Director (Estt.) Assam DOT

To  
Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

- Copy to :
1. GM.KTD/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
  2. Officer concerned NABANITA DEKA.
  3. CGM of the concerned recruiting Circle, Assam Circle.

Attested

*Hw*  
Advocate.

ULUBARI, GUWAHATI-781007.

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी बेंच  
Guwahati Bench

## Presidential Order

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

No: 27-1/ASSAM/KAMRUP/0084/2001

Date: 16<sup>th</sup> Jan'2002

## ORDER

Subject: Permanent absorption of Shri / Smt. PUNAM SUNWAR,  
Designation TOA(G), Staff No. ASSAM/KTD/GR.C'TOA(G)/0084  
in Bharat Sanchar Nigam Limited.

1. Pursuant to letter no. BSNL/4/SR/2000 dated 02.01.2001 on the subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri / Smt/Kumari PUNAM SUNWAR a permanent /temporary employee of the Departmental of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:
2. Date of effect : The permanent absorption shall take effect from 01-10-2000 forenoon.
3. Pension/Gratuity: Shri / Smt/ Kumari PUNAM SUNWAR shall be eligible for pensionary benefits including gratuity as per the provision of Rule 37-A of the CCS(Pension) Rules as amended from time to time.
4. Family Pension: The family of Shri/Smt/Kumari PUNAM SUNWAR shall be eligible for family pension as per provision of Rule 37-A read with Rule (13-B) of CCS (Pension) Rules 1972 as amended from time to time.
5. Regulation of Pay on absorption : To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW(D) Dated 05.07.1989.
6. Leave : The Earned Leave and Half Pay Leave at the credit of Shri /Smt/Kumari PUNAM SUNWAR stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of CCS (Pension) Rules.
7. Provident Fund : The amount of subscription together with interest there on standing to the credit of Shri / Smt /Kumari PUNAM SUNWAR in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules as amended from time to time.

( Sanjeev Narang )  
Director (Estt.) Assam DOT

To

Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

Copy to :

1. GM.KTD/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned PUNAM SUNWAR.
3. CGM of the concerned Recruiting Circle, Assam Circle.

Attested

H/

Advocate.

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Presidential OrderGOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

No: 27-1/ASSAM/KAMRUP/0103/2001

Date: 21<sup>st</sup> Jan' 2002केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati BenchORDER

**Subject:** Permanent absorption of Shri / Smt. REBATI DAS,  
Designation: TOA(G), Staff No.  
ASSAM/KTD/GR/C/TOA(G)/0103 in Bharat Sanchar Nigam  
Limited.

1. Pursuant to letter no. BSNL/4/SR/2000 dated 02.01.2001 on the subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri / Smt/Kumari REBATI DAS a permanent /temporary employee of the Departmental of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:
2. **Date of effect :** The permanent absorption shall take effect from 01-10-2000 forenoon.
3. **Pension/Gratuity:** Shri / Smt/ Kumari REBATI DAS shall be eligible for pensionary benefits including gratuity as per the provision of Rule 37-A of the CCS(Pension) Rules as amended from time to time.
4. **Family Pension:** The family of Shri/Smt/Kumari REBATI DAS shall be eligible for family pension as per provision of Rule 37-A read with Rule (13-B) of CCS (Pension) Rules 1972 as amended from time to time.
5. **Regulation of Pay on absorption :** To be regulated in terms of para 4 of DOP & PW O.M. No. 4/13/27-P&PW(D) Dated 05.07.1989.
6. **Leave :** The Earned Leave and Half Pay Leave at the credit of Shri /Smt/Kumari REBATI DAS stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of CCS (Pension) Rules.
7. **Provident Fund:** The amount of subscription together with interest there on standing to the credit of Shri / Smt /Kumari REBATI DAS in the General Provident Fund account will be transferred to his / her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

( Sanjeev Narang )  
Director (Estt.) Assam DOT

To

Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

Copy to :

1. GM.KTD/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.  
Officer concerned, Shri /Smt/Kumari REBATI DAS  
CGM of the concerned recruiting Circle, Assam Circle.

Attested

Advocate

Presidential Order

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

ANNEXURE - 27

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

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24 FEB 2009

Dated: 24/02/2009  
Guwahati Bench

7-1/Assam/

Task Force/004/2007  
ORDER

Subject: Permanent absorption of Shri/Smt. Tasnuva K. Diah  
Designation: TOA (G) Staff No. 20177/DIR/Admcy  
in Bharat Sanchar Nigam Limited. Gr. C - TOA (G)/0012

- Pursuant to letter No. BSNL/4/SR/2000 dated 2.1.2001 on the above subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri/Smt. Kumari Tasnuva K. Diah a permanent/temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:
- Date of effect:** The permanent absorption shall take effect from 01.10.2000, forenoon.
- Pension/Gratuity:** Shri/Smt. Kumari Tasnuva K. Diah shall be eligible for pensionary benefits including gratuity as per the provisions of Rule 37-A of the CCS (Pension) Rules as amended from time to time.
- Family Pension:** The family of Shri/Smt. Kumari Tasnuva K. Diah shall be eligible for family pension as per provisions of Rule 37-A read with Rule 54 (13-B) of CCS (Pension) Rules 1972 as amended from time to time.
- Regulation of Pay on absorption:** To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW (D) dated 5.7.1989.
- Leave:** The Earned leave and Half Pay Leave at the credit of Shri/Smt. Kumari Tasnuva K. Diah stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24 (b) of Rule 37-A of the CCS (Pension) Rules.
- Provident Fund:** The amount of subscription together with interest there on standing to the credit of Shri/Smt. Kumari Tasnuva K. Diah in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

Sanjeov Narang  
(Sanjeov Narang)  
Director (Estt.) Assam DOT

To,  
Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

**Attested**

Copy to:

1. Cybernetic/TF/014

Han  
Advocate.

SSA/Officer in-charge for maintaining the service book for keeping this order  
service book along with suitable entries.



## Presidential Order

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

27-1/ASSAM/KAMRUP/ 0514/2001

Date: 21<sup>st</sup> Jan'2002

## ORDER

Subject: Permanent absorption of Shri / Smt. ANJAN SARMA,  
Designation. TOA(G), Staff No.  
ASSAM/KTD/GR/CTOA(G)/0514 in Bharat Sanchar Nigam  
Limited.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

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24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

1. Pursuant to letter no. BSNL/4/SR/2000 dated 02.01.2001 on the subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time, the sanction of the President is hereby conveyed to the permanent absorption of Shri /Smt/Kumari ANJAN SARMA a permanent temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:

2. **Date of effect :** The permanent absorption shall take effect from 01-10-2000 forenoon.

3. **Pension/Gratuity:** Shri /Smt/Kumari ANJAN SARMA shall be eligible for pensionary benefits including gratuity as per the provision of Rule 37-A of the CCS(Pension) Rules as amended from time to time.

4. **Family Pension:** The family of Shri/Smt/Kumari ANJAN SARMA shall be eligible for family pension as per provision of Rule 37-A read with Rule (13-B) of CCS (Pension) Rules 1972 as amended from time to time.

5. **Regulation of Pay on absorption :** To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW(D) Dated 05.07.1989.

6. **Leave :** The Earned Leave and Half Pay Leave at the credit of Shri /Smt/Kumari ANJAN SARMA stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of CCS (Pension) Rules.

7. **Provident Fund :** The amount of subscription together with interest there on standing to the credit of Shri /Smt/Kumari ANJAN SARMA in the General Provident Fund account will be transferred to his / her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.



( Sanjeev Narang )  
Director (Estt.) Assam DOT

To  
Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

Copy to :

1. GM.KTD/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned, Shri /Smt/Kumari ANJAN SARMA
3. CGM of the concerned recruiting Circle, Assam Circle.

Attested



Advocate.

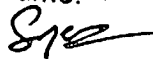
Presidential OrderGOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

27-1/ASSAM/KAMRUP/0027/2001

Date: 16<sup>th</sup> Jan'2002केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal98  
24 FEB 2009गुवाहाटी न्यायपीठ  
Guwahati BenchORDER

Subject: Permanent absorption of Shri / Smt. PREMA NANDA INJAL,  
Designation TOA(G), Staff No. ASSAM/KTD/GR.'CTOA(G)/0027  
In Bharat Sanchar Nigam Limited.

1. Pursuant to letter no. BSNL/4/SR/2000 dated 02.01.2001 on the subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri / Smt/Kumari PREMA NANDA INJAL a permanent /temporary employee of the Departmental of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:
2. **Date of effect** : The permanent absorption shall take effect from 01-10-2000 forenoon.
3. **Pension/Gratuity**: Shri / Smt/ Kumari PREMA NANDA INJAL shall be eligible for pensionary benefits including gratuity as per the provision of Rule 37-A of the CCS(Pension) Rules as amended from time to time.
4. **Family Pension**: The family of Shri/Smt/Kumari PREMA NANDA INJAL shall be eligible for family pension as per provision of Rule 37-A read with Rule (13-B) of CCS (Pension) Rules 1972 as amended from time to time.
5. **Regulation of Pay on absorption** : To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW(D) Dated 05.07.1989.
6. **Leave** : The Earned Leave and Half Pay Leave at the credit of Shri /Smt/Kumari PREMA NANDA INJAL stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of CCS (Pension) Rules.
7. **Provident Fund** : The amount of subscription together with interest there on standing to the credit of Shri / Smt-/Kumari PREMA NANDA INJAL in the General Provident Fund account will be transferred to his / her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.



( Sanjeev Narang )  
Director (Estt.) Assam DOT

To

Chairman and Managing Director,  
Bharat Sanchar Nigam Limited.  
20, Ashoka Road, New Delhi.

Attest:



Advocate.

Copy to :

1. GM.KTD/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned PREMA NANDA INJAL.
3. CGM of the concerned recruiting Circle, Assam Circle.



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ANNEXURE : 30

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal

११

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench



**भारत संचार निगम लि.**  
(A GOVERNMENT OF INDIA ENTERPRISE)  
6<sup>th</sup> Floor, 'A' Wing, Statesman House  
Barakhamba Road, New Delhi - 110 001.  
(SR Cell)

No. BSNL/4/SR/2002 Vol III

Dated 04.05.2007

To  
ALL CGMs, BSNL

Subj: Absorption in BSNL in respect of casual labours, P/T employees, Ayas etc and employees appointed on compassionate ground clarification -reg.

Ref:- 1. No. BSNL/4/SR-2000 dated 05.03.2001 (Issue No. 1&2).  
2. No. BSNL/4/SR-2000 dated 30.04.2001 (Issue No. (iii)&(iv))

Kindly refer to this office letters under reference vide which certain clarifications were issued relating to regularized casual labours and compassionate appointees in BSNL. Further clarification were issued vide DOT letter No. 27-1/2001-SNG dated 13.09.2002 and BSNL CO letter 269-5/2005-Pers-IV dated 10.04.2006.

Keeping in view the clarification issued vide the above mentioned letters as well as BSNL CO letter no. 269-5/2005-Pers-IV dated 31.10.2006 regarding counting of past service of TSMs, the following amendments are issued in respect of the letter under reference.

SR Section Reference	Issue	Existing Clarification	Revised Clarification
BSNL/4/SR-2000 dated 6.3.01 (Issue I)	Whether Casual Labours, P/T employees, Ayas etc regularized on or after 1.10.2000 are to be allowed to exercise their option for BSNL?	As per the decision taken earlier, Casual labours regularized in pursuance of letter No.269-94/98-STN-II dated 20.09.2000 would remain government employees and option is required to be asked from them.	Options from Casual Labours having Temporary Status in DOT prior to 1.10.00 who are regularized in BSNL is to be treated in accordance with BSNL letter No.269-5/2005-Pers-IV dated 31.10.06
BSNL/4/SR-2000 dated 30.04.01 (Issue (iii))	Casual Labours, after being regularized in pursuance of letter No.208-94/98-STN-II dated 20.9.00 on a subsequent date after 31.03.2001 wants to submit their option. Whether their option will be accepted or not?	Yes, the option date will be the date of regularization.	Options from Casual Labours regularized in BSNL who were not having TSM status in DOT will not be called for and such regularized casual labours will be treated as BSNL recruited employees only. In case option from any such casual labour has been called for and PO issued, it shall be treated as null and void.

Attested

Han

Advocate.

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Central Administration  
24 FEB 2009  
গুৱাহাটী জাজীট  
Guwahati Bench

Ref. No. / Issue	Issue	Extension / Clarification	Remarks / Action
BSNL/4/SR-2000 dated 5.3.01 (Issue 2)	Whether the employee appointed on compassionate ground and the inter departmental transferees joined on or after 1.10.2000 are to be permitted to exercise their option for BENL?	As per the decision taken earlier, approval of Secretary DOT is finally required for compassionate appointments. Therefore, options are to be asked for from compassionate appointees.	Options from Compassionate Ground Appointment case where appointment order issued after 30.09.00 by BSNL will not be called for and such appointees will be treated as BSNL recruited employees only. In case option from any such appointee has been called for and PO issued, it shall be treated as null and void.
BSNL/4/SR-2000 dated 30.04.01 (Issue iv)	Compassionate Ground Appointment cases where appointment order issued after 31.03.2001 and wants to submit option. Whether their option will be accepted or not?	Yes, the date of appointment will be the date of option.	

(Signature)  
64-05-07  
(Jagdish Narain)  
ADG(SR-1)BSNLEO

Copy to:-

1. PS to Director(HRD) BSNL Board.
2. DDG(Estt), DOT, Sanchar Bhawan, New Delhi
3. Sr.DDG(Estt) /Sr.DDG(SPF) /Sr.DDG(BW) Sr.DDG(Elect) /Sr.DDG(Arch) /DDG(Pers.)  
DDG(TF) /DDG(CA) /DDG(EF) BSNL Corporate office for information please
4. G.S. BSNLEI

ACCOUNTS SECTION-1  
STATESMAN HOUSE  
ROAD:  
110 001  
10 2373 4000, 2373 4103 (fax)

भारत संचार निगम लिमिटेड  
(भारत संचार का उपक्रम)  
BHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)

ANNEXURE: 31

500-85/CA II/BSNL/EPF/Vol III

dated 21<sup>st</sup> June, 2007.

The Chief General Manager,  
All BSNL Circles.

Sub: Introduction of EPF Scheme -reg.

Ref: This office letter of even no. dated 10.05.2007

Kindly refer to the letter mentioned above vide which it was clarified that the following categories of employees will be treated as BSNL recruited employees only.

- (a). Casual Labours not having Temporary status in DOT prior to 01.10.2000 who are regularized in BSNL
- (b). Employees appointed on compassionate ground where appointment order has been issued after 30.09.2000 by BSNL.

In view of the above clarification, it is once again requested to kindly ensure that the EPF dues payable up to May 2007 in respect of above categories of employees' as admissible from the date of their appointment should be deposited to EPF Organization by 30.06.2007 positively.

(S.Gangopadhyay)  
Jt.DDG (CA)

Copy forwarded for kind information and necessary action thereto:

1. All GM (F)/IFA, CPAO (IT) BILLS/CAO(TCO)/ADG(R&P)

Attested

*[Signature]*

Advocate.

Regd. Office : 10<sup>th</sup> Floor, Statesman House, Barakhamba Road, New Delhi-110 001  
Corporate Office : B-148, Statesman House, Barakhamba Road, New Delhi-110 001 Website: www.bsnl.co.in

The Chief General Manager  
Assam Telecom Circle  
Bharat Sanchar Nigam Limited  
Guwahati-781001

Dated at Guwahati, the 23<sup>rd</sup> June 2007.

केन्द्रीय प्रशासनिक बोर्ड  
Central Administrative Board  
24 FEB 2009  
गुवाहाटी न्यायाधीश  
Guwahati Bench

**Sub:- Protection of Rule 37(A) of CCS(Pension) rules as DOT employee absorbed in BSNL.**

Respected Sir,

In the midst of impending danger I approach with folded hands to your judicious goodself for kind intervention and protection of the benefits guaranteed by the Presidential order No.27-1/Assam/CO/043/2001 dated 02-01-2002.

1. My husband Late Aswini Kumar Pathak was an employee of the Department of Telecom (DOT) working in the office of CGMT/Guwahati. Following his sad demise on 29<sup>th</sup> Nov' 1999 harness, the DOT authority was kind enough to provide me employment on compassionate ground to save the depressed family from starvation and ruin.
2. The process of employment as above was considered and settled in DOT era and the decision was conveyed vide **CGMT.GH.Memo No. WLF-1/11/AG/GH/Part-II/99-2000/138 dated 27-4-2000**. In the said memorandum it was concluded that I along with few others have been approved for appointment as TOA(G) on compassionate ground. Following the selection I was instructed vide letter No. **STES-10/8/Pt.I/26 dtd. 2-5-2000** to submit the relevant documents for verification and thereafter vide letter dated 17-7-2000 I was directed to undergo pre-appointment training course at CTC/GH commencing on 24-7-2000.
3. I duly complied with the above direction and reported at CTC/GH on scheduled date and underwent the full course of training. On successful completion of the training I joined duty as TOA(G) in the circle office on **Di. 25-10-2000**. The formal order of appointment was issued Vide No. **STES-10/8/Pt.II/95 dated 23-10-2000**. Since then I have been working in the office uninterrupted.
5. In the meantime, the DOT was corporatised and the BSNL came into being on and from 1-10-2000. The matter relating to the switch

Contd. in page 2

Attested

*H. B.*

Advocate

*Q. B.*  
23/6/07

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Central Administrative  
103 24 FEB 2008  
गुवाहाटी न्यायाधीश  
Guwahati Bench

-2-

over of existing DOT staff to the newly formed BSNL was decided at the highest level and after great deliberation it was consciously decided to call upon the DOT employee to exercise option either to remain in DOT or be absorbed in BSNL. I opted for absorption in BSNL and the same was accepted by the authority. Finally presidential order was issued vide No. 27-1/Assam/CO/043/2001 dated 2.1.2002 under the signature of the authorized signatory in the DOT proclaiming my permanent absorption in BSNL w.e.f 1-10-2001.

5. In the said Presidential Order dated 2-1-2002 it was laid down in clear terms that the absorption was made under the provision of Rule 37 of CCS (Pension) and further stipulated that I shall be eligible for pensionary benefits including gratuity as per provision 37(A) read with Rule 54(13.B) of CCS(Pension) Rules and also further that my GPF A/C shall be regulated under sub rule 24(a) of Rule 37 of CCS(Pension) Rules.

The matter relating to my status as an absorbed employee of BSNL and eligibility for GPF, pensionary benefits stands finally settled for once and all by the issuance of the Presidential Order dated 1-2-2002. The Presidential Order is still in existence with full force.

6. Situated as above, the BSNL management is contemplating to re-open the settled point and undo whatever has been finalized and resting with the issuance of the Presidential Order. They have issued renewed instruction after a gap of more than 5 years to treat me as BSNL recruitment employee in defiance of the expressed terms of the Presidential Order. The BSNL management has also passed instruction to admit me in the EPF scheme, 1952. Finally the corporate Accounts section of BSNL has issued specific instructions to the respective employer to deposit the arrear of EPF dues upto May 2007 with the EPF organization by 30-6-2007 positively.
7. The revised clarification of BSNL issued after a long gap of 5 years contradicts the very basics of the Presidential Order and seeks to deprive me of Pensionary benefits, GPF etc guaranteed by the Presidential Order.

The Presidential Order was issued after detailed deliberation and taking in consideration all relevant factors that existed in the relevant period as it involve the future of employee and their family members. The specific points relating to the absorption of employees appointed on compassionate ground was also

Contd in page-3

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-3-

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
24 FEB 2009 164  
गुवाहाटी न्यायाधीश  
Guwahati Bench

particularly considered in the relevant time and it was the conscious decision that since they were appointed within the specific approval of DOT they shall be treated as DOT staff and called upon to exercise option like other DOT staff. The matter having been finalized and sealed by the issuance of Presidential Order after following the due procedure cannot be re-opened and re-defined to the disadvantage of effected employee. Moreover, the contents of Presidential order or any part thereof cannot be over-ruled or negated by an communication which is in the nature of intra departmental instruction.

In the face of what is stated in the foregoing paras I beg most humbly to your honour to kindly intervene in the matter and ensure that the benefits guaranteed by the Presidential Order and being enjoyed for the last 7 years are not withdrawn.

With kind regards.

Your's sincerely

*Nathak*  
23.06.07

Mrs.Nivedita Pathak  
Sr.TOA(G)

O/o the CGMT/Assam Telecom Circle



-75-

105  
ANNEXURE : 33

**BHARAT SANCHAR NIGAM LIMITED**  
(A Govt. of India Enterprise)  
**OFFICE OF THE CHIEF GENERAL MANAGER, TELECOM**  
**ASSAM TELECOM CIRCLE,**  
**PANBAZAR :: GUWAHATI-781001**

केन्द्रीय प्रशासनिक अफिस  
Central Administrative Office

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

STES-10/5/Loose-II/07-08/69 Dated at Guwahati the 28.06.2007.

To  
Shri Jagdish Narain  
ADG(SR-I)  
BSNL Corporate Office  
6<sup>th</sup> Floor, 'A' Wing, Statesman House  
Barakhamba Road  
New Delhi-110001.

Sub:- Introduction of EPF Scheme - regarding.

1. Kindly refer to the corporate Office Letter No. BSNL/4/SR/2002 Vol.III dated 04.05.2007 regarding treatment of Compassionate ground appointees as BSNL recruited employee. According to the revised clarification, option shall not be called for from the compassionate ground appointees if the appointment order was issued after 30-09-2000. This category of staff are to be treated as BSNL recruited employee and they shall be admitted to the EPF Scheme.

2. In the Assam circle compassionate ground appointment of as many as 15 TOA(G) was finally approved in April, 2000 and after verification of original documents these candidate were sent for pre-appointment training commencing from 24-07-2000. These candidates completed the 2 months theoretical training on 22-09-2000 and reported for 1 months practical training from 25-09-2000 in their respective office of posting. On completion of the practical training these officials finally joined duty as TOA(G) on 25-10-2000. As per standing instruction the period of training from 24-07-2000 is also counted towards annual increment and treated as a qualified service for all purpose.

3. It may kindly be seen from above that the officials were finally approved for appointment on Compassionate ground in DOT era and order to this effect was issued before 30-09-2000. As on 30-09-2000 these officials were on practical training in the respective office of posting and joined service on 25-10-2000 immediately after completion of training without any intervening break. Mentionable that the same HPC which approved the appointment of the officials also approved few others for Group 'D' service. Since pre-appointment training is not required for Group 'D' these officials joined service before 30-09-2000 and treated as DOT staff.

4. Considering the above sequence of events, and in conformity with the clarification/instruction available at the relevant point of time, options were called for from the compassionate ground appointee TOA and Presidential orders was issued in their favour for absorption in BSNL like other DOT staff.

In view of the position explained above, it is requested to kindly re-examine the specific cases and issue further instructions on the following points.

- a. Where the Compassionate ground appointed TOA(G) referred to in para 2 and 3 above who were recruited by DOT and appointed by BSNL shall also be treated as BSNL recruited staff.

Contd in Page-2:-

Attested

*H. us.*

Advocate

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Central Administrative Tribunal

24 FEB 2009

গুৱাহাটী ন্যায়পীঠ  
Guwahati Bench

Page-2:-

If these officials are treated as BSNL recruited staff, whether it shall be legally tenable to introduce EPF scheme in defiance of the expressed terms of the Presidential order without canceling the Presidential order.

- c. Who shall be the authority to cancel the Presidential order and what procedure shall be followed.

As the matter is very sensitive in nature and also involve the point of law, it is requested to have the matter re-examined early and cause to issue further instructions to enable the office to resort to further action.

On the above subject two representations already received by this office are enclosed herewith for your necessary action.

Encl:-

As stated above.

(S.C. Ojha)  
Dy. GM(Admn.)  
O/o the CGMT/Guwahati

Copy to :-

1. Sri S. Gangopadhyay, Jt.DDG(CA), Corporate Accounts Section 11<sup>th</sup> floor Statesman House, Barakhamba Road, New Delhi -110001.
2. The Sr.AO(A&P), Circle Office Guwahati.
3. The AO(CA), Circle Office Guwahati.

(S.C. Ojha)  
Dy. GM(Admn.)



24 FEB 2003

गुवाहाटी न्याय  
Guwahati B.

Broadband  
Linking India >>

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ANNEXURE : 34



BHARAT SANCHAR NIGAM LTD.  
A GOVERNMENT OF INDIA ENTERPRISE  
SR Cell, Corporate Office  
A-601, Statesman House, Barakhamba Road  
New Delhi-110 001

No. BSNL /4/SR/2002 (Vol. III)

Dated at ND the 24.08.2007

To

The Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Assam Telecom Circle,  
Guwahati

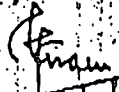
Sub:- Introduction of EPF Scheme-regarding

Ref:- No. STES-10/5/Loose-II/07-08/69 dated 28.06.2007

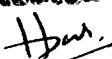
Kindly refer to your office letter referred above on the above subject, vide which clarification was sought referring to this office letter of even no. dated 04.05.2007 regarding treatment of compassionate ground appointees as BSNL recruited employees, who were finally approved for appointment in DOT era and after completion of pre-appointment training, they were finally appointed after formation of BSNL i.e. after 01.10.2000 & joined duty on 25.10.2000 as TOA(G).

2. Matter has been examined in consultation with Establishment Branch of BSNL and in this regard attention is invited to FR 17A which stipulates that "Subject to any exception specifically made in these rules and to the provision of Sub-rule (2), an officer/official shall begin to draw the pay and allowances attached to his tenure of Post w.e.f. the date when he assumes the duties of that post, and shall cease to draw them as soon as he ceases to discharge those duties". Accordingly it is clarified that:-

- These employees will have to be treated only as BSNL employees in view of the fact that BSNL has issued their appointment orders.
- BSNL appointed employees will be covered under EPF Act as provided under the law. In so far as the question of legality is concerned the clarification issued vide letter no. BSNL/4/SR/2002 (Vol. III) dated 04.05.2007 is self-explanatory.
- As far as cancellation of Presidential order is concerned, the presidential order were issued on behalf of DOT by the Director (Estt) appointed by DOT, as such the designated officer may cancel the P.Os after getting approval from DOT.

  
(Jagdish Narain)  
ADG(SR-I)BSNLCO

Attested

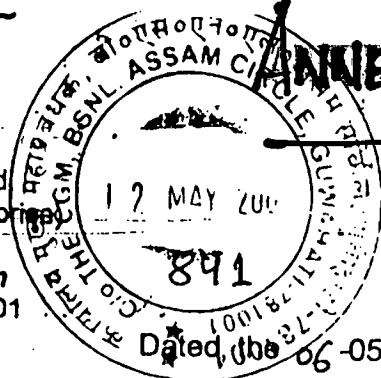


Advocate.

24 FEB 2009

गुवाहाटी बेंच  
Guwahati Bench

Bharat Sanchar Nigam Ltd  
(A Government of India Enterprise)  
Corporate Office  
Bharat Sanchar Bhawan  
Janpath, New Delhi-110 001



ANNEXURE-35

No.1-29/07-PAT(BSNL)

To

All Head of Telecom. Circles/Administrative Units  
Bharat Sanchar Nigam LTD.

Subject:- Recovery of EPF Contribution for the officials appointed on or after 1.10.2000 - reg.

Sir,

Several field units have sought clarifications as to whether an employee appointed on or after 1.10.2000 is to be treated as BSNL recruited employee or not and if his training period started before or after 1.10.2000 and in cases of compassionate ground appointee/normal appointee/casual labour regularized on or after 01.10.2000 for whom some Presidential Orders have been issued earlier?

2. The case been examined in consultation with EF and SR Branch. In this regard it is clarified that the category of employees as mentioned at Para (1) above for whom appointment orders are issued by BSNL will be treated as BSNL recruited employee and will be covered under EPF Scheme.

3. The issue of Presidential Orders already stands clarified vide SR Branch, Corporate Office letter No. BSNL/4/SR/2002.Vol.III dated 4.5.2007 and DOT OM No. 27-2/2006-SNG dated 20.10.2006, circulated under Pers. IV Branch letter No. 269-5/2005-Pers.IV dated 31.10.2006. Copies of instructions are enclosed for ready reference.

Necessary action may be taken accordingly.

Yours faithfully,

(R.R. Srivastava)  
Assistant Director General (P-V)  
Phone 23766034

- 1) PPS to CMD.
- 2) PPS to Dir. (HRD)/ Operation/ C & M/ Finance.
- 3) All Sr. DDGs/DDGs BSNL C.O. New Delhi.
- 4) DDG (CA) for Issuing detailed instructions with regard to EPF related aspects.
- 5) CSS/Pers.I/Pers.II/Pers.III/Pers.IV/SEA/Civil/ A&E/TF/Pay Bill/Cash/L&A Section, BSNL
- 6) Recognized Executive Associations.
- 7) G.S. BSNLEU.
- 8) AD (OL) for Hindi Version please.
- 9) Guard file.

Attested

Advocate.

ACM(A) AD(SR) PA

16/5/08

PA  
PL keep copy to  
in BSNL at  
15/5/08

Balew  
16/5/08

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109  
ANNEXURE : 24 FEB 2008

गुजराती न्यायपीठ  
Gujarati Bench

(2)

Government of India  
Ministry of Communications & Information Technology  
Department of Telecommunications  
20, Ashoka Road, Sanchar Bhawan, New Delhi-110 001

23/10/08  
23/10/08

No: 27-2/2006-SNG

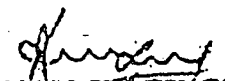
Dated: 26.10.2006

OFFICE MEMORANDUM

**Subject:** Counting of past services of the Temporary Status Mazdoors upon their absorption in BSNL-reg.

In supersession to previous orders for absorption in respect of Temporary Status Mazdoors (TSMs), it has been decided that those Temporary Status Mazdoors who have been regularized in pursuance of this office letter no. 269-94/98-STN-II dated 29.09.2000 were to be absorbed in BSNL w.e.f. 1.10.2000 as per their status as existing on 30.09.2000. Accordingly Presidential Orders may be issued in respect of those Temporary Status Mazdoors who were having TSM status prior to 30.09.2000 so as to allow them benefit of counting of 50% of the TSM period for pensionary benefits. Related service matters of these TSMs absorbed in BSNL w.e.f. 1.10.2000 may be resolved accordingly. It is further clarified that in respect of those Casual Labourers who were not having TSM status as on 30.09.2000 and who have been regularized in BSNL after 1.10.2000, their status will be of a PSU appointee and therefore, no Presidential Order need be issued in such cases.

Prior to issue of Presidential Orders, the cases of eligible TSMs may be examined & forwarded through BSNL HQ for approval for issue of Presidential Orders. The individual Presidential Orders will be issued at circle level under the signature of the Director(Estt.) designated for the issue of P.O.

  
(AMARJIT SINGH)  
Under Secretary to the Govt. of India  
Tel: 23036226

To-

Chairman & Managing Director  
Bharat Sanchar Nigam Limited  
Statesman House  
New Delhi.



Copy for information to: Heads of all circles, BSNL.

23/10  
ADGP  
VSR

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**Bharat Sanchar Nigam Ltd.**

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

**BHARAT SANCHAR NIGAM LIMITED**  
A GOVERNMENT OF INDIA ENTERPRISE  
CORPORATE OFFICE  
102-B, STATESMAN HOUSE, NEW DELHI-110 001  
(PERSONNEL - IV SECTION)

File No. 269-5/2005-Pers-IV  
Dated: 31<sup>st</sup> October, 2006

To

All Heads of Circles,  
BSNL Circles/Units.

*Kindly process  
the case for EOP  
in balance along employees  
if compassionate appointment  
after 1.10.2000  
if comes later*

Sub: Counting of past services of the Temporary Status Mazdoors upon their  
absorption in BSNL - reg.

The undersigned is directed to refer to DOT's OM No. 27-2/2006-SNG dated 20.10.2006 (Copy enclosed) on the above mentioned subject and to request you to forward to this office all the cases of Casual Labourers who have been conferred Temporary Status on or before 30.9.2000 and who have been regularized on or after 1.10.2000 and in whose cases Presidential Orders have not been issued till date, for soliciting approval of the Department of Telecom for the same. The details of the above said casual labourers including details of initial engagement, the date of the conferment of Temporary Status, engagement details calendar year wise, may be sent to this office on priority.

*P. Venkatraman*  
(P.S. VENIKATRAMAN)  
ASSTT. DIRECTOR GENERAL (PERS-IV)  
TEL NO. 23734152  
FAX NO. 23715255

Copy to:

1. DDG (SR)/DDG (TF)/DDG (CA), BSNL CO
2. Jt. DDG (BW)/(Elect)/(Arch), BSNL CO.

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ANNEXURE: 36

GOVT. OF INDIA  
DEPTT. OF TELECOMMUNICATIONS  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM,  
-----

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24 FEB 2009

गुवाहाटी ब्याचपीठ  
Guwahati Bench

STES-13/8//27

Dated at Guwahati, the 26/09/2000

Sri Jon Kumar Das, S/O Late Dulal Ch Das, Ex-Laskar under CTSD/Guwahati is hereby appointed as a temporary office peon on compassionate grounds in relaxation of normal rules and posted in CGMT office, Guwahati in the pay scale of Rs. 2550-3200= p.m plus usual allowances on the following terms and conditions.

1. The appointment is purely temporary and provisional basis which may be terminated at any time without assigning any reason and prior notice.
2. The appointment carries with it the liability to serve in Circle and subordinate offices.
3. The appointee should be liable for field services in the emergency.
4. The condition of service will be governed by the rules of the Department as may be amended from time to time.
5. The appointee will look after and maintain the dependents of the deceased employee.

( B.C.Pal)  
Asstt. Director Telecom(Staff)

Copy to:-

- 1-2. The AO(A&P), AO(TA), Circle office, Guwahati
- 3-4. The ADT(Genl)/(E&R), -do-
5. ADT (WLF), -do-
6. Sri Jon. Kumar Das, He is directed to report ADT(Genl), Circle office, Guwahati for his posting of place
7. P/F of the official concern.
8. Spare

For Chief General Manager Telecom,  
Assam Circle, Guwahati.

Attested

*H. M.*  
Advocate.

24 FEB 2009

Guwahati Bench

ANNEXURE-37

Presidential Order

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

No.STES-BSNL/Assam/2-58/06-07/Pt-II/83

dated at Guwahati the 16.01.09

Order

**Sub:-** Revocation of Presidential Order No. 27-1/Assam/C.O./043/2001 dated 02/01/02. Case of Smti. Nivedita Pathak Sr. TOA (G), o/o CGM, Assam circle, Guwahati

Whereas Smti. Nivedita Pathak, at present working as Sr. TOA(G) in the office of the CGM, BSNL, Assam Circle, Guwahati was appointed on compassionate ground vide order No.STES-10/8/pt-II/95 dated 23/10/2000, issued by the competent authority of the Bharat Sanchar Nigam Limited as the appointing authority

Whereas said Smti. Nivedita Pathak was wrongly shown as permanently absorbed in BSNL through a Presidential order No.27-1/Assam/C.O./043/2001 dated 02/01/02 under certain terms and conditions as per CCS(Pension)Rules, 1972.

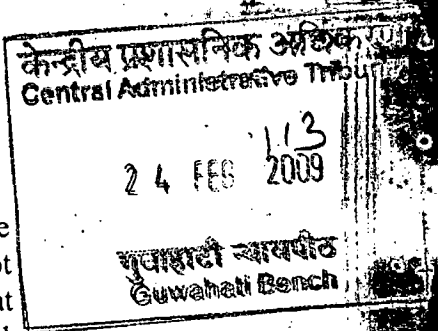
Whereas the Government of India as a matter of New Telecom Policy, 1999 has set up and incorporated a company under the companies Act, 1956 in the name and style as "Bharat Sanchar Nigam Limited" and transferred the assets and liabilities of the Department of Telecommunications except certain rights and control retained with it with effect from 1.10.2000. Accordingly, the said Bharat Sanchar Nigam Limited came into existence and operation. The authority of the said Bharat Sanchar Nigam Limited appointed Smti. Nivedita Pathak as its new recruit in its establishment. As Smti. Nivedita Pathak was appointed as a fresh recruit after 1.10.2000 i.e. after formation of BSNL by the Bharat Sanchar Nigam Limited, she was not an employee of the Department of Telecommunications, Government of India.

page 1 of 2

Attested

*Hm*

Advocate.



As Smti. Nivedita Pathak, was not an employee of the Department of Telecommunications, Government of India, she was not entitled to be absorbed in the Bharat Sanchar Nigam Limited. That being the position, the Presidential Order No. 27-1/Assam/C.O. /043/2001 dated 02/01/02 was wrongly issued to Smti. Nivedita Pathak which is illegal and liable to be revoked.

For the reasons as stated above, the President of India is pleased to revoke the said Presidential Order No. 27-1/Assam/C.O./043/2001 dated 02/01/02 and the same stands as revoked from the date of issue of this order. The rights and privileges granted to Smti. Nivedita Pathak through the said Presidential Order No.27-1/Assam/C.O./043/2001 dated 02/01/02, also stands withdrawn. However, the amount of GPF with interest accrued in the account of the employee would be transferred to the EPF Account to be opened by the Bharat Sanchar Nigam Limited as a covered establishment in the name of the employee under the Employees Provident Fund & Misc. Provisions Act, 1952 and the Schemes framed thereunder including the matter of pension/ family pension. The entitlement of pension and gratuity, leave and other service conditions would be regulated as per existing rules/provisions as applicable to the Bharat Sanchar Nigam Limited as framed or amended or adopted by the Board of Directors from time to time.

(P.S. Bhattacharjee)  
Director (Estt.)  
DOT, Assam

To

The Chairman cum Managing Director  
Bharat Sanchar Nigam Limited  
H.C. Mathur Lane, Janpath  
New Delhi - 110 001.

Copy to :-

- (1) The Chief General Manager, BSNL  
Assam Telecom Circle, Guwahati.
- (2) The General Manager (F) o/o the CGM, BSNL Circle office  
Guwahati. - for necessary action
- ✓ (3) Employee Concerned, Smti. Nivedita Pathak, Sr. TOA(G)  
o/o CGM, Assam circle, Guwahati
- (4) Service Records





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Central Administrative Tribunal

FEB 2009

Guwahati Bench

In the matter of:

1. **Smt. Nivedita Pathak**  
Namghar Path, Lakhimi Nagar,  
Hatigaon, Dispur, Guwahati - 6
2. **Smt. Supriya Choudhury**  
Bishnupur, Bharalumukh,  
Jagadish Ghose Lane, Guwahati - 16
3. **Smt. Nabanita Deka**  
Bishnu Path, Zoo Road, Guwahati - 24

N.  
Commissioner of Affidavit  
Guwahati High Court  
Guwahati

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Central Administrative Tribunal  
24 FEB 2009  
116  
Guwahati Bench

4. **Smt. Poonam Sunwar**  
P & T Qtr (CTO Compound), Guwahati - 1
5. **Smt. Rebati Das**  
Gandhibasti, P.O. Silpukhuri, Guwahati- 3
6. **Sri Tarun Kumar Ojha**  
Vill. - Sarumotoria, Kalaguru path, 8<sup>th</sup>  
bye lane, Hengrabari, Guwahati - 36
7. **Sri Anjan Sarma**  
Forest Gate, Nizarpar, PO - Narengi,  
Guwahati - 22
8. **Sri Premananda Injal**  
Vill. - Dharban, PO. Dhopguri,  
Dist. - Kamrup, Assam

.....Petitioners

-versus-

1. Union of India  
Represented by the Secretary,  
Department of Telecommunications,  
Ministry of Communications, Govt. of  
India, New Delhi.
2. The Deputy Director General (Estt.)  
Ministry of Communications, Department  
of Telecom, Govt. of India, 20 Ashoka  
Road, New Delhi - 1
3. The Director (Establishment), Assam,  
Department of Telecommunications,  
Govt. of India, Ulubari, Guwahati - 7.
4. The Secretary to the Govt. of India,  
Department of Personnel & Training, New  
Delhi - 1

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केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

24/08/2009 11:27

गुवाहाटी न्यायपीठ  
Guwahati Bench

5. Bharat Sanchar Nigam Limited,  
Represented through the Chairman-cum-  
Managing Director,  
Corporate Office, 10<sup>th</sup> Floor, Statesman  
House, New Delhi-1.
6. The Assistant Director General (SR-1),  
BSNL, 5<sup>th</sup> Floor, A - Wing, Statesman  
House, Barakhamba Road, New Delhi-1.
7. The Deputy Director General (SR), BSNL  
New Delhi - 1
8. The Joint Deputy Director General (CA),  
BSNL, Corporate Office, New Delhi - 1
9. The Chief General Manager (Telecom)  
Assam Circle, Bharat Sanchar Nigam  
Limited, Administrative Building  
Guwahati - 1.
10. The General Manager (Telecom)  
Kamrup Telecom District, Guwahati - 1
11. The Chief General Manager (Task Force)  
NE Telecom Region, Guwahati - 3

.....Respondents

24 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

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

Writ Petition (C) No. 2362 of 2008

**BEFORE**

**THE HON'BLE MR. JUSTICE RANJAN GOGOI**

09.02.2009

Ms. P. Bora, learned counsel for the petitioner prays for liberty to withdraw this writ petition.

Liberty as prayed for is granted.

Writ petition is closed on withdrawal.

*Sd/ Ranjan Gogoi*  
Judge

CERTIFIED TO BE TRUE COPY

*Nazim Taluk*

Date: 16.02.09

Superintendent (Copying Section)

Gauhati High Court

Authorised U/S 76, Act 1, 1872

SL no - 112181  
Dated 13/2/09

*clerk*  
16/2/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCHIN OA NO 31/2009

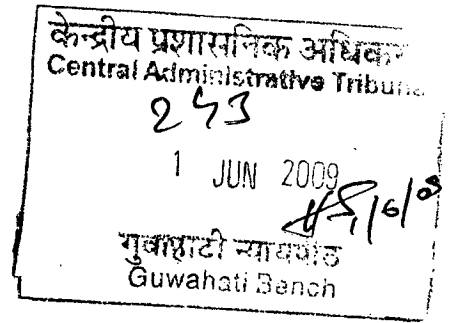
Smti Nivedita Pathak &amp; Others

..... applicants

-vrs-

Union of India &amp; Others

.....Respondents

INDEX

Ser No	Particulars	Annexure	Page
1	Written statement	I	1 & 2
2	Verification		3
3	Photostat Copy of the office letter No 03-56-SNG-STL-2006 on dated 16 Mar 2009 is annexed here) as		4

Received by

H. M.  
27.5.09.Recd copy  
Received

27/5/09

Kankandas.

Filed by

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH**

In OA No 31/2009

Smti Niveda Pathak & Others

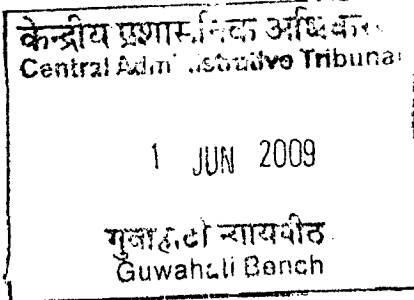
..... Applicants

Vrs

Union of India & others

..... Respondents

Filed by the  
Respondent No 1, 2 & 4  
through  
Kankar Das  
27-5-09 (Add. C. W. S. C.)



**AND**

**IN THE MATTER OF**

Written statement filed by the respondent No ..... on behalf of the respondent  
No 1, 2 and 4 Nos

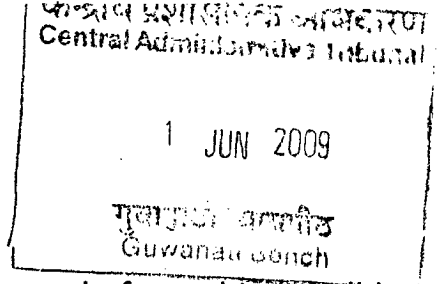
The humble answering respondent submit their written statement as follows :-

1. That, I am **D.V. PADUBIDAR** s/o  
**Late . V.S. PADUBIDAR** aged about **58 years**  
working as **Dy. CCA O/o CCA Assam Telecom Circle Guwahati** have been  
authorized to sign this written statement on behalf of respondents NO 1, 2 and 4  
vide letter No 103-56-SNG-STL, 2006 dated 16 Mar 2009 received from  
Department of Telecommunication, New Delhi regarding the above application. I  
have gone through a copy of the application served on me and have under stood  
the contents there of and also authorized to file the written statement on behalf  
of all the respondents. (Photocopy of the office letter No 03-56-SNG-STL-2006 on  
dated 16 Mar 2009 is annexed here as Annexure - I).

2. That with regard to the statement made in paragraphs 1 to 9 of the original  
application, the answering respondent do not offer any comment as because  
respondents NO 1, 2 and 4 has nothing to do in the application because all the  
applicants / petitioners are absorbed employee of BSNL. There fore all the issue  
pertain to BSNL only.

**असम दूरसंचार परिषद**  
**Assam Telecom Circle**  
**गुवाहाटी-781001**  
**Guwahati-781001**  
**Dy. C.C.A.**  
**O/o C.C.A.**  
**27/5/09**


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-2-



3. That therefore the answering respondent prayer before this Hon'ble Tribunal for deletion of the name namely Union of India, represented by the Secretary Department of Telecommunication, Ministry of Communication, Govt of India, New Delhi, The Deputy Director General (Estt) Ministry of Telecommunication, Department of Telecommunication, Govt of India, 20 Ashoka Road New Delhi - 01 and Secretary of the Government of India, Department of Personal & Training, New Delhi - 01 from the list of the respondent in the original application.

4. That this written statement has been made bonafied and for the ends of justice and Equity

" It is therefore humbly prayed before this Hon'ble Tribunal that the present application filed by the applicants may be dismissed or deletion of the name of respondent No 1,2 and 4 from the list of the respondent and / or pass such order or orders as your honour deem fit and proper"

  
उप नियन्त्रक संचार लेखा  
Dy. C.C.A. 23/5/09  
कार्यालय नियन्त्रक संचार लेखा  
O/o C.C.A.  
असम दूरसंचार परिमंडल  
Assam Telecom Circle  
गुवाहाटी-781001  
Guwahati-781001

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VERIFICATION

केन्द्रीय प्रशासनिक न्यायाधीश  
Central Administrative Tribunal

1 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

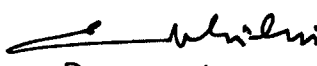
122

I Shri **S.V-PADUNIPATI**

at present working as

**Dy CCA o/o CCA Assam Telecom Circle Guwahati** and authorized to sign on behalf of all the respondent in the present OA and hence competent to sign this verification, do hereby solemnly affirm and state that the statement made in paragraphs 1 to 4 are true of my knowledge and belief those made in paragraph 1 being matter of records and true to my information derived there from 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 **27<sup>th</sup>** of May 2009 at **Guwahati**

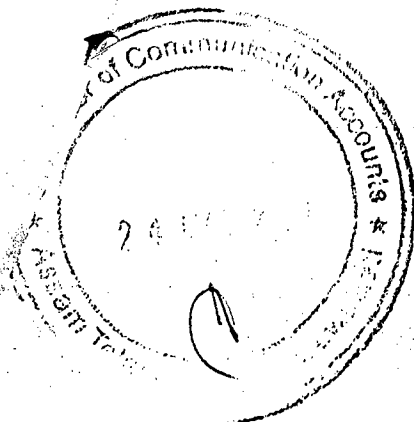
  
Deponent **27/5/09**  
उप निदेशक संचार लेख  
**Dy. C.C.A.**  
कापी. निदेशक संचार लेख  
**O/o C.C.A.**  
असम दूरसंचार परिमंडल  
**Assam Telecom Circle**  
गुवाहाटी-781009  
**Guwahati-781009**



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12/E

Anneane - I 123  
3/C



No.03-56-SNG-STL-2006

Government of India

Ministry of Communications and I.T.

Department of Telecommunications

20, Ashoka Road, New Delhi 110 001.

(STL Section)

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

1 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Dated 16 March, 2009

Dy CCA,  
O/o CCA  
Assam Telecom. Circle,  
BSNL, New Administrative,  
Building, 5<sup>th</sup> Floor,  
Guwahati 1

Subject OA No 31/2009 filed by Smt Nivedita Pathak & others Vs UOI & others.

Please refer to your office letter No. ASM/CCA/N Pathak /2008-09/02 dated 5<sup>th</sup> March 2009 regarding above mentioned subject. It is requested to defend the case on behalf of UOI/ Secretary(T),DOT by filing an application in the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in consultation with Government Counsel for deletion of the name of Secretary (T), DOT/UOI from the list of the Respondent as UOI has nothing to do in the case because all the petitioner are absorbed employee of BSNL. All the issues pertain to BSNL only.

Encl: As above

ADG (SNG) 16/3/09

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CAO/legal

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Filed by  
H.K. Gogoi  
Advocate  
7.8.2009

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

O.A.No.31 / 2009

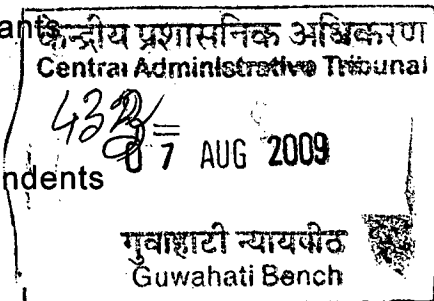
Smt. Nibedita Pathak & others

... Applicants কেন্দ্রীয় প্রশাসনিক আধিকারণ  
Central Administrative Tribunal

-vs-

Union of India & 9 others

... Respondents



**[WRITTEN STATEMENTS FILED BY THE  
RESPONDENT No. 5 to 10]**

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

1. That the copy of the above noted O.A. No. 31/2009 (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 all the respondents being common and similar, the written statements as filed herewith may kindly be treated as common to all of the respondents No.5 to 10.
2. That the statements made in the application, which are not specifically admitted by the respondents are hereby denied.
3. That the BSNL is a company registered under the Companies Act, 1956 with its Corporate Office at New Delhi and is a body corporate, which can sue or could be sued by its name. The Board of Directors is the highest authority to formulate any decision of the company or may pass any such order or direction within its power and

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authority, which is binding and final. The BSNL is a State within the meaning of Article 12 of the Constitution of India as the Central Government has the deep and pervasive control over its authority and function. This control of the Central Government over the BSNL is also provided by virtue of the Memorandum of Association and Articles of Association of BSNL. The article 145 read with Art.144 is another example of such control. The relevant portion of Article 145 is quoted below:

**"145. POWER OF PRESIDENT TO ISSUE DIRECTIVES**

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Notwithstanding anything contained in all these Articles but subject to the provisions of the Act, the President may from time to time issue such directives or instructions as may be considered necessary in regard to the conduct of business and affairs of the Company and in like manner may vary and annul any such directive or Instruction. The Board of Directors shall give immediate effect to the directives or Instructions so issued."

4. That with regard to the statements made in para 1 of the application the respondents state that the orders dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and 16.1.2009 impugned in the application are passed with due observance of provisions of law and authority and being free from any defect or illegality, does not suffer from any illegality or arbitrariness. Hence there is no cause of action to justify any interference by this Hon'ble Tribunal on such action of the authorities impleaded in the application. The application is liable to be dismissed with cost.

5. That with regard to the statements made in para 2 and 3 of the application the answering respondents have no comment to offer.
6. That with regard to the statements made in para 4.1, 4.2, 4.3 and 4.4 of the application, the answering respondents say that as per New Telecom Policy, 1999 the Government of India, Department of Telecommunications (DOT) vide Office Memorandum No. 2-31/200-Restg dated 30.9.2000 (as in ANNEXURE: 1 of the OA) decided to transfer the business of providing telecom services in the country entrusted with the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) to the newly formed company viz. Bharat Sanchar Nigam Limited (in short "BSNL") with effect from 1.10.2000. The company has been incorporated on 15.9.2000 as a Government company with limited liability by shares under the Companies Act, 1956, with its registered and Corporate Office in New Delhi. The company was issued certificate for commencement of business with effect from 19.9.2000 and accordingly the BSNL came into operation. By the Clause 2 of the OM dated 30.9.2000 the Government of India decided to carve out the Telecom Services and Telecom Operations from the DOT as a pre-cursor to corporatisation and took decision to transfer the business of providing Telecom Services to the newly set up company, viz., BSNL with effect from 1.10.2000. By the said provisions it was further provided that the Government has decided to retain the function of policy formulation, licensing, wireless spectrum management, administrative control of PSUs etc. For the said purpose the responsibility were entrusted on the DOT and the Telecom Commission. Accordingly, by Clause 3 of the said OM, all the assets and liabilities were transferred to the said company with effect from 1.10.2000. As per OM dated 30.9.2000 (as in ANNEXURE 1 in the OA) the DOT has reserved the right within

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its power to the extent of "issues of licensing" and "policy making" as provided under Clause 4 of the said OM. The Clause 5 of the said OM has provided that in respect of matters relating to personnel (Govt. servants) pending before various Administrative Tribunals, High Courts and Supreme Court, the company would defend and assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the company. The Clause 6 binds the BSNL with the responsibility that any judgment, order or award would be implemented in letter and spirit by the BSNL in accordance with rules, regulations, directions and statutes.

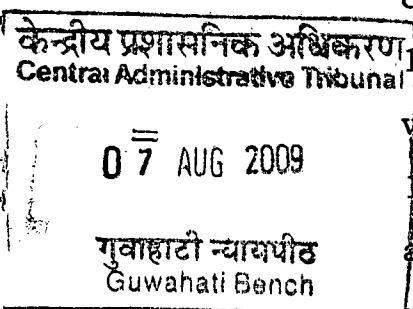
From the contents of the said OM dated 30.9.2000, nothing could be made out about the personnels like the applicants, who were undergoing pre-appointment training partly under the DOT and partly under the BSNL. The applicants were not in regular employment as no such letter of appointment was issued to them. They were not the "employees" to be considered under any rules, regulations, directions or statutes. By the minutes dated 2.1.2001 (as in ANNEXURE 3 of the OA) it has been provided that the existing Group C and D staff (employees) of the DOT would be absorbed in BSNL as provided under Clause 4 and that is to be done "as is where is basis". This was meant for only the existing Group - C and D employees already in employment against the substantive posts and discharging regular services unlike any other trainee. The applicants were sent for training and they were paid a meager amount of stipend and not any salary and allowances. However such process of absorption were subject to the application of existing rules/regulations as per the provisions of Rule 13B of the Standing Orders of the Industrial Employment Act, 1946. The Clause 9 of the said Minutes dated 2.1.2001 also provides that the

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employees who opt for permanent absorption in BSNL, would be governed by the provisions of Rule 37-A of the Central Civil Services (Pension) Rules, 1972 [referred to as the CCS (Pension) Rules] for which necessary notification has been issued by the Government of India, Department of Pension & Pensioners Welfare on 30.9.2000. Therefore, to come within the zone of consideration and to acquire the eligibility, the applicants required to show and prove first, that they were employees / Government servants as defined under and within the meaning of the Rule 2 of the CCS (Pension) Rules. But none of the applicants were eligible for such absorption as they did not fulfill the basic criteria as required under the said Rule 2 of the CCS (Pension) Rules. The crucial date for absorption of the existing employees / Govt. servants were fixed as 1.10.2000, i.e., the date on which the assets and liabilities were transferred by the DOT to the BSNL. This date of 1.10.2000 is so fixed to effectuate the process of absorption by giving the service benefits rather retrospectively. As on 1.10.2000, those who were in service being duly appointed against the substantive posts drawing regular pay and allowances as admissible under the Government of India were only eligible for such absorption. The applicants were not appointed into any service against any substantive post or services with payment of pay and allowances. They were undergoing training as on 1.10.2000 and were receiving a meager amount of stipend only. They were appointed by the BSNL against substantive post in the establishment of BSNL as direct recruit of BSNL. As such the very order of absorption in the form of Presidential Order was wrongly and illegally issued by misinterpretation of the rules and instructions issued / connected for absorption. The inadvertent mistake committed at the instance of some



officials of the DOT were however detected subsequently and as a result, a policy decision has been taken by the DOT to revoke / cancel the said wrong and illegal Presidential Orders by which the order of absorptions of the applicants were issued with effect from 1.10.2000. Accordingly the correct Presidential Orders have been issued thereby canceling the order of absorption of the applicants wrongly considering them as existing employee of the DOT, although they were direct recruit employees of the BSNL much after the crucial date of 1.10.2000. Hence this application is filed baselessly and the same is liable to be dismissed. The respondents BSNL crave the leave of this Hon'ble Tribunal to allow them to rely upon all such OM, Circulars and Rules and Guidelines including the New Telecom Policy, 1999, the Memo of Association and the Article of Associations of the BSNL at the time of hearing of the case.

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That with regard to the statements made in para 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11 and 4.12 the answering respondents state that the recommendation date 29/30<sup>th</sup> December, 1999 and letter dated 31.12.1999 are nothing but approval of candidates for appointment on compassionate ground against future vacancies. The necessary vacancies were created as supernumerary post subject to adjustment against future regular vacancies likely to occur by retirement, death etc. Thereafter by communication dated 27.4.2000 it was also made clear that for the approved candidates for appointment on compassionate ground a pre-appointment training is a must, while there is no such provisions for appointment against Group - D posts. Successful completion of such pre-appointment training is a condition precedent for appointment to follow. Accordingly the process went on

including verification of documents, certificate etc. and then the training of the applicants for Group 'C' posts started with effect from 24.7.2000 for 3 months. After the completion of 3 months training, the letters of appointment were issued by the BSNL to the applicants, which were issued on 23.10.2000 and 25.10.2000 as the case may be with scale of pay fixed by the said letters of appointment. From the said letters of appointment issued by the BSNL it is explicit on such records that the applicants were direct recruit employee of BSNL, the BSNL being the employer and the applicants being the employees of BSNL. The jural relationship under the service jurisprudence is very clear that the BSNL and the applicants have the relationship of employer and employee. The appointment letters have been issued much later then the crucial date of 1.10.2000 by which the effect of all the Presidential orders of absorption have been issued. The condition stated in the appointment letters that the claim for permanent absorption will be considered in accordance with the Departmental rules in force. This condition was fixed in the appointment letters issued by the BSNL to the directly recruited applicants. This condition is grossly erroneous as to how the question of absorption in BSNL may arise when the applicants were appointed by the BSNL as direct recruit of BSNL. This happened due the on going process of transformation and transit from DOT to BSNL as the instructions and regulating law was not forthcoming immediately and the officers required to work in haste in such situation of change. This situation led to such mistake. This mistake has led to the commission of the second mistake in issuing the Presidential Orders subsequently on 23.10.2000 / 25.10.2000. As apparent on record the Initial Presidential Orders issued in respect of the applicants were erroneous

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and not supported by any fact or law to show that the applicants were by any stretch of imagination were to be considered as the employee of DOT. That being the ground reality, the Presidential Orders showing the applicants as DOT employees absorbed in BSNL is grossly illegal, erroneous, which required to be corrected, which has accordingly being done by revoking the same by another Presidential Order. For the reasons as stated above, the subsequent Presidential Orders cannot be said to be illegal, arbitrary, or vitiated by any illegality. The law is well settled that illegal act cannot be allowed to be perpetuated. It is also well settled that no mandamus could be issued to refrain from enforcing law or to act contrary to law. Similarly it is also settled position that court shall not legitimized illegal acts of officers. The beneficiary of wrong act cannot claim protection under the law.

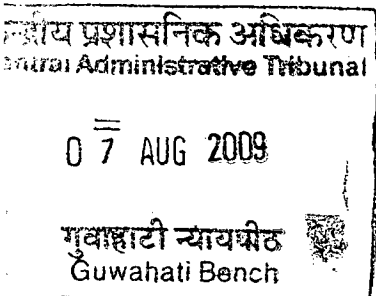
8. That with regard to the statements made in para 4.13 of the application the answering respondents state that the Presidential Orders issued in respect of the applicants were issued wrongly and illegally and the same are void ab initio. The Presidential Orders issued in favour of the applicants were based on the provisions of Rule 37A of the CCS (Pension) Rules, 1972. As stated hereinabove, such orders can be issued lawfully only in cases where the illegibility criteria as fixed by Rule 2 and other Rules of the CCS (Pension) Rules are fulfilled. The Rule 2 of the said Rules provides that the CCS (Pension) Rules shall apply to Government servants appointed substantively to Civil Services and posts in connection with the affairs of the Union, which are borne on pensionable establishments. The said Rule 2 excludes application inter alia to persons entitled to the benefit of a contributory Provident Fund.

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The applicants were not appointed substantively to Civil Services on or before 1.10.2000. They were also entitled to become member of the contributory Provident Fund as adopted by the BSNL after 1.10.2000 or from the date of their appointment against substantive posts with the scale of pay. The Rule 3(b), 3(e) and 3(rr) of the CCS (Pension) Rules provide for emoluments as defined in Rule 33 and Service Book of an employee / Government servant respectively. Rule 33 of the CCS (Pension) Rules defines emoluments, which means basic pay as defined in Rule 9(21) of the Fundamental Rules. Here the meaning of "pay" means the pay in the revised scales. But none of the applicants were paid any such emoluments in any scale of pay as emoluments as defined by law as above as on 1.10.2000. As they were not in appointment against any substantive post as on 1.10.2000, no service book was opened prior to their actual resumption of duty in service after 23.10.2000 / 25.10.2000 as indicated above. Therefore the provisions of the CCS (Pension) Rules were not applicable to the applicants including the Presidential orders issued under Rule 37A of the said Rules. Rule 13 of the CCS (Pension) Rules also provides that the qualifying service of a Govt. servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity. The Rule 14 also provides that service of Govt. servant shall not qualify unless his duties and pay are regulated by the Government or under conditions determined by the Government. The Rule 14(2) of the said Rules defines service as service under the Government and paid by that Government from the Consolidated Fund of India or a Local Fund administered by that Government but does not include service in a non-pensionable establishment unless such service is treated as qualifying



service by that Government. It is further provided under this Rule 14 that nothing contained in this sub-Rule shall apply to any such Government servant who is appointed otherwise than by deputation to a service or post to which this Rule apply. In this case the applicants took charge of the post on their first appointment only after 23.10.2000 / 25.10.2000, which is much later than 1.10.2000, the date from which the protection given by the Presidential orders to the applicants were given effect to. As provided under Rule 14 of the said Rules, the service and the pay were not regulated by the Government / DOT as they were not in service receiving any pay as provided by the said Rules. Hence the absorption of the applicants and the protections provided to them by the Presidential Orders cannot sustain in law and accordingly the same has been revoked / canceled. The Rule 37 of the said Rules also provides that a Government servant may be permitted to be absorbed in service or post under a corporation or company wholly or substantially owned and controlled by the Central Government and he shall be deemed to have retired from service from the date of such absorption. But in the instant case none of the applicants could be defined as Government servant on the effective date of absorption, i.e., 1.10.2000 on which they were only trainees

undergoing training for which they were paid some amount of stipend. In such case the date of absorption shall be the date on which the employee actually joins that corporation or company or body. In this case the question of such deemed retirement of the applicants cannot be even imagined as they were not even appointed in any service or post. The Rule 37A of the CCS (Pension) Rules, which are the regulating Rules in this instant case defines various terms and conditions for payment of pension on absorption consequent upon conversion of a Government

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Department into a Central Autonomous Body or a Public Sector Undertaking (here BSNL is PSU). The Rule 37A(1) provides for en-masse transfer of all the Government servants on conversion of a Department of the Central Government into a PSU or an autonomous body on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking or body as the case may be and such transferred Govt. servants shall be absorbed in the PSU or autonomous body with effect from such date as may be notified by the Government. In so far as this case is concerned, the notification was duly issued vide OM dated 30.9.2000 as in ANNEXURE: 1 in the OA. The Clause 5 of the said OM provides that the matter relating to personnel (Govt. servants) pending before various courts or Tribunals shall be defended by the BSNL as per existing rules till the time employees are on deemed deputation with the company. Here as explained above, none of the applicants were employees of the DOT and consequently they were not under any deemed deputation. Therefore the applicants were not entitled to be absorbed in BSNL as existing employees of the DOT under any provision of law. The status of the employees remain as the trainees as they were in DOT and on transfer of the assets and liabilities through the operation of the said OM dated 30.9.2000 on as is where is basis. They were issued the letters of appointment by the BSNL as direct recruit on completion of training and they were employee for the first time in BSNL, not in DOT. The answering respondents crave the leave of this Hon'ble Tribunal to kindly allow them to rely upon and refer to the provisions of Rule 37 and 37A of the CCS (Pension) Rules at the time of hearing of the case. The photocopies of the said Rule 37 and 37A are also annexed to this Written Statements, which may be treated as the

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integral part of this written statements in order to avoid repetition and for the sake of brevity. The most relevant portion of the Rule 37A sub-Rule 21 to 24 are quoted herein below:

“(21) Nothing contained in sub-rules (12) to (20) shall apply in the case of conversion of the Department of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government.

(22) For the purposes of payments of pensionary benefits including family pension referred to in sub-rule (21), the Government shall specify the arrangements and manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.

(23) The arrangements under sub-rule (22) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government service for absorption in Bharat Sanchar Nigam Limited and shall not apply to the employees directly recruited by the Bharat Sanchar Nigam Limited for whom it shall devise its own pension scheme and make arrangements for funding and disbursing pensionary benefits

(24) Upon conversion of a Government department into a public sector undertaking or autonomous body -

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their

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absorption in the public sector undertaking or autonomous body shall, with the consent of such undertaking or body, be transferred to the new Provident Fund Account of the employees in such undertaking or body, as the case may be;

- (b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking or body, as the case may be;
- (c) the dismissal or removal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the undertaking or body shall be subject to review by the Ministry administratively concerned with the undertaking or body".

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As explicit from the above quoted rules, the applicants are excluded from the process of absorption through the Presidential order. The applicants are directly recruited employees of BSNL and hence they will not be entitled to protection of payment of pensionary benefits as provided under sub-Rule (22) read with sub-Rule (23) of the said Rules. Sub-Rule (23) also makes it clear that the arrangement of absorption from DOT to BSNL shall apply to the existing pensioners and to the employees, who are deemed to have retired from the Government service for absorption in BSNL. The applicants were neither existing pensioners nor employees of the DOT on the crucial date

of 1.10.2000. It is needless to state here that after the commencement of business, the BSNL has adopted / covered by the provisions of the Employees' Provident Fund and Misc. Provisions Act, 1952 and the other Schemes like the Employees' Provident Fund Scheme, 1952, Employees' Pension Scheme, 1995 etc. with effect from 1.10.2000 for those employees, who are directly recruited by the BSNL and the relationship of employer and employee so created as defined under the said Act and the Schemes. These statutory provisions cannot be interpreted otherwise to frustrate or defeat the very object and reason of the said Provident Fund Act and the Schemes. The sub-Rule (24) provides that upon conversion of a Government department into a PSU like BSNL the balance of Provident Fund standing at the credit of the absorbed employees on the date of their absorption in the PSU be transferred to the new Provident fund account of the employees in such undertaking or body as the case may be. As apparent and as stated hereinabove, the

applicants were trainees only as on 1.10.2000, the crucial date of absorption. They were not in the acutance roll of the DOT nor they were paid any salary and allowances like all other existing employees of DOT. As they were not paid any salary and allowances but a fixed stipend only, no contribution towards Provident Fund was made. As such the provisions of sub-Rule 24(a) of the said Rules were also not applicable to the applicants. The provisions of sub-Rule (24)(b) also does not apply to the applicants as they were not appointed against any service or post on or before 1.10.2000 and their service book was not opened; the question of earned leave or any other leave did not arise at all for transferring such leave to the leave account of the absorbed employee. In that way also the application of provisions of Rule 37A read with sub-Rule (24)(b) did

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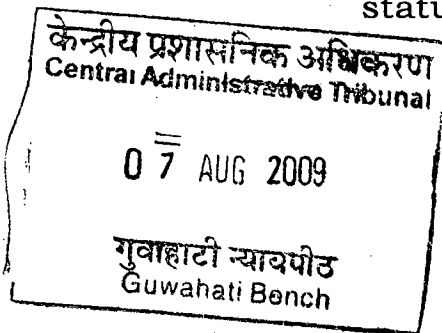
not arise. Amongst other the CCS (Leave) Rules, 1972 applies only to Government servants appointed in the Civil services and posts of the Union as provided under Rule 2 of the said Leave Rules. The Rule 3(d) defines completed year of service or one year continues service for the purpose of calculation of leave. The Rule 15 provides for leave account of each Government servant in prescribed Form No.2, which is appended to the service book. The Rule 16 provides for verification of leave account and admissibility at the time of granting of leave. Rule 26 provides for various kinds of leave due and its admissibility fixing the number of days of such admissibility to every Government servants. Rule 27 provides for method of calculation of earned leave etc. In that way also it is very much clear here that none of the applicants were Government servants as on 1.10.2000, nor their service book was opened along with Form No.2 maintaining the leave account. Therefore the Presidential order issued absorbing the applicants in BSNL as DOT employees were grossly irregular, illegal and void ab initio and the same is liable to be revoked / canceled, which has been done subsequently.

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From the copies of the Presidential Orders issued in favour of the applicants (as in ANNEXURE: 22 to 29 of the OA) it is an admitted fact that the same were issued under Rule 37A of the CCS (Pension) Rules thereby showing the applicants as permanently absorbed in BSNL from DOT. Under the terms and conditions that the permanent absorption shall be effective from 1.10.2000. The pensionary benefits including gratuity were made applicable as provided under Rule 37A of the said Rules. The payment of family pension were also made applicable as provided under Rule 54(13-B) of the said Pension Rules.



It was also provided that the earned leave and half pay leave at credit of the applicants stood transferred to BSNL on 1.10.2000 as provided under Rule 37A, sub-Rule 24(b). It was further provided that the amount of subscription together with interest thereon standing to the credit of the applicants in the General Provident Fund Account stood transferred to the new Fund Account in the BSNL as provided under Rule 37A, sub-Rule 24(a) of the CCS (Pension) Rules. The Presidential Orders were issued by the designated authority of DOT specially appointed for that purpose. From the aforesaid terms and conditions as explained hereinabove, none of the applicants were eligible for the benefits and protections as provided in the Presidential Orders. Therefore the Presidential orders suffer from inherent defect and illegality and the same are liable to be revoked / canceled, which has been done subsequently by issuing another Presidential order. The Presidential Orders are therefore void ab initio as the same were issued in total contravention of the provisions of statutory rules and guidelines.



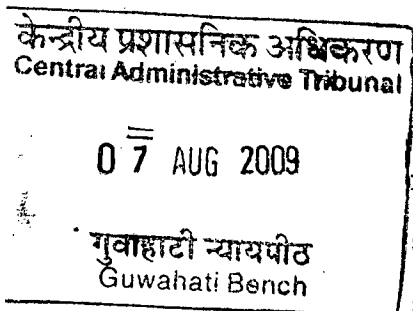
The copies of the Rule 37 and 37A of the CCS (Pension) Rules, 1972 are annexed as ANNEXURE: R1

9. That with regard to the statements made in para 4.14 of the application the answering respondents beg to submit that the impugned letter dated 4.5.2007 was rightly issued as provided by law as explained hereinabove and the Presidential orders so issued were null and void in the eye of law. By mere influx of time no illegal action can attain the legal status, which is otherwise void ab initio. An illegal action or thing remains the illegal till the same is corrected and set right by subsequent action or by the

action of the court. Hence the impugned order dated 4.5.2007 has been rightly issued as the same is supported by provisions of law as explained hereinabove.

10. That with regard to the statements made in para 4.15 and 4.16 of the application the respondents submit that for the reasons as stated above, the authorities rightly issued the letter dated 21.6.2007 and also adopted appropriate steps to set right the erroneous action to show as absorption of the applicants in BSNL while they were already direct recruit employee of the BSNL. The respondents makes it clears that in their letter dated 24.8.2007 the provision of FR 17A was wrongly inserted / typed which should have been as FR 17(1) only. Therefore there was nothing wrong in holding the legal proposition as provided under FR 17(1) and (2).

11. That with regard to the statements made in para 4.17 of the application the respondents state that as stated hereinabove, the BSNL was created and set up as a matter of policy to corporatise the telecom services and operations and as a process of corporatisation, the assets and liabilities of the erstwhile DOT was transferred to the newly set up BSNL. As a part of said process the existing staff / Government servants already working against the substantive posts were also transferred as is where is basis to be in deemed deputation in BSNL till they were absorbed. The cases of personnels, who were undergoing pre-appointment training were also allowed to continue their training without any change and after completion of training they were appointed by the BSNL as direct recruit. The whole process of conversion of a Government department, i.e., DOT into a Public Sector Undertaking (PSU) as a body incorporated, the transfer of assets and



liabilities, the personnels / servants and their conditions of service, change of service conditions, selection and appointment, creation and abolition of posts etc. are nothing but matter of policies of the Government within the exclusive domain of the State. In such policy matter of the Government the court or the Tribunal has nothing to do with or to interfere subject to the limitations or restrictions envisaged in the Constitution of India. In the instant case, the applicants have nowhere shown if any of their legal or Fundamental Rights were infringed or attempted to be taken away by the so called impugned orders / actions in revoking the Presidential Orders canceling the permanent absorptions and the withdrawing the protections as stated therein by the subsequent Presidential Orders by due observance of law and procedure. In this connection the law is well settled by the Hon'ble Supreme Court as in **"P.U. Joshi & others -vs- Accountant General, Ahmedabad & others etc."** reported in (2003) 2 SCC 632 that the "questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation / abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations and restrictions envisaged in the Constitution of India and it is not for the statutory tribunal, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition / subtraction the qualifications, eligibility

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criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classifications, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadre / categories of service, as may be required from time to time by abolishing the existing cadres / posts and creating new cadre / posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State

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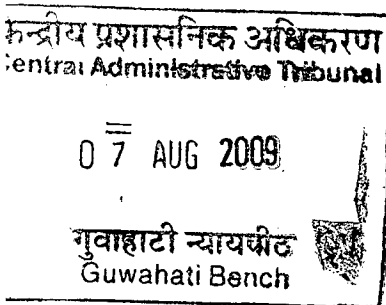
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to amend, alter and bring into force new rules relating to even an existing service." Therefore the action of the respondents in revoking the earlier Presidential orders by changing the conditions of service cannot be faulted with as there is no violation of any legal rights accrued or conferred to the applicants under any provisions of law.

12. That with regard to the statements made in para 4.18 of the application the answering respondents state that the statements made in this para are incorrect and misleading. The pre-appointment training is a condition precedent to the eligibility criteria for appointment. It is also not a fact that the training period is counted for grant of increment. In this connection the respondents further state that mere fact of completion of selection process and action initiated to sent for training by the DOT, which was allowed to continue when the BSNL took over the assets

and liabilities from the DOT as assign and successor, cannot give rise to any right in favour of the applicants. The BSNL however as a matter of policy and as assign and successor considered the appointment of the applicants as direct recruit as provided by law. The action of the respondents BSNL and the policy decision taken by the DOT in conformity with the provisions of Rule 37A sub-rule (23) does not suffer from any legal defect; hence the allegations made in this paragraph cannot sustain in law.

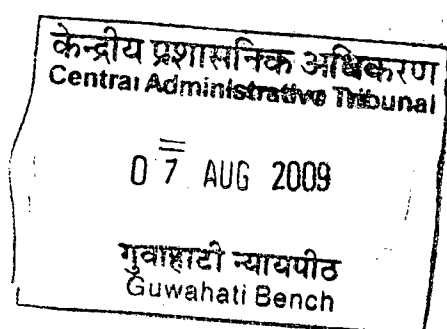
13. That with regard to the statements made in para 4.19, 4.20 4.21 and 4.22 of the application the answering respondents beg to state that the applicants apprehending revocation / cancellation of the Presidential Orders showing them as absorbed employee of DOT in BSNL, approached the Hon'ble High Court through a writ petition, in which the rule was issued on 14.7.2008. There was no stay / injunction / restraint against the respondents. While the writ proceeding was pending in the High Court, the Government of India issued a notification thereby conferring the jurisdiction of court cases of service matter was conferred on the Central Administrative Tribunal as provided under Section 14(2) and (3) of the Administrative Tribunal Act, 1985. At the stage the authorities of DOT and the BSNL took a decision to issue notice to the applicants thereby affording them a chance to justify their claim and rights and also directed them to explain as to why the Presidential orders issued in their favour should not be revoked / cancelled. The said notice was duly served on them but the applicants failed to come with any reply / show cause to justify their claim and rights. For example, two such notices issued to two of such applicants, namely, Smti. Nibedita Pathak and Smti. Punam Sonwar vide No.STES-BSNL/Assam/2-58/06-



07/Pt-II/68 dated 19.11.2008 and No.STES-BSNL/Assam/2-58/06-07/Pt-II/65 dated 19.11.2008 are filed herewith. The respondents crave the leave of this Hon'ble Tribunal to place and to rely upon on all such copies of notices issued to all the applicants at the time of hearing of the matter. Subsequently the writ petition was closed with the liberty to the applicants to approach the appropriate forum and hence this OA. As the applicants failed to give reply to justify their claim, the respondents DOT issued the order of revocation / cancellation of the Presidential Orders by passing another Presidential Order on 16.1.2009 (as in ANNEXURE: 37 of the OA). The ANNEXURE: 37 order is very speaking and clear and does not suffer from any legal defect. Some of the authorities committed mistake in calling and accepting the options from the applicants by misinterpretation of the instructions and the legal provisions and as a result the illegal Presidential Orders were issued by showing the applicants as DOT employees absorbing in BSNL. Such mistake inadvertently committed cannot take the place of law or the same cannot be allowed to stand in derogation of the legal provisions. If such illegal orders are allowed to continue, this would cause irreparable loss and injuries to the respondents both DOT and the BSNL. Therefore it became a bounden and legal duty of the respondents to revoke the said Presidential Orders by another Presidential Order. Seeking of permission from the court for issuing the second Presidential Orders revoking the earlier Presidential Orders does not arise at all as due notices were issued to the applicants and the applicants even on receipt of such notices regarding the cancellation of earlier Presidential orders kept silence and such notices were never questioned in any forum nor the same was duly replied. Therefore the applicants are estopped from raising

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such issues at this stage and they cannot be allowed to approbate and reprobate their stand at the same place. The cancellation of Presidential Orders is an executive action of the State relating to the change of service condition of the applicants. Such action of the State / executive followed from the policy decision cannot be faulted with under any legal provision. The modification / cancellation of the service conditions and Presidential Orders is carried out strictly as per provisions of law as explained hereinabove and the same cannot be termed as termination of services or downgrading in rank of the applicants. Mere lapse in time, an illegal order / action cannot attain the status of law. The payment so made by mistake or by illegal action can be recovered at any stage from the employee if he is not entitled by law to get such payment. But in so far as the question of recovery of GPF amount is concerned, it cannot be said to be a recovery in the sense that such amount would go to the deposit account of the applicants under contributory Provident fund account standing in their own name with interest. This is made clear in the order of revocation dated 16.1.2009.



The copies of the said notice dated 19.11.2008 are annexed as ANNEXURE: R2 and R3.

14. That with regard to the statements made in para 4.23, 4.24 and 4.25 of the application the answering respondents state that the moot question arising in this application strictly pertains to matter related to Rule 37A of the CCS (Pension) Rules. This CCS (Pension) Rules are statutory Rules framed under Article 309 of the Constitution of India. Amongst other, the sub-rule (23) of

the Rule 37A is clear and specific. Therefore nothing under the CCS (Pension) Rules, 1972 is applicable to the applicants as they are direct recruit of the BSNL. The matter of their pensionary benefits etc. is covered by the provisions of the Employees' Provident Fund and Misc. Provisions Act, 1952 read with Employees Provident Funds Scheme, 1952 and Employees Pension Scheme, 1995 and Employees' Deposit Link Insurance Scheme, 1976 etc. The BSNL has already been taken into coverage under the said PF Act by applying the provisions of the said Act and the Schemes framed under the said Act from 28.11.2000 making it applicable to the BSNL in India as a whole as an establishment falling under the Employees' Provident Fund and Misc. Provisions Act, 1952 and the Provident Fund Code, vide **CODE NO.DL / 25366**, has been issued to them as required by law. These provisions of Provident Fund Act and the Schemes framed thereunder has been made applicable to the direct recruit employees of the BSNL. The respondents say that the claim of the applicants, as stated in OA, that during the training period the employees were paid salary/pay is baseless, false and misleading statements as they were paid only training allowances. Therefore the question of reckoning the training period towards qualifying service of an employee cannot be raised here as allegedly settled by the Hon'ble Supreme Court. The provisions of Rule 22 of the CCS (Pension) Rules also, therefore, cannot be applied in the case of the applicants. The Government of India executive order dated 2.12.1983 also does not apply in this peculiar case of the applicants as such executive order cannot override the legal provisions of the statutory rules framed, like the CCS (Pension) Rules, 1972. Therefore the Presidential Orders have been rightly issued

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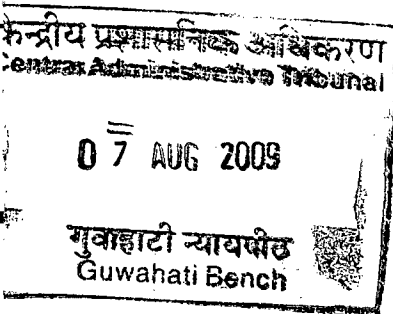
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on 16.1.2009 by revoking the said illegal order of absorption.

As stated hereinabove, although the applicants were selected for compassionate appointment and sent for training by the DOT, the policy decision is taken by DOT to corporatise certain services and operations of the DOT and the company BSNL was set up in order to fulfill such objective as emancipated in the New Telecom Policy, 1999 of the Government of India, it became incumbent on the part of the DOT / BSNL by virtue of Memorandum of Understanding and the Office Memorandum issued in that behalf and through the operation of law in addition to the executive power and authority of the State, the applicants were allowed to continue as trainee in BSNL followed by issue of appointment letter only by BSNL independent of DOT. The BSNL is a body corporate having the highest authority vested in Board of Directors. The BSNL is distinct, independent and a separate legal entity distinct from the DOT. Therefore the Government of India / DOT cannot be placed at the same pedestal with the BSNL for any purpose of intent except the authority of control as provided by law. The letters of appointment have been issued to the applicants by the BSNL while they successfully completed the required training. Unless an employee is duly appointed against a substantive post / service, no service benefit or the condition of service accrue as a right on such employee before appointment. Here in this case, the applicants, as admitted by them, have been appointed by the BSNL and not by the DOT. So right of any kind relating to their service and service conditions would flow from the rules and regulations that are applicable to BSNL. They were appointed much later than 1.10.2000, the crucial date from which the BSNL



came into operation. The CCS (Pension) Rules, therefore, has no application in the case of applicants. The Presidential orders showing them absorbed in BSNL under Rule 37A was therefore void ab initio, which has been subsequently revoked by another Presidential Order dated 16.1.2009. The respondents respectfully submit that for the reasons stated, the alleged impugned letters dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and 16.1.2009 are issued strictly in accordance with law and therefore they can sustain in law.

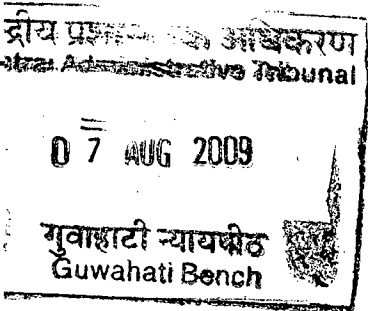
15. That with regard to the statements made in para 4.26, 4.27 4.28, 4.29, 4.30, 4.31 and 4.32 of the application the answering respondents state that as stated hereinabove, the order dated 16.1.2009 has been issued with prior notice to the applicants by affording them due opportunity to justify their claims. But the applicants failed to respond to the said notices and therefore the issue of Presidential order dated 16.1.2009 cannot be said to be vitiated by rules of natural justice or violation of provisions of Article 14 of the Constitution of India. The action of the respondents also cannot be termed as malafide as there is no proof to show of such malice nor any respondent impleaded eo nomine. The respondents reiterate and reassert here that in terms of sub-rule (23) of Rule 37A of the CCS (Pension) Rules, the CCS (Pension) Rules excludes the employees like the applicants from its operation. As such no such claim can sustain in law. The respondents also respectfully submit that by putting reliance on the false and misleading averments made by the applicants that the applicants were not given any notice before issue of order dated 16.1.2009, this Hon'ble Tribunal was inclined to stay the operation of the order dated 16.1.2009. For the reasons stated above and that the

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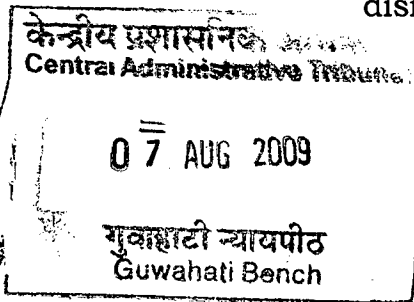
order dated 16.1.2009 were preceded by a notice duly served on the applicants, the said order of stay dated 25.2.2009 passed by this Hon'ble Tribunal is liable to be vacated / modified or altered with immediate effect. In this connection the respondents submit that the law is well settled that the court or the Tribunal shall not interfere in matters pertaining to policy decision involving expenditure. In this case huge money from the State exchequer is involved. Regarding the claim of equality before law and equal protection of law as in the case of compassionate appointment to Gr. - C and D is concerned, the Gr. - C and D cannot be considered to be similarly situated. For the appointment in Gr. - C pre-appointment successful training is a necessary pre-condition while there is no such condition in case of Gr. - D. The pay scale, service conditions, eligibility criteria / qualifications, responsibilities are also different between the said two groups. By applying the doctrine of Intelligible differentia, the Gr. - C employee in this case, who were appointed after 1.10.2000 that too by the BSNL cannot be placed similarly with the Gr. - D employees, who were appointed much earlier to 1.10.2000 by the DOT. The appointing authorities are two distinct, independent and separate authorities.



16. That with regard to the statements made in para 5.1 to 5.7 of the application the answering respondents state that the grounds for relief as stated by the applicants are no ground to sustain in law as the same are negated as hereinabove. There is no violation of rules of natural justice as alleged. The Gr. - C and Gr. - D are two separate classes by themselves. Therefore there is no violation of provisions of Article 14 and 16 of the Constitution of India. The OM issued by the Government

of India has no application in the case of the applicants as they were never Government servants within the meaning of CCS (Pension) Rules or the CCS (Leave) Rules and as clarified by sub-rule (23) of Rule 37A of the CCS (Pension) Rules. Mere lapse of time cannot give legal sanction to illegal action or order, which is derogatory to the provisions of law, nor such illegal action can take the place of law.

17. That with regard to the statements made in para 6, 7, 10, 11 and 12 of the application the answering respondents have no comments to offer except the fact that the applicants have once again suppressed the fact of filing the writ petition in the High Court as per statement made in para 7.
18. That with regard to the statements made in para 8.1, 8.2, 8.3 and 9 of the application the answering respondents state that under the facts and circumstances of this peculiar case and the provisions of law, the respondents respectfully submit that the applicants are not entitled to any such relief as prayed for. For the reasons as stated in this written statements, the interim order of stay 25.2.2009 is also liable to be vacated immediately as the same has been passed without hearing the respondents and on the basis of false and misleading statements of non-issue of notice prior to issue of the order dated 16.1.2009. Therefore the application is liable to be dismissed with cost.



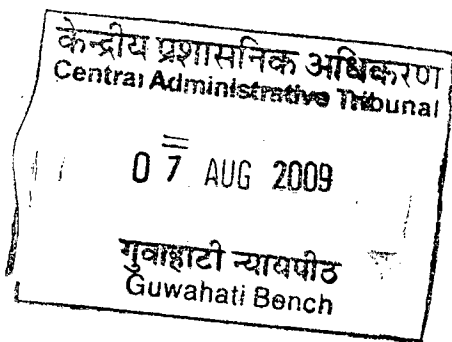
In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall also be pleased to dismiss the application with cost.

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**VERIFICATION**

I, Shri N. K. Rabha s/o Late Motilal Rabha,  
at present working as Asstt. General Manager (Admn)  
in the office of the Chief General Manager, Telecom, Assam  
Circle, Administrative Building, BSNL, Guwahati - 1, being  
competent and duly authorized to sign this verification do  
hereby solemnly affirm and state that the statements made in  
para 1 to 7, 9 to 12, 14 to 18 are true to  
my knowledge and belief, those made in para  
8 and 13 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 31st day of July, 2009 at  
Guwahati.



N. K. Rabha

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

the close of the previous working day on the analogy of Government of India's Decision No. (3) below Rule 78 of the General Financial Rules. Therefore, the actual relinquishment of charge of office should be made in the prescribed form on the last day of service for which the physical presence of the officer in the office need not be insisted upon. [G.I.M.F., O.M. No. 19050/8/76-E IV(B), dated 21st February, 1977].

36. Retiring pension.—A retiring pension shall be granted,—

- (a) to a Government servant who retires, or is retired, in advance of the age of compulsory retirement, in accordance with the provisions of <sup>1</sup>[ ] Rule 48 <sup>2</sup>[or 48-A] of these rules, or Rule 56 of the Fundamental Rules or Article 459 of the Civil Service Regulations ; and
- (b) to a Government servant who, on being declared surplus, opts for voluntary retirement in accordance with the provisions of Rule 59 of these rules.

#### GOVERNMENT OF INDIA'S ORDERS

(1) Date of effect.—The orders regarding retirement on the last day of the month will not apply to the cases of premature retirement. [D.G., P. & T. Letter No. 135/53/SPB II, dated 16th October, 1975].

<sup>3</sup>[37. Pension on absorption in or under a corporation, company or body.—(1) A Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Body controlled or financed by the Central Government or a State Government shall be deemed to have retired from service from the date of such absorption and subject to sub-rule (3) he shall be eligible to receive retirement benefits if any, from such date as may be determined, in accordance with the orders of the Central Government applicable to him].

Explanation.—Date of absorption shall be—

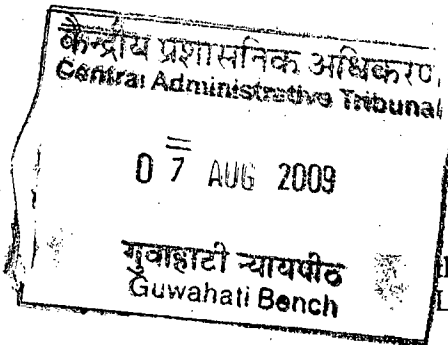
- (i) in case a Government employee joins a corporation or company or body on immediate absorption basis, the date on which he actually joins that corporation or company or body;
- (ii) in case a Government employee initially joins a corporation or company or body on foreign service terms by retaining a lien under the Government, the date from which his unqualified resignation is accepted by the Government.

(2) The provisions of sub-rule (1) shall also apply to Central Government servants who are permitted to be absorbed in joint sector undertakings, wholly under the joint control of Central Government and State Governments/Union

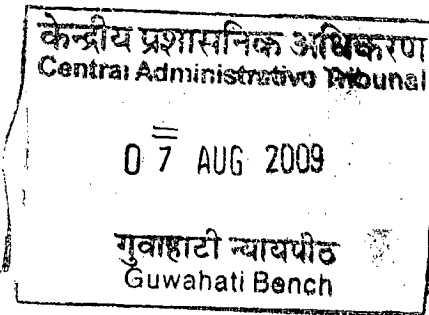
1. Deleted by Noti. No. 6(1)Pen. A/80, dated 30.7.1981.
2. Ins. by Noti. No. 7(2)-E., V(A)73, dated 28.11.1978.
3. Subs. by G.I., Dept. of P. & P.W., Notification No. 4/42/91-P. & P.W., (D), dated the 25th June, 1997, published as S.O. No. 1775 in the Gazette of India, dated the 19th July, 1997.

Certified to be true Copy.

Hemanta Kr. Gogoi  
Advocate



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Territory Administrations or under the joint control of two or more State Governments/Union Territory Administrations.

(3) Where there is a pension scheme in a body controlled or financed by the Central Government in which a Government servant is absorbed, he shall be entitled to exercise option either to count the service rendered under the Central Government in that body for pension or to receive *pro rata* retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

*Explanation.*—Body means Autonomous Body or Statutory Body.]

#### GOVERNMENT OF INDIA'S ORDERS

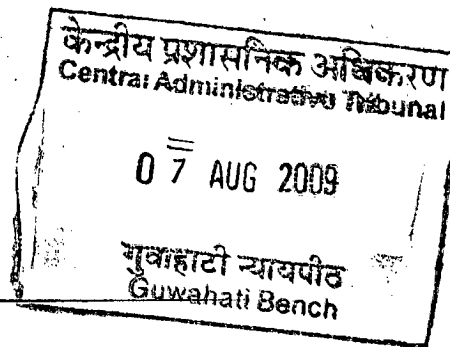
Settlement of Pensionary terms in respect of Government employees transferred to autonomous Organisations/Public undertakings consequent on the conversion of Government Department/Office into an autonomous body or public undertaking.—The undersigned is directed to invite a reference to this department's O. M. of even number, of 13th January, 1986 on the subject mentioned above and to say that the question of pensionary liability of the Government by the newly established organisation. Transfer of Provident Fund balances and carry-forward of leave in respect of the service of the Government before their transfer to the organisation have been examined in the Department of Pen. & Pensioners Welfare and the following decision have been taken:

- (i) The Government will discharge its pensionary liability by payment in lump sum as one time payment, the *pro rata* pension/service gratuity/terminal gratuity and DCRG for the service upto the date of transfer of Government servants from a Government department to the autonomous body/undertaking on its conversion as such. Lump sum amount of the *pro rata* pension will be determined with reference to the commutation table, laid down in the C.C.S. (Commutation of Pension) Rules, 1981, as amended from time to time.
- (ii) Carry-forward of leave will not be allowed in such cases. However, Earned Leave at the credit of Government servants at the time of transfer of an autonomous body/public sector undertaking on the conversion of a Central Government Department/Office as such may be allowed to be encashed subject to a maximum of 180 days. Half pay leave will stand forfeited.
- (iii) According to Explanation III below Rule 31 of the General Provident Fund Rules and corresponding Rule 33 of Contributory Provident Fund Rules (India), 1962 which provides that when a subscriber is transferred without any break, to service under a body corporate owned or controlled by Government the amount of subscription together with interest thereon shall not be paid to him but shall be transferred with the consent of that body, to his new Provident Fund Account under that body.

It has been, however, decided that in cases where the Corporate Bodies do not have any Provident Fund Scheme or whose Provident Fund Rules do not

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provide for the acceptance of balance from other Provident Funds, the amount in question should be finally paid to the person concerned at the time of his transfer to such a body.

2. It has also been decided that no lien/quasi/permanent status of the Government servant concerned will be retained in his parent cadre. All his connections with the Government will be served on his release for appointment in the Public Undertaking/autonomous body consequent on conversion of Government Department/Office, and he will not be allowed to revert to his parent cadre. [G.I.M., of Pub. G. & Pen. (Dep'tt. of Pen. & Per W.) Memo No. 4 (8)/15-P. & P. W. P. dated 30th October, 1986].

<sup>1</sup>[37-A. Conditions for payment of pension on absorption consequent upon conversion of a Government department into a Central autonomous body or a Public Sector Undertakings.—

- (1) On conversion of a department of the Central Government into a public sector undertaking or an autonomous body, all Government servants of that Department shall be transferred en-masse to that public sector undertaking or autonomous body, as the case may be, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking or body, as the case may be, and such transferred Government servants shall be absorbed in the public sector undertaking or autonomous body, as the case may be, with effect from such date as may be notified by the Government.
- \* (2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the public sector undertaking or autonomous body, as the case may be.
- \* (3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.
- \* (4) The permanent absorption of the Government servants as employees of the public sector undertaking or autonomous body shall take effect from the date on which their options are accepted by the Government and on and from the date of such acceptance, such employees shall cease to be Government servants and they shall be deemed to have retired from Government service.
- (5) Upon absorption of Government servants in the public sector undertaking or autonomous body, the posts which they were holding in the Government before such absorption shall stand abolished.
- (6) The employees who opt to revert to Government service shall be redeployed through the surplus cell of the Government.

1. Ins. by S.O. No. 904(E), dated 30.9.2000 (w.e.f. 30.9.2000).



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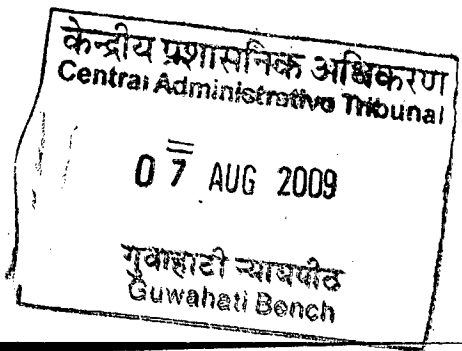
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- (7) The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the public sector undertaking or autonomous body, shall on and from the date of absorption, be governed by the rules and regulations or bye-laws of the public sector undertaking or autonomous body, as the case may be.
- (8) A permanent Government servant who has been absorbed as an employee of a public sector undertaking or autonomous body shall be eligible for pensionary benefits on the basis of combined service rendered by him in the Government and in the public sector undertaking or autonomous body in accordance with the formula for calculation of pension/family pension under these rules as may be in force at the time of his retirement from the public sector undertaking or autonomous body, as the case may be.
- (9) The pension of an employee under sub-rule (8) shall be calculated on the basis of his last ten months' average pay.
- (10) In addition to pension or family pension, as the case may be, the employees shall also be eligible to dearness relief as per industrial dearness allowance pattern.
- (11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the public sector undertaking or autonomous body.
- (12) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.
- (13) The Secretary of the administrative Ministry of the public sector undertaking or autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned public sector undertaking or autonomous body and their employees and experts in the relevant field to be nominated by the Central Government.
- (14) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustee.
- (15) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the *pro rata* pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the public sector undertaking or autonomous body.
- (16) The manner of sharing the financial liability on account of payment of pensionary benefits by the public sector undertaking or autonomous body shall be determined by the Government.



R. 37-A]

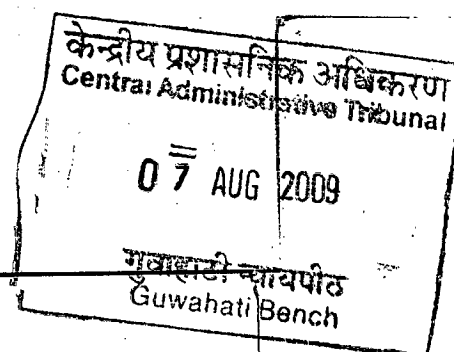
CENTRAL CIVIL SERVICES (PENSION) RULES, 1972

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- (17) Lump sum amount of the *pro rata* pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.
- (18) The public sector undertaking or autonomous body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking or body at the rates as may be determined by the Board of Trustees so that the pension Fund shall be self-supporting.
- (19) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the public sector undertaking or autonomous body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the public sector undertaking or autonomous body, as the case may be.
- (20) Payments of Pensionary benefits of the pensioners of a Government Department on the date of conversion of it into a public sector undertaking or autonomous body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.
- (21) Nothing contained in sub-rules (12) to (20) shall apply in the case of conversion of the Departments of Telcom Services and Telcom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government.
- (22) For the purposes of payments of pensionary benefits including family pension referred to in sub-rule (21), the Government shall specify the arrangements and manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.
- (23) The arrangements under sub-rule (22) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government service for absorption in Bharat Sanchar Nigam Limited and shall not apply to the employees directly recruited by the Bharat Sanchar Nigam Limited for whom it shall devise its own pension scheme and make arrangements for funding and disbursing the pensionary benefits.
- (24) Upon conversion of a Government department into a public sector undertaking or autonomous body—
  - (a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the public sector undertaking or autonomous body shall, with the consent of such undertaking or body, be transferred to

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- the new Provident Fund Account of the employees in such undertaking or body, as the case may be;
- (b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking or body, as the case may be;
  - (c) the dismissal or removal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the undertaking or body shall be subject to review by the Ministry administratively concerned with the undertaking or body.
- (25) In case of the Government disinvests its equity in any public sector undertaking or autonomous body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interests of the absorbed employees of such public sector undertaking or autonomous body.
- (26) The safeguards specified under sub-rule (25) shall include option for voluntary retirement or continued service in the undertaking or body, as the case may be, or voluntary retirement benefits on terms applicable to Government employees or employees of the public sector undertaking or autonomous body as per option of the employees, assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government."

#### GOVERNMENT OF INDIA'S ORDERS

(1) Lump sum and terminal benefits exempt from income tax.—See Appendix 18.

<sup>1</sup>[38. Invalid pension.—(1) Invalid pension may be granted if a Government servant retires from the service on account of any bodily or mentally infirmity which permanently incapacitates him for the service.

(2) A Government servant applying for an invalid pension shall submit a medical certificate of incapacity from the following medical authority namely :—

- (a) a Medical Board in the case of Gazetted Government servant and of non-Gazetted Government servant whose pay, as defined in Rule 9 (21) of the Fundamental Rules, exceed <sup>2</sup>[two thousand and two hundred rupees] per mensem ;

1. Subs. by Noti. No. F. 19(3)-E. V(A)/74, dated 29.1.1976.  
2. Subs. S.O. No. 2388, dated 20.7.1988.

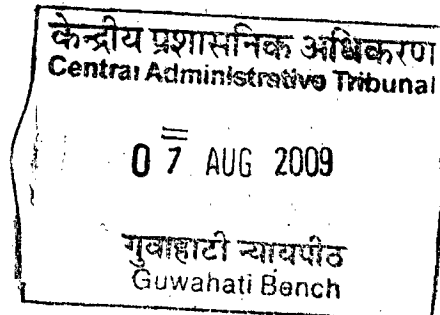
UNDER RECEIPT**GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS**

No. STES-BSNL/Assam/2-58/06-07/Pt-II/68

Dated at Guwahati the 19th Nov '08

To

Smt. Nivedita Pathak.  
Training section  
O/o the CGM, BSNL, Assam Circle  
Guwahati-1



Sub:- Presidential Order – Revocation thereof.

Madam,

You are aware that the Government of India as a matter of policy under the New Telecom Policy, 1999 set up the Bharat Sanchar Nigam Limited as a registered company under the Companies Act, 1956. Accordingly all assets & liabilities including the existing employees of the erstwhile Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) were transferred to the newly formed company Bharat Sanchar Nigam Limited (BSNL) w.e.f. 1<sup>st</sup> October, 2000 vide OM No. 2-31/2000-Restg. Dated 30<sup>th</sup> September, 2000. The existing employees were treated as employee on deemed deputation to the BSNL till they were finally absorbed in the BSNL. All employees were ultimately absorbed in BSNL on exercise of option individually in given format through a Presidential Order.

2. The Presidential Order was issued in respect of the employees who were employee of Department of Telecommunications (DOT) prior to 1<sup>st</sup> October, 2000 and not to any other employee.

3. That you were appointed as a fresh recruit by the BSNL vide appointment letter No. STES 10/8/Pt-II/95 dated, 23-10-2000 issued by the Competent Authority. Accordingly you joined in service on dated 23/10/2000.

4. But due to some misinterpretation of provisions of Government guidelines relating to absorption of existing employees of the erstwhile DOT to BSNL the Presidential Order as stated above was inadvertently issued to you which was not applicable in your case as you were never an employee of DOT.

5. That in view of the above facts & circumstances the Government of India has to take a decision to revoke the said Presidential Order showing you as absorbed employee in BSNL providing certain protection and benefits to which you are not entitled to as provided under Rule 37A and Sub Rule 24 (b) of the CCS (Pension) Rules, 1972.

Certified to be true Copy.

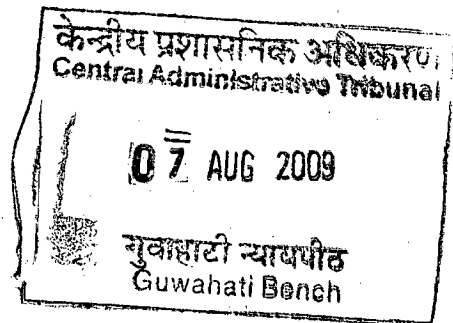
Hemanta Kr. Gogoi  
Advocate

You are therefore, hereby requested to show cause as to why the Presidential Order No.27-1/Assam/C.O/043/2001 dated, 02-01-02 issued to you should not be revoked / cancelled. You may submit your reply in writing within a period of 7 (seven) days from the date of receipt of this show cause notice and failing which it would be presumed that you have no objection against such revocation / cancellation of the Presidential Order.

(P.S. Bhattacharjee)  
Director (Estt.)  
DOT, Assam

Copy to :-

- (1). The Chairman cum Managing Director  
Bharat Sanchar Nigam Limited  
H.C. Mathur Lane, Janpath  
New Delhi - 110 001.
- (2). The Chief General Manager, BSNL  
Assam Telecom Circle, Guwahati.
- (3). The A.O(A&P), Circle Office/Guwahati - for necessary action.



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UNDER RECEIPT

**GOVERNMENT OF INDIA**  
**DEPARTMENT OF TELECOMMUNICATIONS**

No. STES-BSNL/Assam/2-58/06-07/Pt-II/65

Dated at Guwahati the 19th Nov '08

To

Smt. Punam Sonwar  
 O/o the GMTD, BSNL,  
 Kamrup Telecom District, Guwahati-1

Sub:- Presidential Order – Revocation thereof.

Madam,

You are aware that the Government of India as a matter of policy under the New Telecom Policy, 1999 set up the Bharat Sanchar Nigam Limited as a registered company under the Companies Act, 1956. Accordingly all assets & liabilities including the existing employees of the erstwhile Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) were transferred to the newly formed company Bharat Sanchar Nigam Limited (BSNL) w.e.f. 1<sup>st</sup> October, 2000 vide OM No. 2-31/2000-Restg. Dated 30<sup>th</sup> September, 2000. The existing employees were treated as employee on deemed deputation to the BSNL till they were finally absorbed in the BSNL. All employees were ultimately absorbed in BSNL on exercise of option individually in given format through a Presidential Order.

2. The Presidential Order was issued in respect of the employees who were employee of Department of Telecommunications (DOT) prior to 1<sup>st</sup> October, 2000 and not to any other employee.

3. That you were appointed as a fresh recruit by the BSNL vide appointment letter No. GMT/EST-27/RC/2000-2001/57 dated, 25-10-2000 issued by the Competent Authority. Accordingly you joined in service on dated 25/10/2000.

4. But due to some misinterpretation of provisions of Government guidelines relating to absorption of existing employees of the erstwhile DOT to BSNL the Presidential Order as stated above was inadvertently issued to you which was not applicable in your case as you were never an employee of DOT.

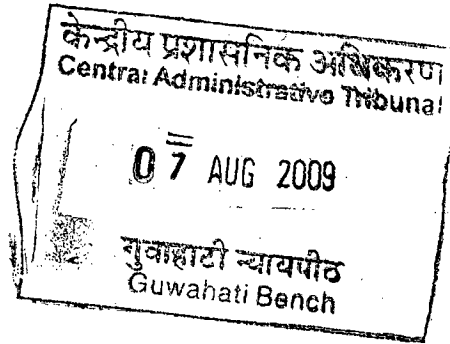
5. That in view of the above facts & circumstances the Government of India has to take a decision to revoke the said Presidential Order showing you as absorbed employee in BSNL providing certain protection and benefits to which you are not entitled to as provided under Rule 37A and Sub Rule 24 (b) of the CCS (Pension) Rules, 1972.

Page 1 of 2

Certified to be true Copy  
 Hemant Kr. Gogoi  
 Advocate

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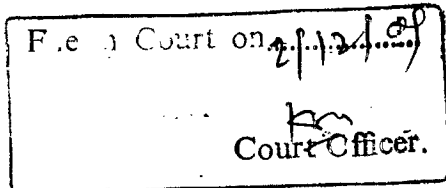


You are therefore, hereby requested to show cause as to why the Presidential Order No. 27-1/ASSAM/KAMRUP/0084/2001 dated, 16-01-02 issued to you should not be revoked / cancelled. You may submit your reply in writing within a period of 7 (seven) days from the date of receipt of this show cause notice and failing which it would be presumed that you have no objection against such revocation / cancellation of the Presidential Order.

(P.S. Bhattacharjee)  
Director (Estt.)  
DOT, Assam

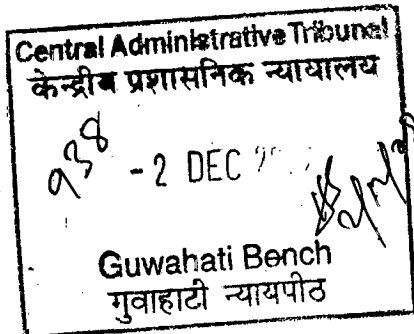
Copy to :-

- (1). The Chairman cum Managing Director  
Bharat Sanchar Nigam Limited  
H.C. Mathur Lane, Janpath  
New Delhi - 110 001.
- (2). The Chief General Manager, BSNL  
Assam Telecom Circle, Guwahati.
- (3). The GMTD, Kamrup - for necessary action.



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Filed by:  
The Applicant  
through  
Hidip & Co. Pvt. Ltd.  
Advocate  
2.12.09.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI



OA No. 31 of 2009.

Smt. Nivedita Pathak & ors.

**Applicants.**

- versus -

Union of India & ors.

**Respondents.**

REJOINDER TO THE WRITTEN STATEMENT FILED BY RESPONDENTS NO.

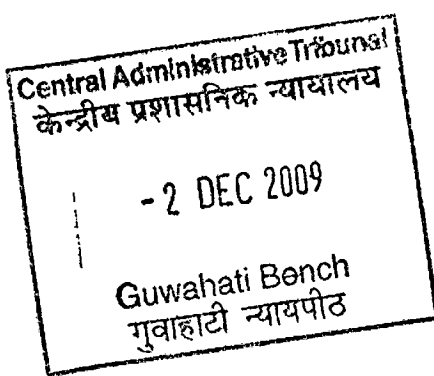
5 TO 10.

1. That the copy of the written statement filed by the respondents No 5 to 10 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 5 to 10 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 1 to 3 of the written statement, the deponent does not admit anything contrary to the relevant records of the case.

Nivedita Pathak



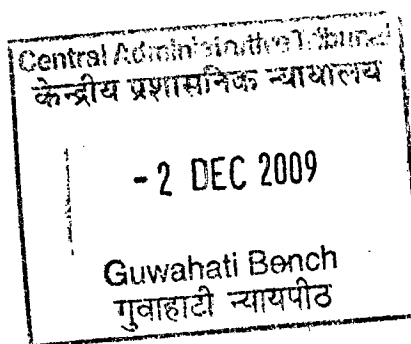


3. That with regard to the statement made in Para 4 of the written statement, the deponent while denying the statements made therein begs to state that the present OA has been preferred against the impugned orders dated 4.5.2007, 21.6.2007, 24.8.2007, 6.5.2008 and order dated 16.01.09. **(ANNEXURE: 30, 31, 34, 35 and 37 to the OA)**. The aforesaid impugned orders are the unique examples of arbitrary exercise of power by the respondent authorities. It is therefore the Hon'ble Tribunal may be pleased to pass necessary orders or directions granting relief to the applicants.

4. That with regard to the statement made in Para 5 of the written statement, the deponent does not admit anything contrary to the relevant records of the case.

5. That with regard to the statement made in Para 6 of the written statement, the deponent while denying the contentions made therein begs to state that the process of selection was initiated and done by the DOT, thereafter the applicants were found to qualified under the DOT rules, and against the vacancies of DOT, and they were adjusted against those vacancies pertaining to the DOT and more so when they were asked to give their option for absorption in BSNL, and as such now that too after about 7 years the respondents can not say that the applicants are not entitled to any retrial benefit as like DOT employees. Law is well settled that the vacancies occurred at the relevant period of time is required to be filled up by the recruitment rules holding the filed at that relevant point of time. The process of selection initiated by the DOT was against the vacancies that were available prior to 1.10.2000 and as such the subsequent change in the establishment of the respondents would no way change the service condition of the applicants. It is therefore the respondents have rightly accepted the option placed by the

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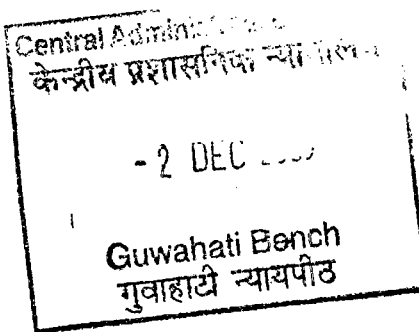
applicants for absorption in BSNL treating them to be the existing employee of DOT.

6. That with regard to the statement made in Para 7 of the written statement the deponent while reiterating and reaffirming the statements made above as well as in the OA begs to state that all the applicants got the approval of appointment and underwent training before 01.10.2000 and during the period of training they received pay and allowances by DOT which will indicate the fact that they had employer employee relation before the crucial date of 1.10.2000. The issuance of the formal appointment order does not preclude the applicants of their employer employee relationship with DOT. It is crystal clear that after the approval of the DOT the applicants were bound by set of rules and during training they were in receipt of pay and allowances etc. by the DOT which clearly depicts that they were employees of DOT. The respondents in fact have rightly converted and absorbed the applicants in BSNL treating them to be the employees of DOT.

7. That with regard to the statement made in Para 8 of the written statement the deponent while reiterating and reaffirming the statements made above begs to state that provisions of the CCS pension Rule 1972 clearly indicates that the applicants were appointed at the time when they were sent to training and they maintained the employer employee relationship immediately on receipt of the pay and allowances during the training period. It is stated that the exclusions as indicated in Rule 2 of 1972 Rules does not include the case of the applicants and as such they are entitle to all the pensionary rules. It is further stated that the definition mentioned in Rule 2 relating to qualifying service does not preclude the applicants from their legitimate claim of pension.

Nivedita Pathak

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8. That with regard to the statement made in Para 9 of the written statement the deponent while denying the contentions made therein begs to state that the impugned orders have been issued in violation of the provision of law and rules holding the field. That apart the impugned orders have been issued after 7 years and by operation of law the status attained by the applicants have been settled which cannot be unsettled.

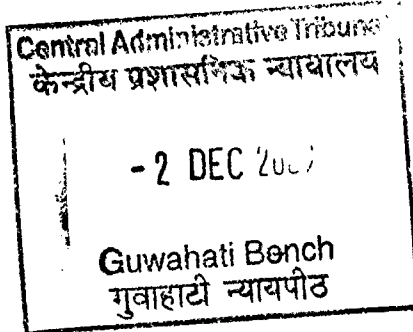
9. That with regard to the statement made in Para 10 of the written statement the deponent beg to state that respondents while issuing the impugned orders have taken into consideration the wrong position of the fundamental rules and without any authority have issued the impugned orders which is not at all sustainable in the eye of law and liable to be set aside and quash.

10. That with regard to the statement made in Para 11 of the written statement the deponent while denying the contentions beg to state that the right accrued to the applicants before the cut off date 1.10.2000, and they had developed the master servant relation before the said date with DOT. It was because of the fact that the BSNL authority has rightly sought the option from the applicants for their absorption to BSNL as has been done in case of other existing employees of DOT. There is no dispute relating to the transfer of business from DOT to BSNL but the procedure adopted by the respondents in changing the condition of service is not at all sustainable as there was no show cause notice issued prior to issuance of the impugned orders. It is therefore the impugned orders are liable to be set aside and quashed.

11. That with regard to the statement made in Para 12 of the written statement the deponent while denying the contentions beg to state that it was the duty of the respondents to make the position clear at the time of

Nivedita Pathak

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issuance of the appointment orders and at this belated stage the plea raised by the respondents that too towards the detriment to the applicants cannot be said to an act with bonafide.

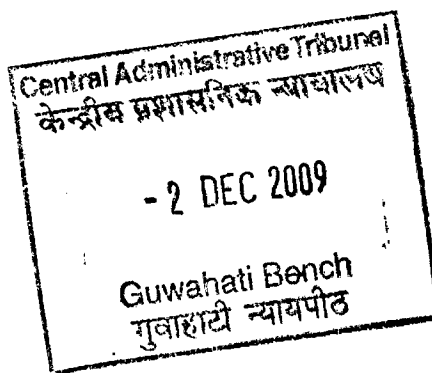
12. That with regard to the statement made in Para 13 of the written statement the deponent while denying the contentions beg to state that the in terms of the provisions contained in Sec 19 (4), of the Administrative Tribunal Act 1985, all the subsequent proceeding relating to the case deemed to be stayed or stalled, unless it is specifically ordered by the Hon'ble Tribunal. It is stated that the applicant has challenged the entire action on the part of the respondents including the impugned orders being opposed to the provisions contained in the Constitution of India, and the laws framed there under and as such there can not be any estoppel or same cannot be brushed aside applying the principles of waiver.

13. That with regard to the statement made in Para 14 of the written statement the deponent while reiterating and reaffirming the statements made above as well as in the O.A, and while denying the contentions beg to state that the action initiated by the respondents towards issuance of impugned orders does not indicate the proper application of mind. In fact the respondents had rightly treated the applicants to the employees of DOT as they had developed the master servant relation with DOT and the right had accrued to them prior to the crucial date. Transfer was only a subsequent action by which business was only transferred, not the accrued right was dissolved. In such an eventuality the impugned orders are not sustainable in the eye of law and liable to be set aside.

14. That with regard to the statement made in Para 15 to 18 of the written statement the deponent while denying the contentions the deponent begs to state that the reasoning

Nivedita Pathak

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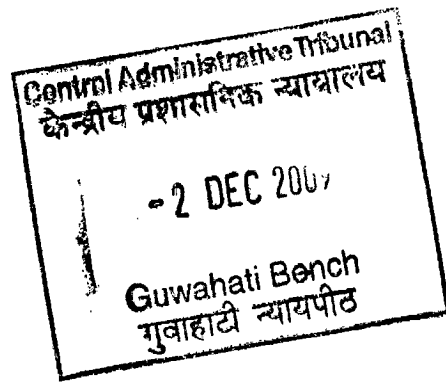
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placed by the respondents in differentiating the applicants from the similarly situated employee is not at all sustainable. There can not be two sets of rules / policy for two different categories of employees when the process of recruitment was same i.e. compassionate employment.

15. That in view of the facts and circumstances stated above the OA deserves to be allowed with cost.

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### VERIFICATION

I, Smt Nivedita Pathak, wife of late Aswini Kumar Pathak, aged about 49 years, resident of Namghar Path, Lakhimi Nagar, Hatigaon, Dispur, Guwahati- 6 (Assam), do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1, 5 (partly), 6 (partly), 7, 8, 9, 10, 11, 12, 13 & 14 are true to my knowledge, those made in paragraph 2, 3, 4, 5 (partly), 6 (partly) 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. I have also been authorized by the co-applicants to sign this verification.

And I sign this verification on this the 1st day of December, 2009 at Guwahati.

Smt. Nivedita Pathak

DEPONENT