

V

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 984 of 2004

Jabalpur, this the 2nd day of August, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. B.P. Mishra, Date of birth 5.7.1969,
S/o. Shri R.L. Mishra, R/o. Type IV/I,
Tikrapara Postal Colony, Raipur.
2. Amit Bajpai, Date of birth 27.7.1969,
S/o. Shri M.L. Bajpai, R/o. Type III/I,
Indrapuri Postal Colony, BHEL, Bhopal.
3. Bhagirath Piplad, S/o. Shri Chintaman
Piplad, R/o. Type III/13, Maharanaganj
Postal Colony, Indore.
4. Avinash Pratap Singh Baghel,
S/o. Shri A.P. Singh, Date of birth
1.1.1969, O/o. Asstt. Engineer, Postal
Civil Sub Division, Jabalpur. Applicants

(By Advocate – Shri S. Paul)

V e r s u s

1. Union of India, Through its Secretary,
Ministry of Communication & IT,
Department of Post, Dak Bhawan,
Sansad Marg, New Delhi.
2. The Member (P), Department of Post,
Dak Bhawan, Sansad Marg, New Delhi.
3. The Director General, Department of Post,
Dak Bhawan, Sansad Marg, New Delhi.
4. The Chief Engineer (Postal), South and West
Zone, 1st Floor, RMS Bhawan, GEF Post Office
Compound, Mysore Road,
Bangalore – 560 026. Respondents
5. The Superintending Engineer,
Postal Civil Circle, Ahmedabad.



6. The Chief Post Master General,
M.P. Circle,
Bhopal.

(By Advocate – Shri P. Shankaran)

O R D E R (Oral)

Bv M.P. Singh, Vice Chairman –

By filing this Original Application the applicants have claimed the following main reliefs :

“(ii) set aside the order dated 17.6.2004 Annexure A-1 to the extent it intends to bring the officers/employees on deputation as AEs in Postal Department thereby occupying the promotional post of JEs/applicants,

(iii) command the respondents to forthwith relieve the AEs who have opted and absorbed in BSNL and consider the case of the applicants for promotion as per 1992 Rules within the stipulated time as deemed fit by this Hon’ble Tribunal.”

2. The brief facts of the case are that the applicants are working as Junior Engineers in the Department of Posts. They are eligible for their next promotion to the post of Assistant Engineer. As per the existing recruitment rules 50% post of the Assistant Engineer are to be filled up by way of promotion from Junior Engineer and 50% posts are to be filled up by limited departmental competitive examination. Earlier these rules were common for filling up the posts of Engineers for both the departments i.e. the Department of Posts as well as the Department of Telecom. After the formation of Bharat Sanchar Nigam Limited (in short BSNL) in the year 2000, most of the Assistant Engineers (Group-B gazetted officers) have opted for their absorption in BSNL and they have been absorbed as such. However, some of the Assistant Engineers who were working in the Department of Posts have also given their option for absorption in BSNL. Their option have also been accepted but due to exigency of work they have not been relieved and are still continuing to work with the Department of Posts. The continuances of these Assistant Engineers who have opted for BSNL have blocked the promotional avenues of the Junior Engineers in the Department of Posts. About 5 years have passed when the BSNL came into existence and the Department of Posts have not yet



been able to frame their own separate set of recruitment rules and have also not been able to relieve these Assistant Engineers who have opted for their absorption in BSNL, due to shortage of manpower. Since the retention of the Assistant Engineer opted for BSNL have adversely affected the career prospects of the Junior Engineers, they have filed this Original Application.

3. The respondents in their reply have stated that Government employees have no right for promotion but only have right for consideration. The applicants will be considered for promotion whenever the recruitment rules are framed by the Department of Posts for Group-B gazetted post. In case the applicants are not able to earn any promotions, they will be granted two time bound promotions under the ACP scheme issued by the Department of Personnel and Training after completion of 12 years and 24 years. According to the respondents the cadre of Assistant Engineer is still common for Department of Telecom. and Department of Posts. The separate cadre of Assistant Engineer (Postal) will be constituted in due course for those Junior Engineers who were recruited for Department of Posts only. They have also submitted that there is an acute shortage of officers in civil wing under the Department of Posts and therefore it is not possible to relieve these Assistant Engineers, who have been transferred to BSNL, in exigency of service.

4. Heard the learned counsel for the parties and carefully perused the pleadings and records.

5. The learned counsel for the applicants has submitted that the Junior Engineers working in the Postal Department have been waiting for their promotion for quite a long time. But since the posts of Assistant Engineers are occupied by the persons who have already opted for their absorption in BSNL and have not been relieved, have adversely affected the career prospects of the Junior Engineer working in the Postal Department. According to him, recruitment rules for the post of Assistant

Engineer also ~~readily~~^{already² exists and these rules can be operated to fill up the posts of Assistant Engineers by promoting these Junior Engineers. He has also submitted that direction should be given to the Department to relieve the Assistant Engineers working in the Department of Posts who have opted for BSNL and fill up these posts as per existing rules even by promoting these Junior Engineers to the post of Assistant Engineer on adhoc basis or that in case if the Department is in the process of framing the new recruitment rules the post of Assistant Engineer can be filled up by deciding the method of recruitment in consultation with the UPSC as per the instructions and guidelines issued by the DOPT.}

6. On the other hand the learned counsel for the respondents submitted that certain Assistant Engineers who have opted for their absorption in BSNL have not been relieved till now because of exigency of work and acute shortage of manpower. He has also submitted that as soon as there is an improvement in the availability of manpower to fill up the posts of Assistant Engineer, those persons who are managing or holding the posts at present and are required to be absorbed in BSNL will be relieved and the posts of Assistant Engineers so vacated shall be filled up in accordance with the rules.

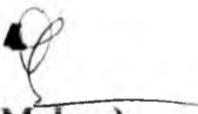
7. We have given careful consideration to the rival contentions made on behalf of the parties. The undisputed facts are that after the formation of the BSNL in the year 2000 the Assistant Engineers who are Group-B officers have given their option either to ~~opt~~^{for² in Department of Posts or ~~in~~^{for² BSNL. Most of the Assistant Engineers have opted for BSNL because of better pay scales and they have been absorbed. However, certain Assistant Engineers who have been working in the Department of Posts ~~have~~ also opted for their absorption in BSNL but they have not yet been relieved because of shortage of persons and thus the feeder cadre of Assistant Engineers i.e. Junior Engineers have been adversely affected.}}



Considerable period has already been passed since the present incumbents are holding the post of Assistant Engineers in Department of Posts.

8. Keeping in view the facts and circumstances of the case, we are of the considered view that ends of justice would be met if we direct the respondents to relieve the Assistant Engineers who have opted for BSNL and who are still working in the Department of Posts within a time frame manner. Accordingly, the respondents are directed to relieve the Assistant Engineers who have opted for their absorption in BSNL as their options have been accepted in BSNL ~~and are working in the Department of Posts~~, ^{but still} within a period of six months from the date of receipt of a copy of this order and thereafter fill these posts of Assistant Engineer so became vacant in accordance with rules and law.

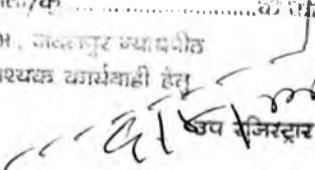
9. In view of the above the Original Application stands disposed of. No costs.

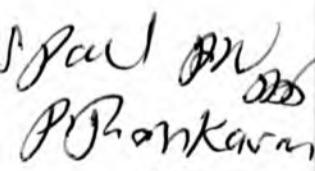
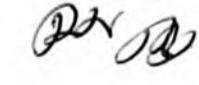

(Madan Mohan)
 Judicial Member


(M.P. Singh)
 Vice Chairman


 "SA"

पूर्णकाल सं. ओ/व्हा..... जवाहरलाल निंदा
 चातिलिपि वर्तमान दिन
 (1) राज्यिल, राज्य विवादालय कर्तव्यीकारार्थ, जवाहरलाल
 (2) अंतर्राष्ट्रीय विवादालय कर्तव्यीकारार्थ, जवाहरलाल
 (3) प्रत्यार्थी वी/सीमांडी/कु..... कर्तव्यीकारार्थ, जवाहरलाल
 (4) राज्यपाल, राज्यपाल, जवाहरलाल विवादालय
 सूचना एवं आवश्यक कार्यवाही हेतु


 जय बुशन


 P. Bhushan

 P. Bhushan