

**CENTRAL ADMINISTRATIVE TRIBUNAL,****JAIPUR BENCH**

O.A.No.732/2013 &  
M.A.No.291/00289/2015

Orders pronounced on : 29.7.2016  
(Orders reserved on: 25.07.2016)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
HON'BLE MRS. MEENAKSHI HOOJA, MEMBER (A)**

1. Rajendra Kumar Gupta S/o Sh. Tej Bhan Gupta, aged about 45 years, presently employed on the post of Asst. Director (NP Broad Band) O/O CGMT,BSNL, Lal-Kothi, Jaipur.
2. Jitendra Shukla S/o Sh. S.C.Shukla, aged about 42 years, presently employed on the post of SDE (GSM RRF) O/O PGMTD BSNL, Sangneri Gate, Jaipur.
3. Nathu Lal Meena S/o Sh. Hari Narain Meena, aged about 43 years, presently employed on the post of SDE (Traffic) O/O DGM (NTR), BSNL, PGMTD Campus, Jaipur.
4. Ajay Bhardwaj S/o Sh. Goverdhan Bhardwaj, aged about 41 years, presently employed on the post of SDE (Commercial Officer) O/O PGMTD, BSNL, MI Road, Jaipur.
5. Pyare Lal S/o Sh. Ghasi Lal, aged about 44 years, presently employed on the post of SDE OEC (MTCE) O/O PGMTD, BSNL, Lal Kothi, Jaipur.
6. Man Singh Meena S/o Sh. Hindi Ram Meena, aged about 45 years, presently employed on the post of SDE (Admn.) O/o DGM (NTR), BSNL, PGMTD Campus, Jaipur.
7. Rakesh Profit S/o Sh. Suresh Chandra Purohit, aged about 45 years, presently employed on the post of SDE (MSC) CMTS Wing, BSNL, Bajajnagar, Jaipur.

Address for correspondence :

C/o Rajendra Kumar Gupta R/o Type IV/34, Sanchar Vihar Colony, Malviya Nagar, Jaipur-17.

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Applicants

Versus

Bharat Sanchar Nigam Limited through its Chairman & Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandler Mathur Lane, Janpath, New Delhi.

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Respondents

Present: Mr. C.B. Sharma, Advocate, for the applicants.  
Mr. Neeraj Batra, Advocate, for Respondents.

**ORDER**  
**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**

1. Seven applicants have filed this O.A. jointly, inter-alia, for declaring the Schedule I of Recruitment Rules (2008) of Directly Recruited DGMs Management Services dated 25.6.2009, passed by respondents and notification for calling applications for recruitment of DGM with last date as 17.10.2012 (Annexure A-2) to the extent the same excludes the qualifications of B.Sc. with Physics & Maths and also the B.E/B.Tech in Mechanical altogether and also contains exorbitant experience conditions as illegal and quashing thereof and that the applicants be declared eligible for recruitment of directly recruited DGMS and their candidature considered for the selection for the same and they may also be allowed with all consequential benefits.
2. Respondents have filed reply stating that the issue raised in this case has been set at rest by various Benches of this Tribunal as well as Hon'ble High Court of A.P.
3. Learned counsel for the respondents taking cue from the written statement stated that the Direct DGM Recruitment Rules under challenge were notified vide No. 314-36/2008-Pers.I (Pt.) dated 25.6.2009, wherein the initial sanctioned authorized strength of DR DGM of BSNL MS has been prescribed as 150 posts in Telecom Management Service and 60 posts in Telecom Finance Service. The plea of respondents is that the posts were created exclusively for direct DGM recruitment rules and are over and above sanctioned strength of 1398 (TMS)+402 (TAFS)=1800

prescribed for DGM posts prescribed in BSNL MS RR 2009. This was the second round of recruitment under same DR DGM RR, 2008 for vacancies (106 TMS & 56 TAF) which were left unfilled in previous recruitment held during 2009-11. In the first round of recruitment of DGM, the eligible executives of BSNL had participate and also succeeded on merits as applicable for open market recruitment.


4. Learned counsel further submitted that initially the written test was scheduled to be held on 20.1.2013. Soon after publication of the advertisement, some associations and individuals challenged the eligibility conditions for said recruitment initially before Principal Bench of this Tribunal in O.A.No. 4100/2012 titled **AIGETOA & Others Vs. BSNL & Others** and subsequently before Chandigarh Bench of this Tribunal in O.A.No. 1413/2012 titled **Rajinder Singh & Others Vs BSNL & Others** and O.A.No. 1514/2012 titled **Joginder Singh & Others Vs. BSNL & Others**. During earlier round of recruitment also many BSNL executives filed O.As before Principal Bench of this Tribunal in O.A.No. 2112/2009 titled **Sanjay Tyagi & Others**, Hyderabad Bench of this Tribunal, O.A.No. 1044/2010 titled **Ashok Kumar & Others** and O.A.No. 1093/2010 titled **P. Sudhakar & Others** and Madras Bench of this Tribunal, O.A.No. 909 & 938/2009 titled **M. Radha Krishan**, challenging eligibility condition prescribed in Rules of 2009 for PSU candidates i.e. 3 years experience in E4 scale. The O.As were dismissed upholding the eligibility conditions against which appeal was filed in Hon'ble High Court of A.P. in **WP No. 16753 of**

2010 which was dismissed on 27.10.2010 upholding order dated 6.7.2010 of High Court.

5. Learned counsel for the applicants was not in a position to contradict, as argued by learned counsel for the respondents, that the issue indeed stands decided against the applicants. We need not mention here the various observations made by the different Benches of this Tribunal. However, the view taken by the Hon'ble A.P. High Court in W.P. No. 16753 of 2010 is reproduced below for easy reference :-

"The BSNL in order to maintain excellence in its operations can choose its own policy of recruitment for absorbing efficient personnel to face the increasing competition from the private sector. The petitioners have no locus standi to contend that the post of DGM has to be filled up only by promotion from the category of DE/Chief Executive Engineer/AGMs. We are unable to agree with the contention of the petitioners that E4 scale of employees in metropolitan cities like Mumbai and Delhi were performing the same duties and functions on par with the Su-Divisional Engineers who are in E3 scale and working in the rest of the country and prescribing pay scale i.e. E4 grade for PSU employees and not prescribing any pay scale for private sector and prescribing the eligibility criteria for private sector employees basing on the gross salary of Rs.7 lakhs per annum or working in a company which has turnover of 100 crores or above irrespective of the salary of the employee is a positive and hostile discrimination of the PSU employees. We do not think that the rules made and the eligibility criteria prescribed for the post of DGM are either arbitrary or discriminatory. It is for the employer to prescribe the eligibility criteria and the competence of the employer cannot be questioned by the petitioners so long as the criteria prescribed is uniform and with the object of absorbing more efficient and talented people for effective functioning of the organization. It is not open for the petitioners to contend that there is no nexus between the criteria prescribed and the object sought to be achieved and further there is no force in the contention that the impugned recruitment rules are arbitrary, illegal and discriminatory and violative of Articles 14, 16 and 21 of Constitution of India".

6. In view of the categorical findings and view taken by the Hon'ble High Court, as reproduced above, the instant Original Application fails and is dismissed leaving the parties to bear their own costs.

  
(SANJEEV KAUSHIK)  
MEMBER (J)

  
(MRS. MEENAKSHI HOOJA)  
MEMBER (A)

Place: Jaipur

Dated: 29.7.2014

HC\*