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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**ORIGINAL APPLICATION NO.060/00773/2014
Chandigarh, this the 17th Day of April, 2015**

**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A).
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J).**

Harprit Singh HRMS No.200200880, Telecom Technical Assistant, Office of Sub Divisional Engineer, Bharat Sanchar Nigam Limited, Patran, District Patiala.

**...APPLICANT
VERSUS**

1. Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, 4th Floor, Harish Chander Mathur Lane, Janpath, New Delhi-110001 through its Chairman-cum-Managing Director.
2. Chief General Manager Telecom, Bharat Sanchar Nigam Limited, Sanchar Sadan, Punjab Circle, Sector 31/A, Chandigarh-160022.
3. General Manager Telecom, Bharat Sanchar Nigam Limited, Patiala.
4. Sh. Rajesh Bansal, Additional General Manager, Office of General Manager Telecom, Bharat Sanchar Nigam Limited, Patiala-147001.

...RESPONDENTS

Present: Sh. N.P. Mittal, counsel for the applicant.
Sh. Rakesh Verma, counsel for the respondents.

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:
 - 8 (ii) Direction be issued to the respondents for placement of the applicant to field training course for four weeks to

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complete the preliminary training curriculum and on its completion the applicant be promoted as JTO (T) at par with his colleagues as per respondent no.2 order dated 16.08.2014 (Annexure A-7) with all consequential benefits.

(iii) The impugned charge memo (Annexure A-10) issued by respondent no.4 without jurisdiction, no locus standi void ab initio against no misconduct committed by the applicant being totally unconnected with his duties and service conditions and by following the frivolous complaint unlawfully. The code of conduct enshrined in the BSNL Conduct Rules which does not rise for a chargeable misconduct in such matter as well as with reference to the affidavit (Annexure A-9) attached with the OA. As such (Annexure A10) being unsustainable be set aside quashed/invalidated.

2. Background of the matter is that the applicant, who is working as TTA with BSNL since 2002 appeared in the Limited Internal Competitive Examination (LICE) for selection against 35% quota for the post of Junior Telecom Officer (JTO). The applicant was selected and he was deputed to undergo ten weeks training course in JTO Phase-I. Vide order dated 09.05.2014 (Annexure A-5). The applicant was relieved for joining the JTO Phase-I training w.e.f. 12.05.2014 to 18.07.2014 at BRBRAIT, Jabalpur. The applicant successfully completed the training of 10 weeks and came back for placement on field training by the concerned SSA/Unit for four weeks to complete the preliminary training curriculum. While colleagues of the applicant were placed for four weeks field training and on completion of the same, respondent no.2

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vide Memo dated 16.08.2014 (Annexure A-7) promoted them to the post of JTO in the pay scale of Rs.16400-40500 from the date they assumed charge on the higher post. The applicant had not been deputed for this training on account of issue of charge sheet dated 02.06.2014 (Annexure A-10). The applicant had filed a detailed reply on 21.06.2011 (Annexure A-11) but the respondents had not taken any further action on the matter. Hence this O.A.

3. In the written statement filed on behalf of the respondents facts of the matter have not been disputed. It has further been stated that the applicant reported back to Patiala SSA after his JTO Phase-I training. JTO training is comprised of 3 phases namely Phase-I Training, Field Training & Phase-II Training. Only one phase of training was completed by the applicant while two phases are pending. The applicant was not allowed field training due to issuance of a major charge sheet served during his Phase-I training. This differentiates him from his colleagues. The applicant was posted at Patran, keeping in view a disciplinary case pending against him.

4. As per instructions of BSNL CO Letter No.4-1/04/Trg. Dated 23.06.2006 Para 6.0, if a candidate is guilty of misconduct, the incharge of the training centre after making an enquiry into his case (DOT No.23-8/66-SPB.I dated 30.09.1979). The departmental

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candidate will be sent back to the unit from which he/she has come. A detailed report of the circumstances under which the candidate was sent back from training centre will be sent to the competent authority, who will then take further disciplinary action against such candidate. The candidate, however, will not be permanently debarred from attending the training centre but may be sent again after disciplinary case is finalized and the period of currency of penalty imposed, if any, is over. In any case, he/she will not be sent for training within one year of his/her discharge from the training centre. In case of any appeal, if the appellate authority decides that there is no jurisdiction for the punishment, the official will be sent for training in the immediate next batch.

5. Rejoinder has been filed on behalf of the applicant wherein it has been stated that the police authorities had decided not to take action on the complaint against the applicant regarding sexual harassment as nothing was made out in the matter. The complaint made against the applicant had nothing to do with his official duties; he could not have been charge-sheeted regarding that matter and the consequential action to withhold his training/promotion was in violation of law and rules.

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6. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant again pressed that the matter regarding sexual harassment of a minor by the applicant had nothing to do with the official duties and the respondent department could not take cognizance of such a matter. He cited judgment dated 18.08.2006 in Jaitdan Vs. State of Rajasthan and Ors. in Civil Special Appeal No.266 of 2006 to buttress his contention in this regard.

7. Learned counsel for the respondents states that I.O/P.O had been appointed and the inquiry in respect of charge memo issued to the applicant was under process. He stated that in view of the charges against the applicant which were of a grave nature, the respondent department had acted in accordance with the rules and during the pendency of charge sheet, the applicant could not be considered either for completion of his training or for promotion as JTO.

8. We have given our thoughtful consideration to the matter. It is seen from the material on record that although charge sheet was issued to the applicant on 02.06.2014 but the matter does not appear to have made much headway since then. Hence the respondents are directed to complete the inquiry proceedings against the applicant within a period of 60 days from the date of a certified copy of this order being served upon the respondents and decision regarding

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charges may be taken within a further period of one month and the applicant may be considered for completion of his training and promotion depending upon the findings of the inquiry and decision of the disciplinary authority in the matter. No further extension of time will be allowed in this regard.

9. The O.A. is disposed of with the above directions.

(DR. BRAHM A. AGRAWAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 17.04.2015.

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