

**Central Administrative Tribunal
Principal Bench**

OA No.1283/2013

New Delhi, this the 29th day of August, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Mr. K. Sebastin, General Secretary
Sanchar Nigam Executives Association
(India), an association of executives of Bharat
Sanchar Nigam Ltd., having its registered
Offices at B-11/1, Ramesh Nagar
New Delhi-110015.
2. Mr. Prahlad Rai, General Secretary
All India Bharat Sanchar Nigam Limited
Executives Association, an association
Of executives of Bharat Sanchar Nigam Ltd.,
Having its registered offices at CH-17-2-15
Chemmerly Quarters, Atul Grove Road
New Delhi-110001.
3. Mr. P. Abhimanyu, General Secretary
BSNL Employees Union, a trade Union
Registered under the Indian Trade Union
Act, 1926, having its registered office at
Dada Ghosh Bhawan, 2151/1, New Patel
Nagar, Shahipur Bus Depot
New Delhi-110001.
4. Shri G.L. Jogi, AGM, BSNL
S/o Late Shri Girdhar Lal
R/o Plot No. 71, Pocket D-15
Sector VII, Rohini, Delhi-110085. ..Applicants

(By Advocate: Ms. Gauri Puri for Shri Rajeshekhar Rao)

Versus

1. Union of India through Secretary
Department of Telecommunications

Sanchar Bhavan, 20, Ashok Road
New Delhi-110001.

2. Bharat Sanchar Nigam Ltd., (through its
Chairman Cum Managing Director)
Bharat Sanchar Bhawan, Harish Chandra
Mathur Lane, Janpath, New Delhi-110001.
3. Indian Telecom Service Association
Through its General, Harsh Vardhan
Addl. GM (Estt.) 5th Floor, Bharat Sanchar
Bhawan, Harish Chandra Mathur Lane
Janpath, New Delhi-110001. ..Respondents

ORDER (ORAL)

Justice L. Narasimha Reddy:-

This OA is filed challenging two orders i.e. No.A-11013/64/2012-Abs. Cell I dated 11.03.2013 and Order No.A-11013/64/2012-Abs. Cell (II-A) dated 11.03.2013 passed by the Department of Telecommunication and two orders of the same date, passed by the BSNL.

2. Briefly stated, the facts are that consequent upon formation of BSNL, substantial activities of the Department of Telecommunication(DoT), Govt. of India were made over to it and for sometime the employees of the DoT worked on deemed deputation with BSNL. Options were given in the year 2000 to the employees,

either to get absorbed in the service of BSNL or to remain in DoT. The applicants herein opted to become employees of BSNL.

3. The uncertainty as to the distribution of work force between DoT and BSNL continued and it was only in the year 2005, consequent upon the orders of the Hon'ble Delhi High Court, that the department gave option to the remaining employees either to be with the BSNL or to revert back to DoT. The result was that substantial number of employees opted to be with DoT and finding that there is excess of work force in DoT on the one hand, acute need of similar personnel in BSNL, the employees of the DoT were sent on deputation to BSNL for a period of ten years through order dated 11.03.2013. The grievance of the applicants is that on account of the deputation, so ordered, their promotional avenues are adversely affected. Hence this OA.

4. The respondents filed counter affidavit stating *inter alia* that the impugned orders came to be passed in compliance with the direction issued by the Hon'ble Delhi High Court.

5. Heard Ms. Gauri Puri, learned counsel for the applicant and Shri Rajinder Nischal and Shri Jasbir Bidhuri, learned counsel for the respondents.

6. The prayer in the OA reads as under:-

“(a) Quash and set aside the Impugned Order No.A-11013/64/2012-Abs. Cell (II-A), dated 11.03.2013, issued by Respondent no.1;

(b) Quash and set aside the Impugned Order No.A-400-45/2013- Pers. I(2), dated 11.03.2013, issued by Respondent no.2 to Andhra Pradesh Circle and similar order issued to other Circles/Units of BSNL.

Interim reliefs:

(a) Grant ad-interim ex-parte stay of the Impugned Order vis. Order No.A-11013/4/2012-Abs. Cell(II-A), dated 11.03.2013;

(b) Grant ad-interim ex-parte stay of the Impugned Order viz. Order No.A-400-45/2013-Pers.I(2), dated 11.03.2013, and any other similar orders released in identical terms issued for all other Circles/Units of BSNL, issued by Respondent No.2 in order to implement Order No.A-11013/4/2012-Abs. Cell (II-A) of Respondent no.1; and

(c) Grant ad-interim ex-parte stay of all further actions taken by Respondent No.2 in compliance of the Impugned Orders;

(d) Grant ad-interim ex-parte stay of the operation/functioning of the Unabsorbed ITS Officers in BSNL on BSNL posts pursuant to the Impugned Orders mentioned in Prayer (a) and (b) above.”

From a perusal of the same, it becomes clear that the main plank of the argument of the applicants is that the orders impugned in the OA were contrary to the direction issued by the Delhi High Court. As a matter of fact, a contempt case is said to have been already filed and that it is pending in the Hon'ble High Court. The question as to whether the orders passed by the respondents herein are in contravention to the directions issued by the High Court, cannot be decided by this Tribunal. It is ultimately for the High Court to decide that question. The applicants cannot pursue the remedies simultaneously before the High Court as well as this Tribunal.

7. We, therefore, dispose of this OA, leaving it open to the applicants to pursue their remedies before the Hon'ble High Court and to come back to the Tribunal through a fresh OA, if circumstances warrant.

8. There shall be no order as to costs.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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