

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/00897/2016**

Jabalpur, this Thursday, the 11<sup>th</sup> day of October, 2018

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

B.B. Gop, S/o Shri H.C. Gop, aged about 54 years, working as Jr. Accountant, R/o 93/94, B/2, Rajved Colony, Near Bright School, Shiv Mandir, Kolar Road, Bhopal-462042 (M.P.) **-Applicant**

**(By Advocate – Shri Jagdamba Bux Singh)**

**V e r s u s**

1. Union of India through Secretary, Ministry for Communication & IT, Department of Telecommunications, Sanchar Bhawan, 20 Ashoka Road, New Delhi – 110001.

2. Bharat Sanchar Nigam Limited through its Chairman Cum Managing Director, Sanchar Bhawan, Janpath, New Delhi – 110001.

3. Member (Finance), Department of Telecommunications, Sanchar Bhawan, 20 Ashoka Road, New Delhi – 110001.

4. Controller of Communication Accounts, Sanchar Bhawan, Hoshangabad Road, Bhopal – 462015.

5. General Manager, Telecom District, BSNL, Bhopal – 462001.

**- Respondents**

**(By Advocate – Shri Surendra Pratap Singh)**

*(Date of reserving order : 24.08.2018)*

## **ORDER**

**By Navin Tandon, AM.**

The applicant is aggrieved by the fact that he is not being absorbed as Junior Accountant with the respondent department.

2. The applicant has made the following submissions:

2.1 He was appointed as TOA with the respondents on 28.08.1985.

2.2 The applicant was placed under suspension on 03.09.1992 and was dismissed on 17.12.1997 on account of criminal charge against him. On acquittal in appeal filed before the Hon'ble High Cour of Madhya Pradesh at Jabalpur, the applicant was reinstated in service w.e.f. 02.04.2009 and the intervening period was treated as duty for all purposes.

2.3 Consequently upon the formation of BSNL since 01.10.2000, the applicant could not exercise his option at the relevant time because of his dismissal from service. On joining, the applicant exercised his option on 01.10.2009 and opted for Department of Telecommunication (DoT).

2.4 Accordingly, he was allowed to join as Junior Accountant in the office of respondent No.4 on 18.01.2010 and is working as such till date. The pay of the applicant in

DoT has been fixed as per Central DA Pay Bands (Annexure A-4). The applicant was imparted training from 07.06.2010 to 02.07.2010 (Annexure A-5) on the subjects covered under the duty of Junior Accountant so that he can effectively and satisfactorily discharge the duties of Junior Accountant's post.

2.5 Meanwhile, eight officials from other organisation have been appointed as Junior Accountant on absorption basis to make good the shortage in this cadre. The appointment letter dated 03.09.2010 of one such person is filed as Annexure A-6 with the O.A.

2.6 A copy of Gradation List of Junior Accountant as on 31.12.2011 is at Annexure A-1, in which the name of the applicant is not featuring. He made representations to the respondents on 13.04.2015 (Annexure A-8) and 01.01.2016 (Annexure A-9), which were not responded to.

2.7 Respondent No.4 has recommended for absorption of the applicant vide letter dated 22.01.2011 (Annexure A-10) and 04.11.2015 (Annexure A-11), but no fruitful results were achieved.

2.8 The applicant is also suffering due to non consideration of upgradation due under MACP.

2.8 In the meantime, the Junior Accountants have been promoted as Senior Accountants on 29.01.2014 (Annexure A-12).

2.9 Aggrieved that his representations are not being decided, the applicant approached this Tribunal in OA No.325/2016, wherein this Tribunal directed the respondents on 13.03.2016 (Annexure A-14) to decide his representation within three months.

2.10 The respondents, vide their order dated 15.07.2016 (Annexure A-17), have rejected the claim of the applicant for absorption against the post of Junior Accountant.

3. The applicant has sought for the following reliefs:

“8. **Relief sought:**

It is, therefore, prayed that this Hon'ble Tribunal may kindly be pleased to:-

- (i) Quash the impugned order dated 15.07.2016 (Annexure A-17);
- (ii) Order the absorption of the applicant against the post of Jr. Accountant since the date of option w.e.f. 01.10.2000 and further promotion to the post of Sr. Accountant as due and admissible as per rules may also be considered.
- (iii) Order of consideration of up gradations under MACP as per rules;

- (iv) Any other order/orders which this Hon'ble Tribunal deem just and proper under the circumstances of the case;
- (v) Cost of the petition may also be awarded.”

4. The respondents have filed their reply, wherein it has been submitted that the applicant cannot claim absorption against the post of Junior Accountant as he does not fulfill the requirement under the Recruitment Rules. It has also been submitted that eight officials were appointed on permanent absorption basis in the office of respondent No.4 due to acute shortage of staff. All the appointed staffs were already working elsewhere either as Accountant or account related work, which was the precondition in the advertisement. The promotions to the post of Senior Accountants were done on the basis of seniority-cum-fitness basis. It has further been submitted that the applicant belong to the technical cadre and as such, he could not be accommodated in the accounts related cadre because both are quite different in nature of working.

4.1 Regarding the claim of the applicant for MACP, the same shall be considered separately with reference to his trade post.

5. The applicant has filed his rejoinder, wherein he has refuted the averment of the respondents that he does not fulfill the

requirement of the Recruitment Rules for the post of Junior Accountant. While the educational qualification mentions the degree, the applicant is having M.Com. degree. It has also been averred that not all of the eight officials permanently absorbed against the post of Junior Accountants, belong to accounts cadre in their parent department and in-fact, one of the them, i.e. Shri Ajit Kumar Jain was a teacher in Primary School.

6. The respondents have filed their reply to the rejoinder and have reiterated that all the appointed staffs were already working elsewhere either as Accountant or account related work, which was the precondition in the advertisement. The applicant joined the office of respondent No.4 on deemed deputation and was merely accommodated against the post of Jr. Accountant as the post of TOA was not available in the office. He was never absorbed as Junior Accountant, and therefore his further promotion to the post of Senior Accountant cannot be acceded to.

7. We have heard the learned counsel for the parties and gone through the pleadings available on record.

8. The undisputed facts of the case are that the applicant was working as Senior Telecom Office Assistant. After he was reinstated in service on the basis of orders of Hon'ble High Court,

he opted to be retain with DoT, and accordingly, he was attached/posted in the office of respondent No.4 He has been discharging the duties of Junior Accountant for which he was imparted four weeks' training also. There are no posts of TOA available with respondent No.4.

**9.** The respondents have rejected the plea of the applicant for absorption as Junior Accountant on the basis that he does not meet the requirement of Recruitment Rules for the said post.

**9.1** Perusal of the Recruitment Rules (Annexure A-20) indicate that the post of Junior Accountant is a Group-C non Gazetted ministerial post for which the education qualification required is degree or equivalent qualification from a recognised University/Institution. Sixty percent of the posts would be filled by direct recruitment and twenty percent by promotion on seniority-cum-fitness from Lower Divisions Clerk (Telecom Accounts) and another twenty percent through competitive departmental examination for LDCs.

**9.2** The applicant has submitted in his rejoinder that he is having M.Com degree, which has not been refuted by the respondents.

**10.** The applicant was granted upgradation under 2<sup>nd</sup> and 3<sup>rd</sup> MACP vide order dated 04.12.2017 (Annexure R-4/6-B, but it has

been kept in abeyance vide order dated 20/22.12.2017 (Annexure R-4/6-C).

**11.** The respondents have also filed communication dated 23.11.2017 (Annexur R-4/6-D) from ADG (SEA) to DDG (Establishment) of DoT regarding the decision to be taken on applicant and 22 other cases of Sr.TOA/TOA, which is still pending. The applicant was erroneously allowed to join in CCA Madhya Pradesh against the post of Jr. Accountant since the official does not belong to the Accounts Cadre and Recruitment Rule of Jr. Accountant also not permit to do so.

**12.** The respondents have not refuted the contention of the applicant that one of the person appointed as Jr. Accountant in the open recruitment, namely; Shri Ajit Kumar Jain, does not have account's background.

**13.** Perusal of Annexure R-4/5 filed by the respondents as per the orders of this Tribunal clearly indicates that Shri Ajit Kumar Jain was working as Assistant Teacher in Neemuch and did not have any accounts background.

**14.** It is clear that DoT does not have the posts of TOA/Sr. TOA with them. No action plan has been drawn out by the respondents



regarding the future course of action to be taken regarding such persons, as is evident from Annexure R-4/6-D.

**15.** It is also a fact that there are acute shortage of Junior Accountants in the department for which they are even resorting to recruitment through open recruitment.

**16.** The applicant has not even been granted the 2<sup>nd</sup> and 3<sup>rd</sup> MACP because of the confusion prevailing in the mind of the respondents.

**17.** It is a very sorry state of affairs to see that on one hand the respondents are having surplus staff about whom they do not know what to do and on the other hand, there is one such person in the cadre, who is wanting to be absorbed as Junior Accountant, where admittedly there are large number of vacancies.

**18.** There is no doubt that the applicant has been working in the Accounts department since the time he has come back to DoT; namely 18.01.2010.

**19.** It is apparent that the applicant is fulfilling the requirement of Recruitment Rules of Junior Accountant. In any case, the applicant has been working in the Accounts department from 18.01.2010 and the respondents have not brought out if his working is not satisfactory. Hence, the action of the respondents in

not absorbing the applicant against the post of Junior Accountant cannot said to be justified.

**20.** In the result, the impugned order dated 15.07.2016 (Annexure A-17) is quashed and set aside. The respondents are directed to check the suitability of the applicant vis-à-vis the Recruitment Rules for Jr. Accountant and if found fit, he should be deemed to be appointed as Junior Accountant with effect from the date he joined the office of respondent No.4, i.e. 18.10.2010. The decision so taken should be communicated to the applicant. The MACP due to him should also be implemented. The same shall be carried out within a period of 60 days from the date of receipt of certified copy of this order.

**21.** Accordingly, the O.A is allowed. No costs.

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

am/-