

**ADMINISTRATIVE TRIBUNAL  
AMHEDABAD BENCH.**

**Original Application No. 146/2019  
Ahmedabad, this the 10th April, 2019**

**CORAM :**

**Hon'ble Shri M.C. Verma, Member (J)**

1 Hemant P Patil,  
Son of Shri Panjabrao  
Aged about 37 years  
Residential address:  
D-299 V-2, Parshwanath Township  
Nr. Krishnanagar Nava Naroda,  
Ahmedabad 382346.

Working as  
Sr. Telephone Operating Assistant(G),  
Under General Manager (Mktg-CM),  
Circle Office, Ahmedabad 380006.  
Presently posted as  
Jr Accounts Officer,  
Under CAO (TR),  
Circle Office, Ahmedabad 380006.

2 Minesh Bhikhubhai Patel,  
Son of Shri Bhikhubhai Patel,  
Aged about 36 years  
Residential address:  
8, Someshwar Park-2,  
Near Girls School Bavla,  
District Ahmedabad 382220

Working as  
Sr. Telephone Operating Assistant(G),  
Under General Manager (Mktg-CM)  
Circle Office, Ahmedabad 380006.

3 Rajiv J Kanth  
Son of Shri Jitendra G Kanth  
Aged about 42 years  
Residential address:  
A-8 Pushpak Tenament,  
Near Smruti Mandir,  
Canal Road, Ghodasar,  
Ahmedabad 382443.

Working as

Sr. Telephone Operating Assistant (G),  
Under Pr. General Manager (Fin.),  
Circle Office, Ahmedabad 380006.

Presently posted as  
Jr. Accounts Officer,  
Under CAO (Fin.),  
Circle Office, Ahmedabad 380006.

4 Aashutosh J Swami,  
Son of Shri Jayantilal Swami,  
Aged about 42 years  
Residential address:  
1, Krishna Nagar Society,  
Opposite Sardar Society,  
Behrampura Ahmedabad 380022.

Working as  
Sr. Telephone Operating Assistant(G),  
Under General Manager (Admn),  
Circle Office, Ahmedabad 380006.

**... Applicants**

**By Advocate Shri A L Sharma**

**V/s**

1 Bharat Sanchar Nigam Limited,  
Represented by Chairman  
and Managing Director,  
Bharat Sanchar Bhavan,  
Harishchandra Mathur Lane,  
Janpath, New Delhi -110001.

2 Chief General Manager,  
Gujarat Telecom Circle,  
BSNL Telephone Bhavan, C.G.Road,  
Navrangpura, Ahmedabad 380006.

**... Respondents**

**O R D E R (ORAL)**  
**Per Shri M C Verma, Member (Judicial)**

1 Instant OA has been file by four applicants seeking a direction to respondent authorities to take decision on communication dated 28.11.2015 (Annexure A/19) as early as possible. Annexure A/19 is the letter of AGM (Administration) whereby he sought clarification from AGM (Estt-III) whether the applicants were eligible for promotion to the post of

Sr. TOA(G) on completion of four year service as TOA(G) alone or on completion of four year service + 4-weeks Induction training.

2 Brief facts of the case as has been set out in the OA are that applicants were appointed, on compassionate ground on the post of Telecom Operating Assistant(G) by order dated 19.09.2003 and 22.09.2003. They had passed the confirmation examination much before completion of period of four years of service in Telecom Operating Assistant TOA(G), as evident from communication dated 14/18.06.2007 (Annexure A-1 and A-2). That Recruitment Rules for the post of Sr. TOA from TOA provides:-

***“12(2) Available vacancy if any after accounting all the officials working in Sr. TOA(G) cadre including those recruited as per Serial (1) above shall be filled up by promotion from confirmed TOAs (G) of basic grade having 4 years of regular service in the cadre possessing 10 + 2 standard or equivalent qualification. Those who do not possess the qualification of 10 + 2 standard or equivalent qualification shall be considered on the basis of a screening test.”***

That applicants have to be given promotion from TOA(G) to Sr. TOA(G) with effect from 2007 but they have been given promotion from 30.08.2010 and 04.10.2010. Aggrieved by the delay in grant of promotion applicants have submitted representations to respondents. That final decision of their promotion case is still awaited and still vide Annexure A/19 AGM (Administration) is making enquiry as whether the applicants were eligible for promotion to the post of Sr. TOA(G) on completion of four year service as TOA(G) alone or on completion of four year service + 4-weeks Induction training. Hence is the OA with two MAs, one for joint application and other for for condonation of delay.

3 The case is at the stage of notice. Heard Ld. counsel for applicant pressed the MAs and OA and submitted that all four applicants are having common cause of action to challenge the inaction on the part of respondents and the relief granted in present OA would satisfy the grievance of all applicants and therefore they seek permission to file common Application. He added that after promotion order applicants submitted representations, their representations submitted on 13.02.2014 and 03.10.2015 have been forwarded by the office of respondent no.2 to the Head Quarters for clarification and necessary guidance by its communication dated 28.11.2015 (Annexure A/19) but till date there is no final reply and the process of waiting for administrative action has caused the delay in approaching the Tribunal. Since final decision on their representation is still awaited hence there is no delay under Section 20 of CAT Act, however, MA for condonation of delay has been preferred only as a precautionary measure. He requested to allow the MAs and to direct the respondent to decide the case of applicants in schedule time frame. He also gave factual details about service carrier of applicant and referred Recruitment Rules for the post of Sr. TOA from TOA.

4 Considered the submissions. In the facts and circumstances of the case both MAs, namely MA No. 153/2019 for condonation of delay & MA 154/2019 seeking permission to file joint application are allowed.

5 Grievances of the applicant are that they as per Recruitment Rules for the post of Sr. TOA from TOA had to be promoted from post of TOA (G) to the post of Sr. TOA (G) w.e.f. year 2007 but were given promotion w.e.f year 2010 only and that final decision on their representations, dated 13.02.2014 and 03.10.2015 has not been taken. Having taken note of the

fact that the representations of the applicants have been forwarded to Corporate Office vide letter dated 28.11.2015 (Annexure A/19) by respondent no.1, interest of justice would be met if a direction is given to respondents to take a final decision on representations dated 13.02.2014 and 03.10.2015 of applicants within a period of three months from the date of receipt of copy of this order. Ordered accordingly.

6 O.A. stands disposed of. There shall be no orders as to costs.

(M C Verma)  
Member(J)

Abp