

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**C.P. No.60/84/2018
O.A. No.60/133/2015
M.A. No.60/34/2019
M.A. No.60/1330/2018
M.A. No.60/1555/2018**

Date of decision: 10.01.2019

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

1. Shiv Kumar Sharma, aged 54 years, S/o Sh. Roop Lal Sharma, working as JTO, O/o PGMTD, Chandigarh, R/o H. No.36-A, Sector-36, Chandigarh.
2. Vijay Kumar S/o Om Parkash, working as JTO, O/o CGMT, Punjab Circle, Chandigarh.
3. Mrs. Raminder Kaur, W/o Sh. Nirmal Singh, working as JTO, O/o CGMT, Punjab Circle, Chandigarh, R/o House No.709-A, Sector-36, Chandigarh.



**... PETITIONERS
VERSUS**

1. Sh. Anupam Shrivastava, Chairman-cum-Managing Director, Bharat Sanchar Nigam Limited, Corporate Office, 4th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi-110001.
2. Sujata T. Ray, Director (HR), Bharat Sanchar Nigam Limited, Corporate Office, HC Mathur Lane, Janpath, New Delhi-110001.

... RESPONDENTS

PRESENT: Sh. Rohit Seth, counsel for the petitioners.

Sh. Ram Lal Gupta, counsel for the petitioners.

ORDER (Oral)

...
SANJEEV KAUSHIK, MEMBER (J):-

1. Present C.P. has been filed alleging non-compliance with the direction contained in order dated 18.10.2016 passed by this Tribunal.
2. In response, the respondents filed various affidavits and in latest one filed on 4.1.2019, they have taken a categorical stand that petitioners, who have been promoted under LDCE quota for the vacancy year 2009-10, cannot be placed en-bloc senior to those who were appointed against vacancy year 2010-11. Therefore, averment has been made that the respondents have complied with the order.
3. Sh. Rohit Seth, learned counsel for the petitioners submitted that since respondents have not fixed inter-se seniority as approved by Board of Director in the ratio of 2:1, therefore, they have not complied with the order. He also submitted that since a finding has been recorded with regard to recommendation of the committee, therefore, respondents are under obligation to grant seniority in ratio 2:1 and direction in this regard may be issued.
4. Sh. Ram Lal Gupta, submitted that proposal made by Board of Directors on 28.8.2015 amalgamated with issuance of new recruitment rules, which are applicable prospectively and cannot be made applicable retrospectively. Petitioners cannot be granted seniority for the vacancy year 2010-11, therefore, he prayed that C.P. may be closed.
5. We have perused order of this Court and the latest affidavit filed by the respondents, which reads as follows:

"1. That the relief sought in the O.A. No.133/2015 revolves around the seniority of promotes of Seniority-cum-Fitness (SCF) Quota of 2009-10 vis-à-vis Limited Departmental Competitive Examination (LDCE) quota of 2010-11. The relief sought by the petitioners in the O.A. are produced as below:-

Xxx
Xxx
Xxx

2. That with regard to seniority of SDEs belonging to vacancy year 2010-11, it has already been submitted vide affidavit dated 03.10.2018 that in compliance with the order dated 18.10.2018 of this Hon'ble Tribunal, the respondent corporation has obtained an undertaking from successful candidates of LDCE 2015 at the time of their appointment (promoted vide BSNL CO order no.2-16/2013-Pers.II dated 25.05.2018 under 33% LDCE quota for vacancy year 2010-11) that they shall not claim seniority over those who will be promoted under 67% Seniority-cum-Fitness quota for the vacancy year 2009-10.
3. In view of the above said undertaking, promotee SDEs of SCF (67% quota) for vacancy year 2009-10 will remain en-bloc senior to LDCE qualified SDEs (33% competitive quota) for vacancy year 2010-11."
6. Considering above, we are of the view that respondents have complied with order and no recruitment rule can be made applicable retrospectively it says so or ordered by the Court of law. Since there is no finding of the Court in this regard, therefore, no further direction can be issued to respondents and seniority of the petitioners will be governed as per policy prevalent at that time. C.P. stands dismissed. Notices are discharged.
7. All the pending MAs also stand disposed of accordingly.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 10.01.2019.
Place: Chandigarh.

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