

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1262/2003
M.A.NO.7/2004
M.A.NO.181/2004

Thursday, this the 12th day of February, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)

1. Shri A.K.Mittal
Superintending Engineer (A&P)
o/o Chief Engineer Civil BSNL
13, Rana Pratap Marg,
YMCA Building, Lucknow
2. Shri Mukesh Kr. Jain
Superintending Engineer (C)
BSNL Civil Circle
3, Tyagi Road, Dehradun-248001
3. Shri Bishnu Swaroop
Executive Engineer (P&D)
o/o Principal Chief Engineer
(Civil) BSNL
4th Floor, Yogayog Bhawan
36 CR Avenue, Kolkata
4. Shri Parmeshwari Dayal
Executive Engineer (HQ)
o/o Chief Engineer (C) BSNL
Telecom Administrative Building
Lalkothi, Jaipur
5. Shri Vinod Sharma
Executive Engineer (Civil)
BSNL Civil Division
ALTTC, Ghaziabad
6. Shri Sunil Bhandari
Executive Engineer (P&D)
o/o Chief Engineer (Civil), BSNL
Telecom Administrative Building
Lalkothi, Jaipur

..Applicants

(By Advocate: Shri Vikas Singh)

Versus

1. Union of India
through Secretary
Deptt. of Telecommunications
20, Ashoka Road, Sanchar Bhawan
New Delhi-1
2. The Member (Productions)
Deptt. of Telecommunications
20, Ashoka Road, Sanchar Bhawan
New Delhi-1
3. The Chairman
Union Public Service Commission
Dholpur House, Shahjahan Road, New Delhi

4. Shri R.K.S.Yadav
working as Chief Engineer (BW)
MTNL, r/o Qt. No.4, Type V
Ganga Telecom Premises
Juhu Danda, Santa Cruz (W)
Mumbai - 400 054
5. Shri S.C.Srivastava
working as Superintendeing Engineer
r/o 201 A Wing Vaishali Tower CHS
Vaishali Nagar, Mukund (W)
Mumbai 400 080
6. Shri Amlesh Bhattacharya
Superintending Engineer (A&P)
o/o Chief Engineer (Civil) BSNL
3rd Floor Unit IX
Bhubaneshwar-751022

..Respondents

(By Advocate: Shri M.M.Sudan for respondent No.4 -
none for other respondents)

O R D E R (ORAL)

Justice V.S.Aggarwal:

After the matter has been argued, the question in controversy has been simplified and for the present, therefore, we are not required to go into all the intricacies.

2. The reason for saying so is that the applicants were challenging a seniority list dated 25.11.2002 in the OA. It appears that in pursuance of a decision of the Mumbai Bench of this Tribunal, another provisional seniority list dated 28.11.2003 has been circulated inviting objections. The applicants have filed a miscellaneous petition (MA-181/2004) to amend the OA by incorporating the said fact of provisional seniority list.

3. Respondent Nos. 1 to 3 have filed their reply to MA-181/2003 which reads:-

"With reference to the averments made in the para, it is respectfully submitted

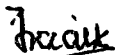
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that the seniority list dated 28-11-2003 is merely a provisional seniority list and the respondents have already invited objections on this seniority list. If the applicants find anything wrong in this list he can also file objections against the seniority list and their objections will be considered by the competent authority as per rules. The application is therefore premature as the representations etc. received on the seniority list have not yet been officially disposed of by the competent authority and no decision has been taken to finalise the seniority list.

It is stated that the P&T Civil Wing cadre is passing through a difficult time when more than 90% of the posts are filled up on adhoc basis only. The department has not been able to hold the DPC in the grade of SE (C) since 1987 due to non-finalisation of seniority list in the grade of EE (C) and if the operation of provisional seniority list is also stayed, the respondents will not be in a position to fill up the vacant post in the higher grade of SE, CE and PCE, which is in the HAG and adhocism will have to continue for many more years to come. In the interest of service, it is therefore respectfully prayed that the applicant's prayer for interim stay as prayed in the OA may not be granted and the respondent may be allowed to finalise the seniority list after considering all the objections etc."

4. Perusal of the same clearly shows that what has been circulated is only a provisional list. In the absence of any final list having come into being and the earlier seniority list having become redundant, learned counsel for applicants states that if the fresh cause arises after the seniority is issued, he may be permitted to challenge the same. Allowed as prayed.

5. Subject to aforesaid, the petition is dismissed as withdrawn.


(S. K. Naik)
Member (A)


(V. S. Aggarwal)
Chairman

/sunil/