

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00499/16**

Reserved on: 23.10.2019  
Date of Order: 25.10.2019

**C O R A M**

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER**  
**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Smt. Kanchan Devi, wife of Late Aeadh Kishore Prasad Singh, Ex-Senior Telecom Office Assistant (G) Office of the Chief General Manager Telecom, Bharat Sanchar Nigam Limited, Bihar Circle, Patna, Resident of AT-70 Feet, Hullupur Road, Near Ujjwal ITI, Vishunpur Pakri Post- Anisabad PS- Beur, District- Patna- 800002 (Bihar).

.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Chairman and Managing Director, Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi- 110001.
2. The Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, Bihar Circle, Patna- 800001 (Bihar).
3. The Principal General Manager, Telecomm, Bharat Sanchar Nigam Limited, Office of the Chief General Manager, Telecomm, Bharat Sanchar Nigam Limited, Bihar Circle, Patna- 800001 (Bihar).
4. The General Manager (HR/ADMN), Bharat Sanchar Nigam Limited, Office of the Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, Bihar Circle, Patna- 800001 (Bihar).
5. The Deputy General Manager (ADMN), Bharat Sanchar Nigam Limited, Office of the Chief General Manager, Telecomm, Bharat Sanchar Nigam Limited, Bihar Circle, Patna- 800001 (Bihar).
6. The Additional General Manager (ADMN), Bharat Sanchar Nigam Limited, Telecom District, Patna, Patna- 800001 (Bihar).

.... Respondents.

By Advocate: - Mr. K.P. Narayan

**O R D E R**

**Per Dinesh Sharma, A.M:-** In this OA, the applicant has prayed for quashing the impugned order dated 25.07.2015 by which she was removed from service under Rule 33 B (i) of BSNL CDA Rules, 2006 after conducting

an enquiry on a charge of producing false matriculation certificate to get appointment on compassionate ground. This order was later confirmed in appeal by order dated 20.01.2017 and the applicant was allowed to amend the OA to include a prayer for quashing this order issued by the Appellate Authority (Annexure R/1 of WS). The main reasons for questioning the imposition of this penalty are : (a) the inquiry was not conducted following principles of natural justice, (b) the punishment order has been passed by respondent no. 6 (Additional General Manager , Admn. of BSNL) under whose control the applicant was not working, (c) no education qualification was required for compassionate appointment to the widows and therefore allegation of fraud to get this appointment is wrong, (d) a material witness, namely, Shri Kanya Parasad Srivastava, Dy. Secretary, Bihar School Examination Board was not examined in the inquiry, (e ) the proceedings has been delayed for more than 9 years, and (f) the punishment of removal from service after rendering more than 30 years of service is unwarranted and disproportionate.

2. A written statement has been filed by the respondents in which they have denied the claim of the applicant. They have alleged that a charge memo was issued to the applicant vide memo dated 25.02.2006 in which she has falsely mentioned her qualification as matriculate and also enclosed photocopy of BSEB Certificate in her name. On later verification, it was found that the certificates submitted by the applicant were not genuine. An enquiry, following this charge memo, has been conducted as per the procedure prescribed and the charges were found proved. The applicant

was given full opportunity to submit her representation and the Disciplinary Authority has imposed the penalty after application of judicious mind and perusal of all records. Despite ample opportunity given to the applicant she did not produce any paper to support the genuineness of her matriculation certificate. Matriculation is the required minimum qualification for Group C post and the applicant was approved for appointment in Group C on the basis of this qualification only. The report from the BSSEB made it very clear that the certificate submitted by the applicant was not genuine since in the year 1982 codes upto 3233 were used and the Code No. 3242, as submitted by the applicant, was not existence in that year. The written statement also mentions that the applicant had herself admitted, in a statement dated 26.05.2005, that she had never gone to any school but studied at home and did not obtain any certificate of matriculation from BSEB. Since the orders passed by the Disciplinary Authority and later by the Appellate Authority have been passed after giving the applicant full opportunity for defending her case but she deliberately avoided to face departmental inquiry and did not attend a single date fixed for inquiry, the action taken by the Department for removing her from service is fully justified. Regarding the competence of the Disciplinary Authority the written statement mentions that as per BSNL CDA Rules, 2006, the Disciplinary Authority is always from the officer of Admin. side, dealing with HR, as per Schedule of Power stipulated in the Rules. In case of applicant, the Disciplinary Authority was changed as per the verbal direction of Hon'ble High Court, Patna in CWJC No. 8225 of 2007 where the applicant had alleged bias against Disciplinary

Authority. The applicant's appointment was made from General Pool and not from Account's Pool and she was posted in the Finance Wing from General Pool Quota and therefore the Disciplinary Authority had to be from Administrative Side. The Disciplinary Authority being in the rank of Additional GM is above DGM rank and is therefore fully competent to pass the punishment order. Since the applicant got the benefit of appointment on the basis of a false certificate of matriculation she could not be continued in that job after finding that the certificate was false.

3. A rejoinder has been filed by the applicant reiterating her claim about the competence of the Disciplinary Authority, denial of natural justice in conducting Ex-parte inquiry, non-examination of a material witness and also severity of punishment after 30 years of service.

4. We have gone through the pleadings and heard the learned counsels of both the parties. During the course of argument, learned counsel for the applicant cited the judgment of the Hon'ble Supreme Court of India in **Chandra Vilash Rai Vs. State of Bihar & Ors.** [ATJ 2002(3) 172] in which the punishment of dismissal from service was substituted with premature retirement partly on ground that the appellant's therein had served for more than 20 years. He has also submitted another judgment in **P. Erajan Vs. DIG of Police, Tirunelveli Range, Tirunelveli** [ATJ 2005(3) 218] in support of his contention that non-examination of a material witness vitiates an inquiry process. The learned counsel for the applicant also argued citing some communications from the Inquiry Officer which,

according to him, showed signs of interference in the inquiry process by higher authorities.

5. After going through the pleadings and hearing both the parties, it is clear that the applicant has been removed from service for having produced certificates which were not found to be genuine. Though the applicant denies any knowledge of having produced any such certificates as her qualification at the time of applying for compassionate appointment, it is very apparent from the records that she was approved for appointment to a Group C job only because a certificate of matriculation was produced. The applicant's denial (about not having any knowledge about which application she had given for which job (Annexure R/8) is prima facie a weak attempt to avoid responsibility for her action and lacks credence. Even if, for the sake of argument, it was to be accepted that she did not herself produce the false certificate she was the beneficiary of such false certificate and therefore cannot deny her complicity in the act. We have examined the point raised by the competence of the Disciplinary Authority and after going through the detailed explanation given in the written statement and also in the order passed by the Appellate Authority do not find merit in the argument of the applicant about such lack of competence. The applicant did come under the Admin Division and there is no rule which prescribes that a person should have worked directly under the disciplinary authority. Since the applicant has herself admitted not having passed the matriculation examination, the failure to examine Dy. Secretary as a witness (to prove the lack of genuineness of her certificate) is not a fatal error in the inquiry

process and therefore the decision cited by the learned counsel for the applicant in this regard will also not apply to the facts of this case.

6. Regarding the proportionality of the punishment, the learned counsel for the respondents argued that this could be the only punishment in case where the appointment was obtained through deceit. We have gone through the decision of the Apex Court cited by the learned counsel for the applicant in Chandra Vilash Rai (supra). We find that in that case the length of service was only one of the reasons for reducing the quantum of punishment. In that case the delinquents had not committed any mistake on their own but at the behest of the Board of Directors and the Judges in the High Court had divergent views on whether to punish or to exonerate them. Punishment in every case has to be based on the facts of that case. We find that though the applicant did serve for long period before the fact of falsehood in the matriculation certificate was discovered, a long period was spent in the conduct and conclusion of the enquiry in which she apparently did not cooperate. The applicant cannot be allowed to take advantage of her own wrongdoing/faults in this case. For the aforesaid reasons, the OA lacks merit and is, accordingly, dismissed. No costs.

**[ Dinesh Sharma ]**  
**Administrative Member**  
**Srk.**

**[Jayesh V. Bhairavia]**  
**Judicial Member**