

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 24TH DAY OF AUGUST 2020 / 2ND BHADRA, 1942

RP.No.899 OF 2018 IN OP (CAT). 45/2015

(AGAINST JUDGMENT DATED 05.06.2018 IN O.P. (CAT) NO.45/2015)

REVIEW PETITIONERS/RESPONDENTS 1 TO 3:

- 1       BHARATH SANCHAR NIGAM LTD.,  
CORPORATE OFFICE, EASTERN COURT BUILDING,  
JANPATH, NEW DELHI 110 001,  
REPRESENTED BY ITS DIRECTOR (HR)
  
- 2       CHAIRMAN AND MANAGING DIRECTOR,  
BHARATH SANCHAR NIGAM LTD.,  
HARISH CHANDRA MATHUR LANE, JANPATH,  
NEW DELHI 110 001
  
- 3       THE SENIOR GENERAL  
MANAGER (PERSONAL) BHARATH SANCHAR NIGAM LTD.,  
CORPORATE OFFICE,  
DEPARTMENT OF EXAMINATION BRANCH, ROOM NO. 222,  
2ND FLOOR, EASTERN COURT BUILDING, JANPATH,  
NEW DELHI 110 001

BY ADVS. SRI.K.K.RAI (SR.)  
SRI.RAJANISH PRASAD  
SRI. GEORGE KURUVILA

RESPONDENTS/PETITIONERS & RESPONDENTS:

- 1        SONY GEORGE  
          AGED 34 ,S/O. T.V.GEORGE, JTO, TRANSMISSION,  
          BSNL, KOTTAYAM, RESIDING AT THALAKKULAM,  
          CHEEVANCHIRA, CHANGANACHERRY-686106
  
- 2        JOSHI DAS Y.S,  
          AGED 33 YEARS,  
          S/O. LATE G YESUDAS, JTO, O/O GENERAL MANAGER,  
          BSNL MOBILE SERVICE,  
          CTTC COMPLEX, RTTC, THIRUVANANTHAPURAM,  
          RESIDING AT BETHEL, TC11/920 (5), NANTHANCODE,  
          THIRUVANANTHAPURAM 695003
  
- 3        SHINEETH.T. ,  
          AGED 35 YEARS,  
          S/O. O THANKAPPAN, JTO, O/O GENERAL MANAGER  
          BSNL MOBILE SERVICE, THIRUVANANTHAPURAM  
          RESIDING AT PLOT NO. 24,  
          ESTEEM VILLA, KARAPARAMBU, KOZHIKODE 673010
  
- 4        SMT. SAVITHRI .V,  
          SDE, CALL CENTRE CHENNAI,  
          O/O CGMT, BSNL, CHENNAI 600 003
  
- 5        SRI KUMAR ANIL S,  
          JUNIOR TELECOM INSPECTOR ,  
          O/O AGM ESTABLISHMENT , CGM INSPECTION, BSNL,  
          JABALPUR 482002
  
- 6        K.S SREEKUMAR  
          S/O. LATE K SREEDHARAN NAIR,  
          AGED 58 , JTO, PRESENTLY WORKING AS SDE  
          (PHONES) ON LOOKING AFTER BASIS,  
          TELEPHONE EXCHANGE, AYYAPPANKAVU, ERNAKULAM-18,  
          RESIDING AT KANIYATTIL HOUSE,  
          MAMALA P.O. ,  
          THIRUVAMKULAM, ERNAKULAM 682035

- 7 SHEELA G. ,  
D/O K K GOPALAN, JTO, PRESENTLY WORKING AS SDE  
(BROADBAND) ON LOOKING AFTER BASIS,  
TELEPHONE EXCHANGE, BOATJETTY, ERNAKULAM- 11,  
RESIDING AT 37/1202A, PANACKAL HOUSE,  
FATHIMA CHURCH ROAD, ERNAKULAM 682020
- 8 RAJAMONY M.A.  
D/O LATE M C ACHUTHAN, AGED 52 YEARS,  
JTO PRESENTLY WORKING AS SDE (COMPUTER) ON  
LOOKING AFTER BASIS, TELEPHONE EXCHANGE,  
BOATJETTY, ERNAKULAM -11, RESIDING AT SLAVATH,  
ANASWARA, KOTHERI ROAD, VADULTHALA,  
ERNAKULAM 682023
- 9 KAMALA SIVAN,  
D/O NARAYANAN NAIR,  
AGED 57 YEARS, JTO,  
PRESENTLY WORKING AS SDE ON LOOKING AFTER  
BASIS, O/O PGM T, BSNL BHAVAN, KOCHI- 16,  
RESIDING AT SOUPARNIKA, TEMPLE ROAD,  
THAIKATTUKARA POST,ALUVA 683106
- 10 ANIL KUMAR V. ,  
S/O. K VIKRAMAN NAIR,  
AGED 50 YEARS,  
JTO, PRESENTLY WORKING AS SDE (PROJECT VIJAY)  
ON LOOKING AFTER BASIS, MUVATTUPUZHA,  
RESIDING AT REVATHY, KOOTHATTUKULAM P.O.,  
ERNAKULAM 686662
- 11 REMADEVI K.S,  
D/O. LATE SREEDHARA MENON, AGED 65 YEARS,  
JTO, PRESENTLY WORKING AS SDE (PROJECT VIJAY)  
ON LOOKING AFTER BASIS, BSNL BHAVAN, ERNAKULAM  
RESIDING AT THRIPTHY, CLRA-24, SN JUNCTION,  
THRIPPUNITHURA P.O., ERNAKULAM 682301
- 12 M.B. GEETHA,  
D/O LATE M.K. BALAKRISHNA WARRIER,  
AGED 48 YEARS,  
JTO, PRESENTLY WORKING AS SDE ON LOOKING AFTER  
BASIS, BSNL, KOLENCHERRY, ERNAKULAM RESIDING AT  
KRISHNAKRIPA, MULAMTHURUTHY, ERNAKULAM 682314

- 13 PRASANNA RAJAN,  
D/O PARAMESWARAN POTTI,  
AGED 49 YEARS,  
JTO, PRESENTLY WORKING AS SDE ON LOOKING AFTER  
BASIS, VENNALA TELEPHONE EXCHANGE, ALINCHUVADU,  
ERNAKULAM 682028 RESIDING AT HARISREE FORT,  
OPP. KISHAT STUDY CIRCLE, THRIIPPUNITHURA 682301
- 14 A.V. SARALA,  
D/O. A.K. VELAYUDHAN, AGED 53,  
JTO, PRESENTLY WORKING AS SDE ON LOOKING AFTER  
BASIS, CHOONDY, ALUVA,  
RESIDING AT CHAKKUNGAL HOUSE, CHAKKUNGAL ROAD,  
PALARIVATTOM, ERANKULAM 682025
- 15 PADMINI .K. ,  
D/O K KARUNAKRA MENON, AGED 58 YEARS, JTO,  
PRESENTLY WORKING AS SDE ON LOOKING AFTER BASIS  
(CABLE PLANNING) O/O PGMAT, BSNL BHAVAN,  
ERNAKULAM, RESIDING AT KOOTTAPPURATHU MADAM,  
TEMPLE ROAD, THIRUVAMKULAM 682305
- 16 ALL INDIA BSNL EXECUTIVE ASSOCIATION,  
KERALA CIRCLE, THIRUVANANTHAPURAM,  
REPRESENTED BY ITS SECRETARY,  
T.K. MANGALANDAN, PIN 695001

R1-3 BY ADV. SRI.SHAFIK M.A.  
R1-3 BY ADV. SHRI.ROOPESH N.R.  
R4-15 BY ADV. SRI.ANTONY MUKKATH  
R16 BY ADV. SRI.R.SREERAJ

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON  
24.08.2020, ALONG WITH RP.894/2018 & CONNECTED CASES, THE  
COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 24TH DAY OF AUGUST 2020 / 2ND BHADRA, 1942

RP.No.1063 OF 2018 IN OP (CAT). 126/2015

(AGAINST JUDGMENT DATED 05.06.2018 IN O.P. (CAT)  
NO.126/2015)

REVIEW PETITIONERS/RESPONDENTS:

- 1 BHARATH SANCHAR NIGAM LTD.  
CORPORATE OFFICE, BHARATH SANCHAR BHAVAN,  
JANPATH, NEW DELHI-110 001.
- 2 THE CHAIRMAN & MANAGING DIRECTOR,  
BSNL, HARISH CHANDRA MATHUR LANE, JANPATH,  
NEW DELHI- 110 001.
- 3 THE GENERAL MANAGER (PERSONNEL) ,  
BSNL, 4TH FLOOR, BHARATH SANCHAR BHAVAN,  
NEW DELHI-110 001.

BY ADVS.SRI. K.K.RAI (SR.)  
SRI.RAJANISH PRASAD  
SRI.GEORGE KURUVILLA

RESPONDENTS/PETITIONERS:

- 1 K.MAXMILAN, AGED 34 YEARS  
S/O.K.V.XAVIER, JTO GPON, NIB DTS BUILDING  
CARRIER STATION ROAD, ERNAKULAM, RESIDING AT  
KAVUNGAL HOUSE, ST.XAVIER ROAD, MANJAKKAD,  
NARAKKAL P.O.

- 2 BIPIN,AGED 36 YEARS  
S/O.K.BALCHANDRAN, JTO (NSS), PANAMPILLY NAGAR,  
TELEPHONE EXCHANGE, KOCHI-682 036, RESIDING AT  
C-25, BSNL STAFF QUARTERS, PANAMPILLY NAGAR,  
COCHIN-36.
- 3 RASHMI B.,AGED 38 YEARS  
D/O.T.K.BALAKRISHNAN, JTO (MOBILE), 2ND FLOOR,  
O/O GMTD, BSNL BHAVAN, SOUTH BAZAR, KANNUR-2,  
RESIDING AT ADWAIDAM, KISSAN ROAD, MANAL,  
CHALAD P.O., KANNUR-14.
- 4 SINDHU S.,AGED 40 YEARS  
D/O.T.N.SADASIVAN, JTO RTTC, TRIVANDRUM,  
RESIDING AT UNRA-46A, ULLAS NAGAR, ELIPPODE,  
THIRUMALA P.O., TRIVANDRUM.
- 5 SUMESH T.,AGED 37 YEARS  
S/O.SREENIVASAN T., JTO COMPUTER, KOZHIKODE,  
RESIDING AT POURNAMI HOUSE, MAKKADA P.O.,  
KOZHIKODE.
- 6 ANAND RAMAKRISHNAN  
AGED 36 YEARS  
S/O.RAMAKRISHNAN M., JTO NQM, O/O DE NQM,  
2ND FLOOR, CTO BUILDING, PALGHAT, RESIDING AT  
SREEPADMAM, MARUVAPPADAM, KANNADI P.O.,  
PALGHAT.
- 7 PRASAD RAJ R.V.,AGED 38 YEARS  
S/O.G.RAJAPPAN, JTO MARKETING (CFA), O/O CGMT  
BSNL, TRIVANDRUM, RESIDING AT TC-67/2104,  
PRASADAM, AMBALATHARA, POONTHURA P.O.,  
TRIVANDRUM-695 026.
- 8 CHANDRAKUMAR O.B.,AGED 32 YEARS  
S/O.BABU O.K., JTO FTTH,THRISSUR,O/O DE BROAD  
BAND, RESIDING AT OORKKOLIL, LOKAMALESWARAM,  
KODUNGALLUR, THRISSUR.

- 9 BIPAL PREM,AGED 32 YEARS  
S/O.R.PREMACHANDRAN NAIR, JTO NIB, O/O DE NIB,  
KAITHAMUKKU, THIRUVANANTHAPURAM, RESIDING AT  
PADAYANI ROAD, PRA-30, VATTIYOORKKAVU P.O.,  
TRIVANDRUM-695 013.
- 10 SANDEEP P.S.,AGED 32 YEARS  
S/O.SREENIVASAN, JTO OF MAINTENANCE, THRISSUR,  
RESIDING AT PUNNUR KALARICKAL, DWARAKA ESTATE,  
PERINGANDUR P.O., THRISSUR.
- 11 KAMALA SIVAN,AGED 59 YEARS  
D/O.SRI.NARAYANAN NAIR, WORKING IN THE  
SUBSTANTIVE CADRE OF JUNIOR TELECOM OFFICER,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER  
(ON LOOKING AFTER BASIS), OFFICE OF THE PGMT,  
BSNL BHAVAN, KOCHI-16, RESIDING AT SOUPARNIKA,  
TEMPLE ROAD,  
POST THAIKATTUKARA, ALUVA - 683 106.
- 12 A.V.SARALA,AGED 55 YEARS  
D/O.SRI.A.K.VELAYUDHAN, WORKING IN THE  
SUBSTANTIVE CADRE OF JUNIOR TELECOM OFFICER,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER  
(ON LOOKING AFTER BASIS), CHOONDY, ALUVA,  
RESIDING AT CHAKKUNGAL HOUSE, CHAKKUNGAL ROAD,  
PALARIVATTOM, KOCHI-25.
- 13 REMADEVI K.S.,AGED 57 YEARS  
D/O.LATE SREEDHARA MENON, WORKING IN THE  
SUBSTANTIVE CADRE OF JUNIOR TELECOM OFFICER,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER,  
(PROJECT VIJAY), (ON LOOKING AFTER BASIS),  
ERNAKULAM, BSNL BHAVAN, KALATHIPARAMBIL ROAD,  
ERNAKULAM SOUTH, RESIDING AT 'TRIPTHY', CLRA-  
24, SN JUNCTION, THRIpunITHURA P.O.,  
COCHIN-682 031.

R1-10 BY ADV. SRI.M.R.HARIRAJ  
R1 BY ADV. SRI.K.RAJAGOPAL  
R11-13 BY ADV. SRI.ANTONY MUKKATH

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON  
24.08.2020 ALONG WITH R.P.NO.899/2018 AND CONNECTED CASES,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 24TH DAY OF AUGUST 2020 / 2ND BHADRA, 1942

RP.No.47 OF 2019 IN OP (CAT). 45/2015

AGAINST THE JUDGMENT IN OP (CAT) 45/2015(Z) OF HIGH COURT  
OF KERALA

REVIEW PETITIONER/16TH RESPONDENT:

ALL INDIA BSNL EXECUTIVES ASSOCIATION,  
KERALA CIRCLE, THIRUVANANTHAPURAM,  
REPRESENTED BY ITS SECRETARY, SHRI.V.SHAJI.

BY ADV. SRI.R.SREERAJ

RESPONDENTS/PETITIONERS & RESPONDENTS 1 TO 15:

- 1        SONY GEORGE,  
          AGED 35 YEARS  
          S/O.T.V.GEORGE, JUNIOR TELECOM OFFICER,  
          TRANSMISSION, BSNL, KOTTAYAM, RESIDING AT  
          THALAKKULAM, CHEEVANCHIRA, CHANGANACHERRY.
  
- 2        JOSHY DAS Y.S.  
          AGED 34 YEARS  
          S/O.LATE G YESUDAS, JUNIOR TELECOM OFFICER,  
          OFFICE OF THE GM MOBILE, BSNL MOBILE SERVICE,  
          CTTC COMPLEX, RTTC, KAIMANAM,  
          THIRUVANANTHAPURAM, RESIDING AT 'BETHEL', TC  
          11/920(5), NANTHANCOD, THIRUVANANTHAPURAM-3.



- 3 SHINEETH.T.  
AGED 35 YEARS  
S/O.O.THANKAPPAN, JUNIOR TELECOM OFFICER,  
OFFICE OF THE GM MOBILE, BSNL MOBILE SERVICE,  
THIRUVANANTHAPURAM, RESIDING AT PLOT NO.24,  
EASTERN VILLA, KARAPPARAMBU KOZHIKODE.
- 4 BHARATH SANCHAR NIGAM LIMITED,  
CORPORATE OFFICE, EASTERN COURT BUILDING,  
JANPATH, NEW DELHI-110001, REPRESENTED BY ITS  
DIRECTOR (HR) .
- 5 CHAIRMAN AND MANAGING DIRECTOR,  
BHARAT SANCHAR NIGAM LIMITED, HARISH CHANDRA  
MATHUR LANE, JANPATH, NEW DELHI-110001.
- 6 SENIOR GENERAL MANAGER (PERSONAL)  
BHARATH SANCHAR NIGAM LIMITED,  
CORPORATE OFFICE, DEPARTMENT OF EXAMINATION  
BRANCH, ROOM NO.222, 2ND FLOOR, EASTERN COURT  
BUILDING, JANPATH, NEW DELHI-110001.
- 7 SAVITHRI.V.  
SUB DIVISIONAL ENGINEER, CALL CENTER CHENNAI,  
OFFICE OF CGMT, BSNL, CHENNAI.
- 8 KUMAR ANIL.S.  
JUNIOR TELECOM INSPECTOR, OFFICE OF AGM,  
ESTABLISHMENT, CGM INSPECTION, BSNL, JABALPUR.
- 9 K S SREEKUMAR  
S/O.LATE K SREEDHARAN NAIR, WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL  
ENGINEER (PHONES), (ON LOOKING AFTER BASIS),  
TELEPHONE EXCHANGE, AYYAPPANKAVU, ERNAKULAM-18,  
RESIDING AT KANIYATTIL HOUSE, MAMALA.P.O,  
THIRUVANKULAM, ERNAKULAM.

- 10 SHEELA.G.  
D/O.K K GOPALAN, WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER(ON  
LOOKING AFTER BASIS), TELEPHONE EXCHANGE,  
BOAT JETTY, ERNAKULAM-11, RESIDING AT 37/1202A,  
PANACKAL HOUSE, FATHIMA CHURCH ROAD,  
ERNAKULAM-20.
- 11 RAJAMONY.M.A  
D/O.LATE M C ACHUTHAN, WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER  
(ON LOOKING AFTER BASIS), TELEPHONE EXCHANGE,  
BOAT JETTY, ERNAKULAM-11, RESIDING AT SLAVATH,  
ANASWARA, KOTHERI ROAD, VADUTHALA,  
ERNAKUJLAM-682023.
- 12 KAMALA SIVAN  
D/O.SHRI.NARAYANAN NAIR, WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER(ON  
LOOKING AFTER BASIS), O/O THE PGMT,  
BSNL BHAWAN, KOCHI-16, RESIDING AT SOUPARNIKA,  
TEMPLE ROAD, POST THAIKKATUKARA, ALUVA-683106.
- 13 ANILKUMAR.V  
S/O.K.VIKRAMAN NAIR, WORKING AS JTO, PRESENTLY  
WORKING AS SUB DIVISIONAL ENGINEER(PROJECT  
VIJAY) (ON LOOKING AFTER BASIS), MUVATTUPUZHA,  
RESIDING AT REVATHI, KOTHATTUKULAM.P.O,  
ERNAKULAM-682662.
- 14 REMADEVI.K.S  
D/O.LATE SREEDHARA MENON, WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL  
ENGINEER(PROJECT VIJAY) (ON LOOKING AFTER  
BASIS), ERNAKULAM, BSNL BHAWAN,  
KALATHIPARAMBIL ROAD, ERNAKULAM SOUTH, RESIDING  
AT THRIPTHY, CLRA-24, SN JUNCTION,  
TRIPUNITHURA P O, ERNAKULAM-682301.

- 15 M B GEETHA  
D/O.LATE M K BALAKRISHNA WARRIER, WORKING AS  
JTO, PRESENTLY WORKING AS SUB DIVISIONAL  
ENGINEER (ON LOOKING AFTER BASIS), KOLENCHERRY,  
ERNAKULAM, RESIDING AT KRISHNAKRIPA,  
MULANTHURUTHY, ERNAKULAM.
- 16 PRASANNA RAJAN  
D/O.SRI.PRAMESWARAN POTTY, WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER (ON  
LOOKING AFTER BASIS), VENNALA TELEPHONE  
EXCHANGE, ALINCHUVADU, 682028, RESIDING AT  
HARISREE FORT, OPP KISHAT STUDY CIRCLE,  
THRIPUNITHURA-682301.
- 17 A V SARALA  
D/O.SRI.A K VELAYUDHAN WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER (ON  
LOOKING AFTER BASIS), CHOONY, ALUVA, OFFICE OF  
THE PGM, ERNAKULAM, RESIDING AT CHAKKUNGAL  
HOUSE, CHAKKUNGAL ROAD, PALARIVATTOM, KOCHI-25.
- 18 PADMINI.K  
D/O.SRI.K.N.KARUNAKARA MENON, WORKING AS JTO,  
PRESENTLY WORKING AS SUB DIVISIONAL ENGINEER (ON  
LOOKING AFTER BASIS) (CABLE PLANNING), OFFICE OF  
THE PGM, BSNL BHAWAN, ERNAKULAM, RESIDING AT  
KOTTAPURATHU MADAM, TEMPLE ROAD,  
THIRUVANKULAM-682305.

R4-6 BY ADVS.SRI.K.K.RAI (SR.)

SRI.RAJANISH PRASAD

SRI.GEORGE KURUVILLA

R7-18 BY ADV. SRI.ANTONY MUKKATH

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON  
24.08.2020, ALONG WITH RP.894/2018 AND CONNECTED CASES,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ORDER**

*Ravikumar, J.*

The above mentioned original petitions, the common judgment of which is sought to be reviewed, carried a dispute regarding fixation of *inter se* seniority between directly recruited Junior Telecom Officers (JTOs) and promotees to that post, in Bharat Sanchar Nigam Limited (for short, 'BSNL'). R.P. No.1063/2018 in O.P.(CAT) No.126/2015, R.P.No.899 of 2018 in O.P.(CAT) No.45/2015 and R.P. No.894/2018 in O.P.(CAT) No.25/2015 are filed by BSNL and its officers raising exactly the same contentions and grounds. R.P.No.47 of 2019 is filed by respondent No.16 in the said original petition. I.A.No.1/2019 in the un-numbered review petition in O.P.(CAT) No.25 of 2015 is filed by third parties to the said original petition. They were also not parties to O.A No.1081 of 2013 from which O.P. (CAT) No.25 of 2015 arose.

2. The above mentioned original petitions involving *inter se* seniority dispute between directly recruited JTOs and promotee JTOs

in BSNL were heard jointly and were disposed of as per judgment dated 5.06.2018. After taking note of the rival contentions, elaborately dealt with in the judgment, this Court ordered thus:-

“15. The upshot of the discussions is that the directly recruited JTOs like the petitioners and the promotee JTOs in excess of their quota by virtue of the quota-rota rule available in DoT, are to be assigned inter se seniority in the integrated eligibility list of JTOs for promotion to the post of SDE taking into account their actual date of appointment and date of promotion certainly, subject to their respective seniority in the concerned appointment order/promotion order and the rules of rotation of quotas. Since the provisional eligibility list of JTOs viz., Annexure-A7 of Ext.P1 and final eligibility list of JTOs viz., Ext.P15 (Annexure-A1 in O.A.No.553 of 2015) are set aside to the extent they relate assignment of seniority of directly recruited JTOs in BSNL and promotee JTOs from DoT in excess of the promotion quota as mentioned hereinbefore a final eligibility list in respect of those persons shall be prepared expeditiously in the light of the positions settled hereinbefore and it shall be incorporated in the integrated final eligibility list of JTOs for the period mentioned in Annexure-A7 of Ext.P1 dated 11.5.2012, for promotion to the post of SDE. This shall be done, at any rate, within a period of six months from the date of receipt of a copy of this judgment. Needless to say that taking into account the dearth of sufficient personnel to man the post of SDE, it will be open to the official respondents to effect promotions against the unfilled vacancies of SDE equally distributing the vacancy among the senior most directly recruited JTOs and senior most promotee JTOs subject to finalization of the final eligibility list of JTOs in the manner

mentioned hereinbefore.”

3. Essentially, it is seeking review of the judgment whereby the original petitions were disposed of on the aforesaid lines that the captioned review petitions as also the leave petition to file review petition are filed. Before dealing with the contentions in the review petitions, it is only appropriate to refer to the following decisions to notice the law on the subject of exercise of the power of review. In **Inderchand Jain (dead) through L.Rs. v. Motilal (dead) through L.Rs. [(2009) 14 SCC 663]**, it was held by the Apex Court in paras 10, 11 and 33 as hereunder:-

“10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. It constitutes an exception to the general Rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

11. Review is not appeal in disguise. In Lily Thomas v. Union of India MANU/SC/0327/2000:(2000) 6 SCC 224 this Court held:(SCC p.251, para 56)

56. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing

with the exercise of power. The review cannot be treated like an appeal in disguise.

33. The High Court had rightly noticed the review jurisdiction of the court, which is as under:

The law on the subject-exercise of power of review, as propounded by the Apex Court and various other High Courts may be summarised as hereunder:

(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 Code of Civil Procedure.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine *actus curiae neminem gravabit*.

4. In **Ajith Kumar Rath v. State of Orissa and others**

(**MANU/SC/0705/1999 : (1999) 9 SCC 596**), the Apex Court held :-

“29. In review proceedings, the Tribunal deviated from the principles laid down above which, we must say, is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy had been finally decided. This, we are constrained to say, is not the scope of review under Section 22(3)(f) of the Administrative Tribunals Act, 1985.”

5. In **Parsion Devi and Ors. v. Sumitri Devi and Ors.** [(1997)

8 SCC 715], the Apex Court held:-

“9. Under Order 47 Rule 1 Code of Civil Procedure a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 Code of Civil Procedure. In exercise of the jurisdiction under Order 47 Rule 1 Code of Civil Procedure it is not permissible for an erroneous decision to be 'reheard and corrected'. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise.”

6. In fact, after referring to the aforesaid decisions, the Apex Court in **Perry Kansagra v. Smriti Madan Kansagra** reported in [2019 (2) KHC 107] held that an error which is required to be detected by a process of reason can hardly be held to be an error apparent on face of the record. To justify exercise of review



jurisdiction, the error must be self evident. Furthermore, it was held therein thus:-

“Even assuming that there was no correct appreciation of facts and law in the earlier judgment, the parties could be left to challenge the decision in an appeal. But the review was not a proper remedy at all.”

7. From the exposition of law as aforesaid, on the exercise of power of review, it is evident that the said power could not be exercised upholding the contention that the earlier decision was erroneous on merits. Bearing in mind the scope of power of review, revealed from the aforesaid decisions, we will examine whether the review petitions merit consideration.

8. A scanning of the contentions raised in the above review petitions would reveal that in effect, the attempt on the part of the review petitioners is to establish that the common judgment dated 5.6.2018 in the above mentioned original petitions is erroneous. In the review petitions filed by the BSNL and its officers in O.P.(CAT) Nos.25 of 2015, 45 of 2015 and 126 of 2015, the main contention is that no promotion in excess of the quota was effected between the

years 1996 and 2000 and during the said period, only vacancies under the promotion quota were filled up by promotion. Furthermore, it is contended by them that the observation that BSNL had effected promotions not only within the quota but against direct recruitment quota was made without any basis and it was made presumably by relying on the judgment of the Punjab and Haryana High Court viz., Ext.P13 in O.P(CAT) No.126/2015. Though they contended that it is an error apparent on the face of the record and the impugned judgment needs to be reviewed and clarified, the tenor of the contentions raised by the review petitioners would undoubtedly reveal that, in truth, the nub of their contentions is that the said conclusion and observation are erroneous and the judgment of the Punjab and Haryana High Court was wrongly applied. That apart, it is contended by the revision petitioners that if the observations and findings in the judgment sought to be reviewed are allowed to stand, they would cause adverse and far reaching consequences on the method of fixation of seniority in the JTO cadre, that has been settled over decades. The further grounds raised in the aforesaid review petition would reveal that it is also their

case that there was no correct appreciation of facts by this Court while rendering the common judgment sought to be reviewed. In R.P.No.1063/2018 in O.P.(CAT) No.126/2015, respondents 1 to 10 in the review petition filed counter affidavit and the petitioners in the said review petition filed a reply to that. They would go to show that pursuant to the common judgment sought to be reviewed, promotion of promotee JTOs were effected to the post of SDEs. True that respondents 1 to 10 in the review petition would contend that such promotions were effected in violation of the directions of this Court and at the same time, the petitioners in the review petition would contend that such promotions were effected strictly in tune with the directions in the said common judgment. Thus, it is obvious that even according to the review petitioners, they have partly complied with the directions of this Court in the common judgment and only thereafter coming up seeking review of the common judgment on certain points. As noticed hereinbefore, the grounds raised by them in support of their prayer for review of the common judgment on such points are virtually to the effect that the findings of this Court on such points are

either erroneous or outcome of incorrect appreciation of facts and law.

9. In the light of the decisions referred (supra), we have no hesitation to hold that such contentions cannot be a ground for exercise of the power of review. The grounds raised in R.P. No.47 of 2019 in O.P.(CAT) No.45 of 2015 filed by the 16<sup>th</sup> respondent in the said original petition viz., A to F would also reveal that essentially, the review petitioners are mounting challenge against the impugned judgment dated 5.6.2018 on the ground that it is erroneous. In ground A, they contended that the findings and directions of this Court in the judgment in O.P.(CAT) No.45 of 2015 are against the binding orders and the practice being followed for the last several years. In ground B, they would contend that this Court omitted to note that the reliefs sought for, if granted, would unsettle the issues which were settled once and for all. In ground C, it is contended that the impact of the undertaking given by the petitioners in the original petition was not discussed in the judgment. In ground D, they contended that the Ernakulam Bench of the Tribunal which passed the orders impugned in the aforementioned original petitions did not commit a material

irregularity in dismissing the original applications warranting an interference by this Court under Article 227 of the Constitution of India. Grounds E and F in the said review petition reads thus:-

- E) The judgment omits to reckon the fact that the Eligibility List being a compilation of different Circle Gradation Lists, adoption of dates of appointment/promotion, which itself is an uncertainty depending on the factors in each circle, as criteria for seniority is not a viable option.
- F) The judgment omits to reckon the issue of assignment of seniority of those promoted within their quota vis-a-vis the direct recruits.

10. It is evident from the aforesaid grounds raised by the petitioners in R.P.No.47 of 2019 that virtually, they are seeking this Court to re-write the common judgment in exercise of the power of review contending that the earlier judgment is erroneous. The grounds raised by them would not bring out error apparent on the face of the record warranting exercise of the power of review. In short, the contentions raised in all the review petitions are of such nature that by applying the law on the subject of exercise of power of review settled by the Apex Court they can only be held as grounds falling outside the

scope of exercise of power of review. In the light of the judgment of the Apex Court in **Perry Kansagra's** case, even if there was no correct appreciation of facts and law in the judgment dated 5.6.2018, the remedy of the review petitioners is not to prefer review petitions and in such circumstances, they ought to go in appeal. The judgment sought to be reviewed would reveal that after taking note of the contentions in the light of various judgments of the Apex Court on the question of fixation of *inter se* seniority between direct recruits and promotees, this Court disposed of the original petitions. It is also to be noted that in the said judgment, we have also taken note of the contentions of the official respondents that there was a dearth of sufficient personnel to man the post of Sub Divisional Engineer, the promotion post of JTOs.

11. For the foregoing reasons, we do not find any merit in these review petitions as the review petitioners have failed to bring out error apparent on the face of record. Hence, the review petitions are liable to be dismissed.

12. We have taken up I.A No.1 of 2019 in Un-numbered R.P. In

O.P.(CAT) No.25 of 2015 along with the review petitions as the petitioners in the I.A seek for leave to file review petition against the judgment in one of the original petitions viz., O.P.(CAT) No.25/2015, disposed of along with two other original petitions as per the common judgment dated 5.6.2018. The sum and substance of their statements made in the affidavit accompanying the petition seeking leave to file review petition is that they would be subjected to substantial prejudice unless the judgment in O.P.(CAT) No.25 of 2015 is reviewed and necessary direction is given as to how the petitioners' seniority is to be determined. The common judgment dated 5.6.2018 would reveal that this Court had not actually considered settlement of seniority of individuals and in fact, what was decided therein is as to how fixation of inter se seniority between directly recruited JTOs and promotee JTOs should be fixed in BSNL. The operative portion of the common judgment would reveal the manner in which the original petitions including O.P.(CAT) No.25 of 2015, were disposed of. It contained only common directions on the aforesaid subject. In the light of our conclusions in the captioned review petitions, we have no hesitation to

hold that granting leave to file review petition against the judgment in O.P.(CAT) No.25 of 2015 is a futility. In fact, the BSNL and its officers filed R.P.No.894/2018 seeking review of the judgment in O.P.(CAT) No.25 of 2015 and we have already found that the said review petition is liable to be dismissed. In the I.A seeking leave, the petitioners have not brought out any error apparent on the face of the common judgment which warrants invocation of the power of review. In the said circumstances, no fruitful purpose could be achieved by granting leave to the petitioners to file review petition in O.P.(CAT) No.25 of 2015.

In the circumstances, the captioned review petitions and I.A No.1 of 2019 seeking leave to file review petition in O.P.(CAT) No.25 of 2015 are dismissed.

**Sd/-**

**C.T. RAVIKUMAR  
(JUDGE)**

**Sd/-**

**ANU SIVARAMAN  
(JUDGE)**

**spc/**