

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

P R E S E N T

Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

Thursday, the 14th day of June, 2018
ORIGINAL APPLICATION NO: 180/00508/2018

Applicant

- 1 Chandrakumar O B, S/o Babu O K, Aged 32 years, JTO FTTH, Thrissur, O/O De Broad Band, residing at Oorkolil House, Lokamaleswaram, Kodugallur, Thrissur.
- 2 Vipal Prem, S/o R Premchandran Nair, Aged 31 years, JTO NIB, O/O De Nib, Kaithamukku, Trivandrum, residing at Indulekha, Tc 6/993, Pra-30, Padayaniroad, Vattiyoorkavu.P.O Trivandrum- 695013
- 3 Sandeep P.S, S/o Sreenivasan P R, Aged 32 years, JTO OF Maintenance, Thrissur, residing at Punnur Kalarickal, Dwaraka Estate, Peringandur P O, Thrissur.

Respondents

- 1 Bharath Sanchar Nigam Ltd., Corporate Office, Eastern Court Building, Janpath, New Delhi 110001.
- 2 Chairman and Managing Director, BSNL, Harish Chandra Mathur Lane, Janpath, New Delhi 110001.
- 3 Senior General Manager, Personnel, BSNL, 4th Floor, Bharat Sanchar Bhavan, New Delhi 110001.

This Original Application praying inter alia that in the circumstances stated therein, the Tribunal be pleased to stay all further proceedings pursuant to Annexure-A4 and A6

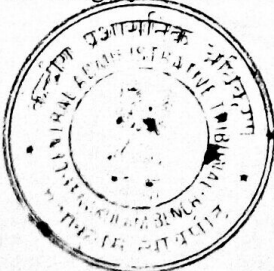
This Original Application coming up for admission on 14.06.2018, upon perusing the same and upon hearing the arguments of Advocates Mr.M.R.Hariraj representing M/s M.R.Rajendran Nair for applicant and Mr. George Kuruvila for respondents, the Tribunal passed the following:-

ORDER

Heard Mr. M.R. Hariraj representing M/s. Mr. Rajendran Nair Associates learned counsel for the applicants.

M.A./180/689/2018 for Joining together is allowed.

Applicants are aggrieved by the move on the part of the respondents to fill up the vacancies of Sub Divisional Engineer based on all India Eligibility list reportedly set aside by the Hon'ble High Court of Kerala. The controversy pertains to adherence to the ratio of 1:1 between promoted candidates and direct recruits for promotion to the category of Sub Divisional Engineer.



When the issue had been taken up before the Hon'ble High Court in OP (CAT) 126/2015 by order dated 5.6.2018, the Court had directed as follows:

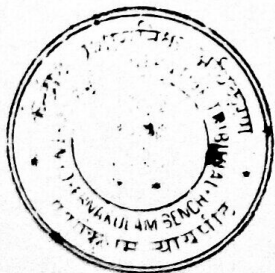
"15. The upshot of the discussions is that the directly recruited JTOs like the petitioners and the promotee JTOs in excess of their quota by virtue of the quota-rota rule available in DoT, are to be assigned inter se seniority in the integrated eligibility list of JTOs for promotion to the post of SDE 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 order. 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 finalisation of the final eligibility list of JTOs in the manner mentioned hereinbefore. The original petitions are disposed of as above."

Shri M.R.Hariraj learned counsel for the applicants, citing the documents at Annexures A.4 and A.6 submits that the respondents are hurriedly trying to effect promotions from the list which has been interfered with by the Hon'ble High Court. He submits that in view of the fact that no direct recruitments of JTOs had taken place between the years 1996 to 2000, the list at Annexure A.1 is exclusively consisting of promoted JTOs only. If the promotions are effected from this list, it will be at the cost of the applicants.

Mr. George Kuruvila learned Standing counsel takes notice on behalf of BSNL/ respondents. He prays for grant of time to take instructions.

He submits that the respondent organisation is hamstrung by dearth of SDEs and there is urgent need to fill the vacant post of the said category and it was in pursuance of this goal, that steps are being taken as is reflected in Annexure A.4 and A.6 to implement promotions from the list referred to. He submits that the list has not been set aside in toto and the Hon'ble High Court had only set aside the position with respect to promotees who are in excess of their stated quota of 1:1.

We have considered the respective pleadings and also examined the judgement of the Hon'ble High Court in depth. It is noted that six months of time from the date of receipt of the order has been allowed to the respondent organisation to finalise the list in accordance with the ratio principle already stated. This obviously has not taken place yet as the order itself is dated 5th of June only and the respondent organisation is setting out to implement promotions from the list which is already available at annexure A.1. B.S.N.L. is certainly entitled to take time to finalise the same. However, the direction of the Hon'ble High Court is quite clear on how vacancies which are now existing are to be filled up in the interim period. To quote the order of the High Court again:



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" 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 finalisation of the final eligibility list of JTOs in the manner mentioned hereinbefore."

By way of an interim order this Tribunal directs that any promotion done during the period when the list is in the process of finalisation will be strictly in accordance with the directions contained in the judgement of the Hon'ble High Court as quoted above.

Post on 29.06.2018.

Issue a copy of this order to the learned counsel appearing on both sides.

Sd/-
(E.K. BHARAT BHUSHAN)
MEMBER (A)

14.06.2018

/True Copy/

Sd/-
(U. SARATHCHANDRAN)
MEMBER (J)


Section Officer (J)

To

- 1 ✓ Mr.M.R.Hariraj, Advocate
- 2 Mr. George Kuruvila, Advocate

Annexure A1 - A true copy of order No.2-18/2007-Pers.II (Pt. I) dated 20.2.2015 and the relevant portion of the all India eligibility list.

Annexure A4 - A true copy of letter no. 2-15/2012-Pers II dated 5.6.2018 issued by Assistant General Manager.

Annexure A6 - A true copy of the letter no.2-15/2012-Pers II dated 12.6.2018 issued by Assistant General Manager

