

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4199 of 2014**

Ms. Pallavi Tandon, D/o Shri Shiv Gopal Tandon, Aged 46 years, (DoB 18.03.1968) Presently Serving as Director (PG) Chhattisgarh, Raipur, Department of Telecom, Government of India, Residing at House No. 1, Street No. 22, Sector No. 9, Bhilai, District Durg, Chhattisgarh 490009

---- Petitioner**Versus**

1. Union of India, Through its Secretary, Department of Telecom, Ministry of Communications, Government of India, Sanchar Bhavan, 20 Ashoka Road, New Delhi 110 001
2. Bharat Sanchar Nigam Ltd. Corporate Office, Bharat Sanchar Bhavan, H.C.Mathur Lane, Janpath New Delhi 110 001 Through its CMD.
3. The Director (Consumer Mobility) Bharat Sanchar Nigam Limited, Harish Chandra Mathur Lane, Janpath, New Delhi 110 001
4. The Chief General Manager, Chhattisgarh Telecom Circle, BSNL Administrative Building, Vidhan Sabha, Road, Khamardeeh, Raipur, Chhattisgarh 492007
5. The General Manager (CMTS/P&D) Bharat Sanchar Nigam Limited, Room No. 214, Second Floor, Auto Exchange Building, Near Lal Ganga Shopping Complex, Raipur, Chhattisgarh 492001

---- Respondents

For Petitioner	:	Shri M.S.Rao and Shri Amrito Das, Advocate
For Respondent/Uoi	:	Shri Narendra Kumar Vyas, Assistant Solicitor General
For Respondent/BSNL	:	Shri R.M.Solapurkar, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**Per Navin Sinha, Chief Justice****13/10/2015**

1. The present writ application arises from order dated 12.9.2013 in Original Application No. 776 of 2012 passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting at Bilaspur (hereinafter referred to as 'the Tribunal'). The Tribunal has declined to interfere with the order dated

6.5.2010 rejecting the Petitioner's representation for upgrading her ACR for the year 2008-2009 from "good" to "very good".

2. Pursuant to our earlier orders, Shri Avanindra Sharma, General Manager, BSNL, Jaipur, Rajasthan, is present in Court.

3. The Petitioner, an officer of the Indian Telecom Services recruited in the year 1991, while working as Director (Junior Administrative Grade) became eligible to be considered for the next promotional post of Deputy Director General (Senior Administrative Grade) the benchmark for which was "very good" in the ACR of previous five years. It is her case that except for the year 2008-2009, when she has been awarded the grading "good", she fully qualifies for promotion as far as ACR of other years or previous years are also concerned.

4. Learned Counsel for the Petitioner submits that the order rejecting the representation dated 6.5.2010 suffers from two serious illegalities. The first submission is that if the requirement for promotion was "very good" in the ACR of previous five years, any entry as "good" operates as an adverse entry. It was therefore required to be communicated to her with liberty to represent. The information was furnished to her belatedly only after pronouncement in (2008) 8 SCC 725 (Dev Dutt v. Union of India). In absence of the same having been communicated to her, it could not have been taken into consideration to deny promotion. The second submission is, from the letter dated 15.1.2010 of the General Manager (NP-CM) Durg, occupied by Shri Sharma at the relevant time, that it contains extraneous and irrelevant materials also with regard to events beyond the period 2008-2009 to grant the grading "good". It is further submitted that the letter under reference mentioned in the same bearing number CMTS/Staff/08-09 dated 13.4.2009, is completely irrelevant to the present issue and therefore the decision to grant grading "good" on basis of the same stands completely vitiated as it takes into consideration materials wholly unconnected, irrelevant and extraneous. The letter under reference

related to posting of staff in SSA alongwith vehicle for monitoring of phase V.1.

5. Learned Counsel for the Respondent-BSNL acknowledges that the communication of the entry as "good" was made to the Petitioner only after the judgment in Dev Dutt (supra) but is unable to demonstrate the correctness of the manner in which it has been considered in so far as it takes into consideration the materials and events beyond the period 2008-2009 and also takes into consideration wholly irrelevant and extraneous materials when it refers to letter dated 13.4.2009 as justification for the same.

6. Shri Avanindra Sharma, who is present in the Court suggested that in the present facts, the order dated 6.5.2010 may be set aside and the matter may be remanded to the authorities for fresh consideration in accordance with law.

7. The order of the Tribunal dated 12.9.2013 as also the order dated 6.5.2010 rejecting the Petitioner's representation are set aside. The matter is remanded to Respondent No. 3 for considering the representation of the Petitioner afresh strictly in accordance with law and the discussions and observations contained in the present order, as also the submission made on behalf of the Respondents.

8. Needless to add that circumstances warranting, the Petitioner shall be held entitled to all consequential benefits that would follow pursuant to correction, if any, in the ACR of 2008-2009.

9. Let such fresh consideration be done and appropriate orders be passed within a maximum period of two months from the date of receipt and/or production of a copy of this order before Respondent No. 3.

10. The writ petition is allowed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE