

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 30TH DAY OF JANUARY 0012/10TH MAGHA 1933

WPC.No. 23562 of 2009 (Z)

TA.78/2008 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

PETITIONERS:

1. K.K.SURENDRAN, SUB DIVISIONAL ENGINEER
(GROUPS), BSNL, IRUKKUR
KANNUR-670 593, RESIDING AT, 'SARANG'
CHANGALAYI P.O., VIA. SREEKANDAPURAM
KANNUR DISTRICT.
2. P.P.MADHUSOODANAN,
SUB DIVISIONAL ENGINEER(PLANNING), O/O.GMD, KANNUR
RESIDING AT "AISWARYA", NEAR ELAYAVOOR
PANCHAYATH OFFICE P.O., MUNDAYAD, KANNUR-670 597.
3. S.SURESH, SUB DIVISIONAL ENGINEER T&D
A/T, BSNL ERNAKULAM, RESIDING AT LEELALAYAM
THONDANKULANGARA WARD, AVALUKKUNNU P.O.
ALLEPPEY-688 006.
4. A.INDUCHOODAN, SUB DIVISIONAL ENGINEER
(AC & POWER), BSNL, ERNAKULAM
RESIDING AT KEERTHY, KUREEKAD, THIRUVANKULAM
COCHIN-685 305.
5. SABU P.ALIAS, SUB DIVISIONAL ENGINEER
(IT), IT CELL, BSNL
ERNAKULAM, RESIDING AT PALLIAPPATTU HOUSE
AYAVANA P.O., ERNAKULAM-686 676.
6. P.K.KAMALASANAN, SUB DIVISION ENGINEER,
IMPCS, TELEPHONE BHAVAN, VELLAYIL
CALICUT-673 032, RESIDING AT PONNANIPARAMBIL
DR.O.K.MADHAVI AMMA, ROAD, COCHIN-682 018.
7. T.G.AJITH KUMAR, SUB DIVISIONAL
ENGINEER, IMPCS, ERNAKULAM
RESIDING AT THEKKUMKATTIL, KADAMATTOM P.O.
KOLENCHERRY VIA., ERNAKULAM.

8. K.H.SUKUR, SUB DIVISIONAL ENGINEER,
IMPCS, ERNAKULAM, RESIDING AT KZARADATH HOUSE
KOOTHPILLY ROAD, PONNURUNNI, VYTTILA P.O.
ERNAKULAM, COCHIN-682 019.
9. V.K.VIJAYAN, SUB DIVISIONAL ENGINEER,
CIRCLE, A/T, BSNL
ERNAKULAM, RESIDING AT, VAREAYATH PARAMBIL
KAKKADU, MAMALA, ERNAKULAM-683 205.
10. V.K.LETHA, SUB DIVISIONAL ENGINEER,
T&D A/T, BSNL, ERNAKULAM
RESIDING AT PRANAVAM, THIRUNILETH ROAD
COCHIN UNIVERSITY P.O., SOUTH KALAMASSERY-682 022.
11. S.MANOJ, SUB DIVISIONAL ENGINEER(IT),
IT CELL, BSNL, ERNAKULAM
RESIDING AT MINI BHAVAN, MUNDAPPALLY
PERINGANAD P.O., ADOOR-691 022.
12. BIJU M.NAIR, SUB DIVISIONAL ENGINEER,
T&D A/T, BSNL, ERNAKULAM
RESIDING AT SIVAGANGA, TRA B-20, TRIPPADAPURAM
KULATHOOR P.O., THIRUVANANTHAPURAM.
13. SANTHI C.KAIMAL, SUB DIVISIONAL ENGINEER
E10B, TELEPHONE BHAVAN, BSNL
THIRUVALLA, RESIDING AT VARIANTHARA, KARAKKAL P.O.
THIRUVALLA-689 109.
14. SUDHA JEEVAN, SUB DIVISIONAL ENGINEER
(IM), BSNL, RESIDING AT ANARIL
MALAKUNNAM P.O., CHANGANASSERY-686 552.
15. C.KRISHNAKUMAR, SUB DIVISIONAL ENGINEER
(COMMERCIAL), BSNL, KAYAMKULAM
RESIDING AT, BSNL QUARTERS
TELEPHONE EXCHANGE COMPOUND, KAYAMKULAM-690 502.
16. R.PRADEEP, SUB DIVISIONAL ENGINEER
(INTERNAL), TELEPHONE EXCHANGE, BSNL
KAYAMKULAM, RESIDING AT BSNL QUARTERS
TELEPHONE EXCHANGE COMPOUND, KAYAMKULAM-690 502.
17. V.V.RAJEEVAN, SUB DIVISIONAL ENGINEER
(NWP), O/O.GMD, BSNL
KANNUR, RESIDING AT, VELLACHIL HOUSE
P.O.KADACHIRA, KANNUR-670 621.
18. JAYASREE SURESH, SUB DIVISIONAL ENGINEER
(COMPUTER), BJ TELEPHONE EXCHANGE, BSNL
ERNAKULAM, RESIDING AT INDEEVANAM
THRIKKANNAPURAM TEMPLE ROAD, EDAPPALLY, ERNAKULAM.

19. K.R.REVI, SUB DIVISIONAL ENGINEER,
BSNL, VENGALLOOR, RESIDING AT KOLLAMOLAYIL HOUSE
EDACKATTU KETTAM, MADAKATHANAM P.O.
20. K.S.HARIKRISHNAN,
SDOT, BSNL, THODUPUZZHA
RESIDING AT KIZHAKKANATTU, HOUSE, KOLANI P.O.
THODUPUZZHA.
21. R.RANJITH, SUB DIVISIONAL ENGINEER,
IMPCS, ALAPPUZZHA, RESIDING AT VELIYIL
MADOM, MAYATHARA MARKET P.O., KANJIKUZZHI VILLAGE
CHERATHAL.
22. C.SREEKUMAR, SUB DIVISIONAL ENGINEER
(INSTALLATION), TELEPHONE EXCHANGE BUILDING
3RD FLOOR, BSNL, PALAKKAD
RESIDING AT DARSINI, KSHB COLONY, KALLEPPULLY
PALAKKAD.
23. S.PREETHA, SUB DIVISIONAL ENGINEER
(INSTALLATION), TELEPHONE EXCHANGE, KULAPPULLY
SHORNUR, RESIDING AT MAROTTICKAL, HOUSE
KAVALAPPARA P.O., SHORNUR VIA., PALAKKAD DISTRICT.
24. S.MALATHY, SUB DIVISIONAL ENGINEER(MM),
TELEPHONE EXCHANGE BUILDING, KANJIKODE, PALAKKAD
RESIDING AT BSNL QUARTERS, TELEPHONE
EXCHANGE BUILDING, CHANDRANAGAR KOOTUPATHA
PALAKKAD DISTRICT.
25. K.P.LATHA, SUB DIVISIONAL ENGINEER,
DTAX, BSNL, TRICHUR
RESIDING AT SWAPNAM, MINOR ROAD, NADATHARA
TRICHUR.
26. I.V.GOPALAN, SUB DIVISIONAL ENGINEER
(OFS), STR, BSNL
KANNUR, RESIDING AT NEAR ODAYAMMADAM, RAILWAY GATE
CHERUKUNNU P.O., KANNUR-670 301.
27. M.T.VIJAYAN, SUB DIVISIONAL ENGINEER
(INTERNAL), BSNL, TALIPARAMBA
KANNUR, RESIDING AT VICHITHRA NIVAS, KUTTIKOL P.O.
VIA. TALIPARAMBA, KANNUR DISTRICT-670 141.
28. K.REMANI, SUB DIVISIONAL ENGINEER(OCB),
TELEPHONE BHAWAN, BSNL, KANNUR
RESIDING AT, QUARTER-1, BSNL
TELEPHONE BHAVAN, KANNUR.

29. RAKHEE S. BHAT, SUB DIVISIONAL ENGINEER
(COMMERCIAL), BSNL, THALIPARAMBA
KANNUR-670 141, RESIDING AT 8/116, T.D.SOUTH STREET
CHERLAI, COCHIN-682 002.
30. P.V.RAJESH, SUB DIVISIONAL ENGINEER
(PHONES), BSNL, KANNUR
RESIDING AT ANRTHAM, P.O.MELECHOVVA
KANNUR-670 003.
31. B.RAJEEV, SUB DIVISIONAL ENGINEER,
TELEPHONE EXCHANGE, BSNL, UPHILL
MALAPPURAM-676 505, RESIDING AT ROOM NO.C-2
TELEPHONE STAFF QUARTERS, VALLUVAMBRAM.
32. SAJI JOSEPH, SUB DIVISIONAL ENGINEER,
TELEPHONE EXCHANGE, PULPALLY, BSNL
WAYANAD-673 579, RESIDING AT POOVATHOTTATHIO
SISUMALA P.O., PULPALLY, WAYANAD.
33. BEENA N.PANICKER, SUB DIVISIONAL
ENGINEER (EXTERNAL-I), CHIRACKAL BUILDING
CALICUT-673 011, RESIDING AT MANJUTHARA
BEHIND VIPLAVA KALAVEDI, EDAKKADU P.O.
34. JOSE ALIAS, SUB DIVISIONAL ENGINEER
(INSTALLATION), BSNL, KANNUR
RESIDING AT, MOOZHAYIL HOUSE, SUB JAIL ROAD
ALUVA-683 101.
35. K.MURALEEDHARAN, SUB DIVISIONAL
ENGINEER(OFS), TELEPHONE EXCHANGE, BSNL
KALPETTA-673 131, RESIDING AT AMBADI HOUSE
P.O.MAMANTHERI VIA., KUTHUPARAMBA, KANNUR.
36. VARGHESE CHACKO, SUB DIVISIONAL ENGINEER
(OT), MANJESHWAR, KASARAGOD
RESIDING AT PARAMBATH, HOUSE, NELLAD P.O.
KUNNATHUNADU TALUK, ERNAKULAM.
37. VINU V.PAI, SUB DIVISIONAL ENGINEER
(INTERNAL), TELEPHONE EXCHANGE, BSNL
CHERTHALA, RESIDING AT SUNDARSHAN
WEST OF CHAKKARAKULAM LPS, CHERTHALA-688 524.
38. P.M.BALAN, SUB DIVISIONAL ENGINEER
(TRANSMISSION), MANGALAM BUILDINGS, BSNL
PALAKKAD-678 001, RESIDING AT FLAT-1
MANALODY APRTMENTS, VENKATESA GARDEN
PALLIPPURAM P.O., PALAKKAD.

BY ADVS.SMT.SUMATHY DANDAPANI (SR.)
SRI.MILLU DANDAPANI

RESPONDENT(S):

1. THE UNION OF INDIA,
REP. BY THE SECRETARY, DEPARTMENT OF
COMMUNICATIONS AND INFORMATION TECHNOLOGY
SANCHAR BHAVAN, ASHOKA ROAD, NEW DELHI-110 001.
2. THE CHAIRMAN AND MANAGING DIRECTOR,
BHARATH SANCHAR NIGAM LTD., STATESMAN HOUSE, 148
BARAKHAMBA ROAD, NEW DELHI-110 001.
3. THE CHIEF GENERAL MANAGER TELECOM,
BHARATH SANCHAR NIGAM LTD., KERALA CIRCLE
KERALA CIRCLE, THIRUVANANTHAPURAM-695 033.

R1& R2 BY SRI.MATHEWS K.PHILIP,SC, BSNL
R1 BY SRI.P.PARAMESWARAN NAIR,ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-1-2012, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C.NO. 23562/2009

APPENDIX

EXT.P1-TRUE COPY OF THE T.A.

EXT.P2- TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE RESPONDENTS DATED 29.1.2008.

EXT.P3- TRUE COPY OF THE ORDER OF T.A. 78/2008 DATED 27.3.2009.

EXT.P4- TRUE COPY OF THE RELEVANT PAGES OF ORDER DATED 21.4.2011 OF THIS HONOURABLE COURT RENDERED IN W.P.(C) NO. 37322 OF 2010 AND OTHERS.

EXT.P5- PHOTOCOPY OF ORDER DATED 25.8.2011 OF THE HONOURABLE SUPREME COURT, RENDERED IN SLP NO.22720/2011.

EXT.P6-PHOTOCOPY OF COMMUNICATION NO. 54-14/2009-PETRS(LEGAL) DATED 21.10.2011 OF THE ADDITIONAL GENERAL MANAGER (PERS) TO THE CHIEF GENERAL MANAGER, BSNL, BANGALORE.

RESPONDENT'S EXHIBITS :

EXT.R2(A) : TRUE COPY OF THE REVIEW PETITION FILED BY BHARAT SANCHAR NIGAM LIMITED IN THE HIGH COURT OF KARNATAKA.

TRUE COPY

P.A. TO JUDGE

al.

THOTTATHIL B.RADHAKRISHNAN &
C.T. RAVIKUMAR, JJ.

W.P.(C) No.23562 of 2009

Dated this the 30th day of January, 2012

JUDGMENT

Thottathil B.Radhakrishnan, J.

The writ petitioners are the applicants before the Tribunal. They were Junior Telecom Officers (JTOs) at the relevant time. They aspired to be considered for promotion as against 25% quota of Sub Divisional Engineers (SDEs) with effect from 1996 and, essentially wanted ante-dating of their promotion to the category of SDE. Their case before the Tribunal was that they were fully qualified with requisite experience, however that, the date of their promotion to the category of SDE against 25% happened to be delayed, because the Department did not hold the competitive examination in time. It appears that all candidates eligible from 1996 to 2001 were subjected to an examination in 2002 and promotions were effected without disturbing their inter se seniority. The applicants contended that pre-dating of their date of entry into the SDE cadre, even if without retrospective financial benefits, will bring them within the source of consideration for conferment of higher

ACP etc.

2. With the passage of time, we are told that persons similar to the petitioners herein (applicants before the Tribunal) had moved the Bangalore Bench of Central Administrative Tribunal and obtained favourable order. That decision was affirmed by the High Court of Karnataka in Writ Petition Nos.37322 of 2010 and Writ Petition Nos.1576 to 1698 of 2011. Though the department carried Special Leave Petitions against that verdict to the Hon'ble Supreme Court of India, those Special Leave Petitions were dismissed as per Ext.P5. The Department was also directed by the Apex Court to comply with the orders within a period of two months from then. We wonder, what survives. We are told by the learned counsel for BSNL that a review petition has been filed before the Karnataka High Court against the judgment in the aforesaid Writ Petitions. Copy of the Review Petition in Ext.R2(a). It is not within our domain to say anything on that matter.

3. Having noticed that the petitioners before us and the beneficiaries of the order of the Bangalore Bench of the Tribunal in

O.A.No.181 of 2009 affirmed in Ext.P4 judgment of the High Court of Karnataka are similarly situated, we direct that subject to the result of the Review Petition stated to be pending before the Karnataka High Court, the benefit of the order of the Central Administrative Tribunal in O.A.No.181 of 2009 as affirmed in Ext.P4 judgment of the High Court of Karnataka in Writ Petition No.37322 of 2010 and Writ Petition Nos.1576 to 1698 of 2011, and, against which SLP(C) No.22720 of 2011 stands dismissed by the Hon'ble Supreme Court of India, as noted above, shall be extended to the petitioners herein, who are the applicants in TA No.78 of 2008 of the Central Administrative Tribunal, Ernakulam Bench. All benefits flowing in favour of the petitioners in terms of this direction shall be made available to them within a period of two months from the date of receipt of a copy of this judgment, without fail.

Thottathil B.Radhakrishnan,
Judge

C.T.Ravikumar,
Judge