

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2016

Coram

The Honourable Mr. Justice R. SUDHAKAR
and
The Honourable Mr. Justice S. VAIDYANATHAN

W.P.No.18525 of 2010 and
M.P.No.1 of 2010

- 1 THE CHAIRMAN AND MANAGING
DIRECTOR
BHARAT SANCHAR NIGAM LTD
7TH FLOOR HARISH CHANDRA MATHUR LANE
JANPATH, NEW DELHI
 - 2 THE CHIEF ACCOUNTS OFFICER
BSNL CHENNAI TELEPHONES
NO.78 PURASAIWAKKAM HIGH ROAD
KILPAUK CHENNAI 10
 - 3 THE GENERAL MANAGER (FINANCE)
BSNL CHENNAI TELEPHONES
NO.78 PURASAIWAKKAM HIGH ROAD
KILPAUK CHENNAI 10
 - 4 THE CHIEF GENERAL MANAGER
BSNL CHENNAI TELEPHONES
NO.78 PURASAIWAKKAM HIGH ROAD
KILPAUK CHENNAI 10 [PETITIONERS]
- Vs
- 1 A. SUBRAMANIAN
JUNIOR ACCOUNTS OFFICER
TR-I-NE BSNL 39
RAJAJI SALAI CHENNAI 1
 - 2 THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH HIGH COURT BUILDINGS
CHENNAI 104

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari calling for the records of the 2nd respondent in O.A. No. 555 of 2009 dated 23.6.2010 and to quash the same as illegal.

For Petitioner : Mr.M.Govindaraj
For Respondents: R1- NA
R2- Tribunal

O R D E R

(Order of the Court was made by R.SUDHAKAR,J)

This writ petition is filed challenging the order of the 2nd respondent, the Central Administrative Tribunal (hereinafter referred to as "the Tribunal") passed in O.A.No.555 of 2009 dated 23.06.2010.

2. The 1st respondent, initially joined as a Sorting Assistant in the RMS Wing of the Postal Department in the year 1981 and during 1994, he was sent to MTNL Office at Bombay on deputation basis. In 1995, the 1st respondent was sent back to his parent department viz., Postal Department. While he was working with the MTNL, he was allowed to write departmental test conducted by Telecom/BSNL and came out successful. During 2005, he was again sent to BSNL and given postings as Junior Accounts Officer as external candidate. The 1st respondent was also given training from 17.02.2005 and was absorbed as Junior Accounts Officer on 10.03.2005. The absorption so made was on the basis of the Office Memorandum dated 05.11.2004. Consequent to that, after putting in more than 3 years of service as Junior Accounts Officer in BSNL, the 1st respondent has sought for promotion and that was denied despite repeated representations, which forced him to file an application in O.A.No.555 of 2009 before the Tribunal. The Tribunal, taking note of the above fact that based on the Office Memorandum dated 05.11.2004, the 1st respondent was absorbed as Junior Accounts Officer on 10.03.2005 in the BSNL, held that denial of such benefit to him is erroneous. The Tribunal, in paragraph No.4 of the order by referring that when similarly placed persons have also been given the benefit, there is no justification for BSNL to deny promotion to the 1st respondent, which is due to him. Paragraph No.4 of the order of the Tribunal is extracted below as such:-

"4. It is seen from the pleadings the fact that the applicant is fully eligible for promotion to the post of Accounts Officer is not disputed by the respondents. The only reason attributed by the respondents for not considering him for promotion to the said post is the issue relating to the appointment of external candidates viz., deputationists from other Central Government Departments to Department of Telecom/BSNL for the post of Junior Accounts officer is pending before the various judicial forums. To which, learned counsel for the applicant has produced before us a copy of the promotion order dated 30.07.2008 and

12.08.2008 issued by the Assistant Director General (Pers.I) of BSNL in respect of promotion of three Junior Administrative Grade of ITS Group 'A' officers to Senior Administrative Grade of ITS Group 'A', wherein it is stated that their promotion is subject to the outcome of the O.A. filed by one S.P.Singh before the Principal Bench of this Tribunal. The learned counsel for the applicant by citing the said orders pleaded that the applicant may also be promoted on the same condition. Taking into account the orders relied on by the applicant, and also due to the fact that the applicant is eligible in all respects for promotion, we are of the opinion that similar benefit may also be extended to him. Accordingly, we direct the respondents to promote the applicant to the post of Accounts Officer as prayed for by him, subject to the outcome of the court cases pending. This shall be done within a period of one month from the date of receipt of a copy of this order".

Aggrieved over the said order passed, the BSNL is before this Court.

3. Though notice was served on the 1st respondent and his name is printed in the cause list, when the matter is taken up for hearing, there is no representation for him.

4. This Court heard the submissions made by the learned counsel for the petitioners.

5. From a perusal of ground "d" in the reply affidavit filed before the Tribunal, it is very clear that based on the Office Memorandum dated 05.11.2004, the 1st respondent was appointed as Junior Accounts Officer with BSNL on 10.03.2005. The Tribunal has gone into the factum of appointment on 10.03.2005 and subject to the outcome of litigation, the Tribunal granted the relief on the basis of the relief granted by the Tribunal to the similarly placed persons. There is no distinguishing factor pointed out by the learned counsel appearing for the petitioners in this case as regards the other persons referred to in paragraph No.4 of the order of the Tribunal cited supra. That being the case, we find no error in the order of the Tribunal.

6. In these circumstances, finding no merit, the writ petition stands dismissed. No costs. Connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

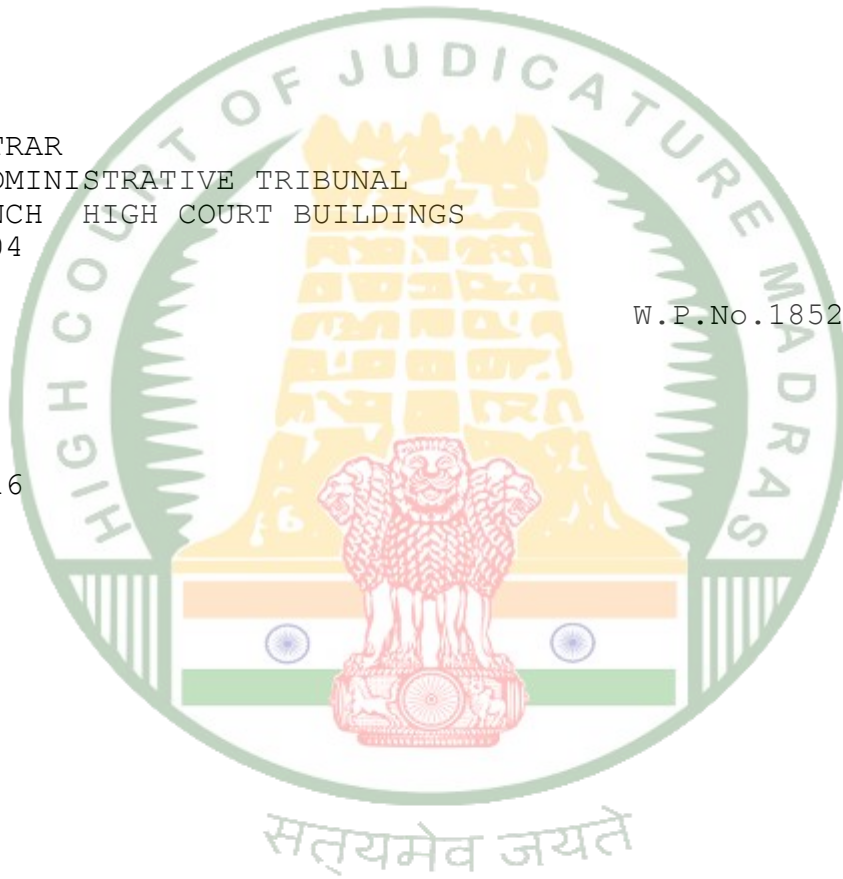
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To

THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH HIGH COURT BUILDINGS
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CA(CO)
Eu 23.03.16



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