

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

+ Writ Petition No.36638 of 2017

% 02-11-2017

1. M.Tarakeswara Rao, S/o. Malleswara Rao,
Aged about 53 years, HR.No.199308595, Occ: Stenographer,
BSNL, O/o General Manager, Telecom District, Visakhapatnam,
Visakha District; and 5 others

... Petitioners

Vs.

\$ 1. Bharat Sanchar Nigam Ltd., Rep. by its Chairman
Cum Managing Director, BSNL, Corporate Office,
Bharat Sanchar Bhavan, 4th Floor, Janapath, New Delhi-1

2. The Chief General Manager Telecom, Telangana Circle,
Door Sanchar Bhavan, Nampally Station Road, Abids,
Hyderabad-1, Telangana

3. The Chief General Manager Telecom, A.P. Circle, BSNL Bhavan,
4th Floor, Eluru Road, Near Chuttugunta, Vijayawada-4,
Krishna Dist., A.P. State

4. The Asst. General Manager (Estt.-III), BSNL, Regd. & Corporate
Office: Bharat Sanchar Bhavan, H.C. Mathur Lane, Janpath,
New Delhi-110 001

5. The Asst. General Manager, O/o The Chief General Manager,
Telecom, BSNL, Telangana Circle, Room No.406,
Door Sanchan Bhawan, Nampally Station Road, Hyderabad-01

6 to 8. V.V.N. Saraswathinath & two others

... Respondents

! Counsel for the Petitioners: Mr. G.Narender Raj

Counsel for Respondents 1to5: Mr. B.Narasimha Sarma,
Senior Standing Counsel

Counsel for Respondents 6to8: ---

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> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

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Order: (per V.Ramasubramanian, J.)

The petitioners have come up with the above writ petition challenging an interim order passed by the Central Administrative Tribunal to the effect that any promotions made to the post of Personal Assistants in the restructured cadre (Stenographer Grade-II) will be subject to the final outcome of the original application.

2. Heard Mr. G.Narender Raj, learned counsel for the petitioners. Mr. B.Narasimha Sarma, learned Senior Standing Counsel, takes notice for the respondents 1 to 5.

3. The petitioners filed an application before the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, praying for a declaration that paragraph-3 of a Clarificatory Order dated 25-5-2017 issued by the 4th respondent prescribing a condition that the officials who fulfill the eligibility conditions as per the old rule in operation as on 31-12-2003 alone will be considered for promotion, as arbitrary and violative of the Recruitment Rules. Pending disposal of the original application, the petitioners sought an interim order to the following effect:

“Pending disposal of the above O.A., this Hon'ble Tribunal may be pleased to direct the respondents not to fill up the posts of P.As., in the restructured cadre (Stenographer Grade-II) either by taking recourse to Para No.3 of the

Clarificatory Orders vide Lr.No.250-22/2014-Estt.III dated 25-5-2017 issued by the 4th respondent on behalf of the 1st respondent or in violation of Rule 38 of the Rules and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

4. While ordering notice in the original application, the Tribunal passed an order to the following effect:

"Any promotions made to the posts of Personal Assistants in the restructured cadre (Stenographer Grade-II) will be subject to the final outcome of this original application."

5. Contending that the Tribunal ought not to have allowed promotions to be granted to juniors, the petitioners have come up with the above writ petition.

6. We have repeatedly held that in matters relating to promotion, the one and only interim order that could be passed by the Tribunal, is the one that the Tribunal has now passed. It is contended by the learned counsel for the petitioners that the petitioners do not want to put on hold the entire promotions. All that the petitioners want is only a direction to the respondents to act in accordance with the Rules. Since there is no factual dispute and since the only prayer is to direct the respondents to act according to the Rules, the Tribunal cannot deny interim orders in such cases.

7. We have carefully considered the above submissions. A careful look at the main relief sought by the petitioners in the original application discloses that the petitioners are aggrieved by a condition prescribed in a Clarificatory Order. Therefore, they are seeking a declaration that para-3 of the

Clarificatory Order is illegal. Till the Clarificatory Order is declared to be illegal, it is not possible to direct the respondents to act contrary to the Clarificatory Order challenged in the original application. Therefore, the Tribunal was right in not putting on hold the promotions and we see no reason to interfere with the orders. Hence, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

M.GANGA RAO, J.

02nd November, 2017.
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AND
HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No.36638 of 2017
(per VRS, J.)



02nd November, 2017.
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