

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.27091 of 2016 and W.M.P.No.23266 of 2016,
W.P.No.27480 of 2016 and W.M.P.No.23677 of 2016,
W.P.Nos.3115 to 3117 of 2015 and M.P.Nos.1,1 & 1
and 2 & 2 of 2015
and
W.P.No.4082 of 2017

1.The Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office,
Bharat Sanchar Bhavan, Harish Chandra Mathur Lane,
Janpath, New Delhi-110 001.

2.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Circle,
16, Greams Road, Chennai-600 006.

... Petitioners in WP.27091,
27480/16

1. The Chairman cum Managing
Director Bharat Sanchar Nigam Ltd (BSNL)
102-B Statemens House 148 Barakhana Road
New Delhi-1.

2. The General Manager
(Personnel) Corporate Office BSNL 4th
Floor Bharat Sanchar Bhavan Janpath New
Delhi-1.

... Petitioner in WP.No.3115,
3116, 3117 of 2015, 4082 of 2017

-vs-

1.The Registrar,
Central Administrative Tribunal,
Madras Bench, City Civil Court Building,
Chennai-600 104.

2.All India Scheduled Tribe Employees'
Welfare Association, Regn.No.102/2005,
represented by its General Secretary,
231/1, Modern Builders B Colony,
Alagapuram, Kattur, Salem-636 016.

3.N.Bama

4.P.Gopinath

5.M.Deivanai

6.Saravanamoorthy

... Respondents in
WP.27091, 27480/16

1 The Registrar
The Central Administrative Tribunal Madras
Bench City Civil Court Building Chennai-
600 104

2 S.Kannadasan

3 V.Thamaraikannan

.. Respondent in
WP.No.27480 of 2016

1 Union of India
Rep. by Secretary Government Department of
Telecommunication Ministry of India 421
Sanchar Bhavan 20 Ashok Road New Delhi-
110 001.

2 R.Shenbagavalli

3 P.Ponraj

4 V.Shanmugasundaram

.. Respondent in
WP.No.3115 of 2015

1 Union of India
Rep. by Secretary Government Department of
Telecommunication Ministry of India 421
Sanchar Bhavan 20 Ashok Road New Delhi-
110 001.

2 C.Chetty Mani

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3 K.Udhayakumar
4 J.Prabakaran
5 V.Sivakumar
6 K.Ramani

.. Respondent in
WP.No.3116 of 2015

1 Union of India
Rep. by Secretary Government Department of
Telecommunication Ministry of India 421
Sanchar Bhavan 20 Ashok Road New Delhi-
110 001.
2 C.Manoharan
3 T.Lal Bahadur Shasthri
4 N.Jayaraman

.. Respondent in
WP.No.3117 of 2015

1 Union of India Rep by Secy.
Govt. Dept. of Telecommunication Ministry
of Communication & Information Technology
421 Sanchar Bhawan 20 Ashoka Rd. New
Delhi-110001
2 B.Venkataravanaiah
3 D.Sritharan
4 R.Adi Govind
5 S.Sathiyavengadasamy
6 The Registrar
Central Administrative Tribunal Madras
Bench Chennai-104

.. Respondent in
WP.No.4082 of 2017

Prayer:-

W.P.No.27091 of 2016:-

W.P.No.27091 of 2016 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records relating to the order passed by the first respondent made in O.A.No.408 of 2016 dated 11.03.2016 and quash the same.

W.P.No.27480 of 2016:-

Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorari to call for the records relating to the order passed by the 1st respondent Tribunal made in OA No. 310/00571 of 2016 dated 15.04.2016 and quash the same and allow the Writ Petition

W.P.No.23266 of 2016:-

Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorari To stay the operation of the order passed by the 1st respondent Tribunal made in OA No.408 of 2016 dated 11.03.2016 pending disposal of the above Writ Petition

W.P.No.23677 of 2016:-

Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorari To stay the operation of the passed by the 1st respondent made in OA No. 310/00571 of 2016 dated 15.04.2016 pending disposal of the above Writ Petition

W.P.No.3115 of 2015:-

Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorari to Call for the records pertaining to O.A. No.595 of 2010 on the file of the Central Administrative Tribunal Madras Bench and quash the Order dated 6.9.2012 passed therein and also the subsequent Common Order dated 7.7.2014 passed in R.A. No.23 of 2013 and R.A. Nos.24 and 25 of 2013

W.P.No.3116 of 2015:-

Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorari to Call for the records pertaining to O.A. No.185 of 2010 on the file of the Central Administrative Tribunal Madras Bench and quash the Order dated 6.9.2012 passed therein and also the subsequent Common Order dated 7.7.2014 passed in R.A. No.25 of 2013 and R.A. Nos.23 and 24 of 2013

W.P.No.3117 of 2015:-

Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorari to Call for the records pertaining to O.A. No.594 of 2010 on the file of the Central Administrative Tribunal Madras Bench and quash the Order dated 6.9.2012 passed therein and also the subsequent Common Order dated 7.7.2014 passed in R.A. No.24 of 2013 and R.A. Nos.23 and 25 of 2013

W.P.No.4082 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, writ of Certiorari to call for the records relating to the order dated 11.08.2016 passed by the 6th Respondent in O.A. No.310/ 01671/ 2014 and quash the same.

For Petitioners in :: Mr.T.Ravikumar
W.P.No.27091/2016

For Respondents 3 to 6 in:: No appearance
W.P.No.27091/2016

For Petitioners in :: Mr.T.Ravikumar
W.P.No.27480/2016

For Respondents in :: No appearance for R2
W.P.No.27480/2016

Mr.Menon Karthik Mukundan for R3

For Petitioners in :: Mr.K.V.Shanmuganathan
W.P.Nos.3115 to 3117
of 2015

For Respondents in :: Mrs.Sunitha Kumari,
W.P.No.3115/2015 Central Govt.Standing Counsel
for R1
No appearance for R2 to R4

For Respondents in :: Mrs.Sunitha Kumari,
W.P.No.3116/2015 Central Govt.Standing Counsel
for R1
Mr.R.Rajesh Kumar for R2 & R6
No appearance for R5

For Respondents in :: Mrs.Sunitha Kumari,
W.P.No.3117/2015 Central Govt.Standing Counsel
for R1
No appearance for R2 to R4

Memorandum dated 03.10.2000 issued by DOP&T directing all the Departments to follow relaxation concession in the matter of promotion of SC/ST employees by way of lowering the qualifying marks and to adopt lesser standards of evaluation which was in existence prior to 1997, the applicants submitted a representation to the authorities to consider them to relax the marks / cut off marks in view of the large unfilled vacancies available in SC/ST quota, but there was no reply for their representations.

4.Hence they approached the Central Administrative Tribunal, Madras Bench, by filing original applications under Section 19 of the Administrative Tribunals Act, 1985 seeking for a direction to the authorities to relax the minimum pass marks as per the said Circular dated 30.11.1992 and to grant the benefit retrospectively. The Tribunal has passed orders separately, disposing the applications by directing the authorities to consider the case of the applicants in accordance with the Circular dated 30.11.1992 and the Official Memorandum dated 03.10.2000.

5.Challenging the said orders, the present writ petitions are filed by the Department. In respect of W.P.Nos.3115 to 3117 of 2015, the Department filed Review Applications before the Tribunal to review the order passed by the Tribunal in the respective Original Applications and the same were also dismissed. Those review applications are also challenged in W.P.Nos.3115 to 3117 of 2015.

6.The learned counsel for the petitioner Department in W.P.Nos.27091 and 27480 of 2016 has submitted that the promotion of the candidates in these cases are from feeder category to Junior Telecom Officer and hence the said Circular is not applicable to them.

7.The learned counsel for the petitioner-Department in W.P.Nos.3115 to 3117 of 2015 would submit that the case of the applicants herein relates to promotion from Junior Telecom Officer to Sub-Divisional Engineer and since both the categories falls under Executive Cadre, the circular dated 30.11.1992 is not applicable to these cases.

8.The learned counsel for the petitioner-Department in W.P.No.4082 of 2017 would submit that the case of the applicants herein relates to promotion from Junior Telecom Officer to Sub-Divisional Engineer (SDE), Group-B. The applicants herein are Executive Officers whereas the order of DOT relates to non-gazetted (non-executive) cadre and hence the said Circular dated 30.11.1992 cannot be made applicable to the cases herein, since it is internal promotion in Group-B post.

9.The learned counsel for the original applicants/ respective respondents in the writ petitions have submitted that the Tribunal has dealt with the issue in detail and has passed the impugned orders and hence the same does not require any interference.

10.Heard the learned counsel on either side and perused the materials available on record.

11.It is seen that the said Circular dated 30.11.1992 issued by the Department of Telecommunications has been clarified by issuing another Circular dated 28.07.2016 and subsequently it was also clarified on 28.08.2017. Admittedly the cause of action in respect of all these writ petitions relates to the Notification issued earlier to 28.07.2016. It is pertinent to note that there is no restriction for application of this circular. In other words, it is found that this relaxation circular is applicable for all posts, be it Executive or Non-Executive or feeder category to JTO. The Tribunal, after a thorough analysis of the merits of the matter and also relying upon the orders passed by the Tribunal earlier in O.A.Nos.185/2010, 583/2010 and 584 of 2010 dated 06.09.2012 has passed the orders impugned herein, to consider the case of the applicants in accordance with the Circular dated 30.11.1992 of the Department of Telecommunications in which it was ordered that SC candidates who have at least secured 20% marks and ST candidates who have secured 15% marks can be considered for review of the scores to declare them as successful, and also the Memorandum dated 03.10.2000 in which a direction was given to all the Departments to follow relaxation concession in the matter of promotion of SC/ST employees by way of lowering the qualifying marks and to adopt lesser standards of evaluation which was in existence prior to 1997, and pass orders within a period of three months.

12.Further, it is submitted on behalf of BSNL that subsequently promotions were effected for the individuals who have challenged the orders of the Central Administrative Tribunal before this Court, by way of internal competitive examinations.

13.In view of the above stated circumstances, we are satisfied with the decision taken by the Central Administrative Tribunal directing the Department to consider the case of the applicants, as already stated supra. Hence, the petitioner-BSNL is directed to consider the case of the applicants / respective respondents herein, as ordered by the Tribunal and also taking note of the Circulars dated 28.07.2016 and 28.08.2017, and pass appropriate orders, irrespective of the passage of time, within a period of three months from the date of receipt of a copy of

this order.

14.The writ petitions are disposed of accordingly. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, City Civil Court Building,
Chennai-600 104.
2. The Secretary to Government,
Department of Telecommunication,
Ministry of India 421
Sanchar Bhavan 20 Ashok Road
New Delhi- 110 001.

+3ccs to Mr.K.V.Shanmuganathan, Advocate, S.R.No.1281
+1cc to Mr.Y.Bhuvanesh Kumar, Advocate, S.R.No.1266
+1cc to Mrs.Sunitha Kumari,, Advocate, S.R.No.900
+2ccs to Mr.T.Ravikumar, Advocate, S.R.No.953, 954
+1cc to Ms.Menon Karthik Mukundan, Advocate, S.R.No.919

W.P.No.27091 of 2016
and W.M.P.No.23266 of 2016,
W.P.No.27480 of 2016
and W.M.P.No.23677 of 2016,
W.P.Nos.3115 to 3117 of 2015
and M.P.Nos.1,1 & 1
and 2 & 2 of 2015
and
W.P.No.4082 of 2017

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GMR (CO)
CS/08/06/18