

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2018

CORAM

The Hon'ble Mr.Justice M.DHANDAPANI

W.P.No.44550 of 2006
connected M.Ps.

K.L.Chandrasekar
Senior Telegraph Master Grade-II,
(In charge)
Central Telegraph Office,
Neyveli 607 801.

[PETITIONER]

Vs

- 1 UNION OF INDIA
REP. BY CHAIRMAN CUM MANAGING DIRECTOR B.S.
N.L. NEW DELHI
- 2 THE GENERAL MANAGER
B.S.N.L. CUDDALORE
- 3 THE DIVISIONAL ENGINEER
(ADMN) O/O. THE GENERAL MANAGER B.S.N.L.
CUDDALORE 607 001
- 4 JAMBUNATHAN
SENIOR TELEGRAPH MASTER CENTRAL TELEGRAPH
OFFICE NEYVELI 607 801.

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus calling for the records culminating in Memo No.E-12/D/02-06 dated at Cuddalore on 6.11.2006 passed by the Divisional Engineer (Admn.) office of G.M.BSNL Cuddalore 607 001 the 3rd respondent herein quash the same and consequently direct the respondents to promote the petitioner to Senior Telegraph Master Grade IV (10% BCR) with all usual monetary benefits available under the service rules with effect from 1.08.2004.

For Petitioner : Mr.K.Balakrishnan

For Respondents 1 to 3: Mr. R. Ramesh, AGP

For Respondent-4 : Dismissed vide order of
Court dt:08.09.2009

O R D E R

The petitioner filed a writ of Certiorari of Mandamus calling for the records culminating in Memo No.E-12/D/02-06 dated at Cuddalore on 6.11.2006 passed by the Divisional Engineer (Admn.) office of G.M.BSNL Cuddalore 607 001 the 3rd respondent herein quash the same and consequently direct the respondents to promote the petitioner to Senior Telegraph Master Grade IV (10% BCR) with all usual monetary benefits available under the service rules with effect from 1.08.2004.

2. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 to 3.

3. The learned counsel appearing for the petitioner as well as the learned Additional Government Pleader would submit that the issue raised in this writ petition is covered by the order of the Honourable Apex Court in the decision in Bharat Sanchar Nigam Ltd., vs. R.Santhakumari Velusamy & Ors. (Civil Appeal Nos.3405 of 2006 batch). Paragraphs 23 and 24 of the said order is as follows:

" In this case, the BCR scheme dated 16.10.1990 provided that the persons who had completed 26 years of service would be screened by a duly constituted Review Committee to assess the performance and suitability for advancement. The screening was for the limited purpose of finding out whether the service record of the employee contained any adverse entries or whether the employee had suffered punishment. The screening process did not involve consideration of comparative merits nor involve any selection. The 10% posts were upgraded strictly by seniority subject to screening. This is evident from the terms of BCR scheme and the Circular dated 13.12.1995 which provided that the promotions to Grade IV were to be based on seniority in the basic grade from among the officers in Grade III, subject to fitness determined as per OTBP manner, that is screening to ascertain whether there are any adverse comments or punishment against the employee concerned.

24.To sum up, the BCR scheme was an upgradation scheme to give relief against stagnation. It did not involve creation of any new posts. It did not involve advancement to a higher post. It did not involve any process of selection for conferment of the benefit of higher pay-scale. The upgradation

was given to the senior most 10% of BCR scale employee in Grade III strictly as per seniority. BCR scheme as per circular dated 16.10.1990 was thus a scheme for upgradation simplicitor without involving any creation of additional posts or any process of selection for extending the benefit. Such a scheme of upgradation did not invite the rules of reservation."

4. In view of the above said decision of the Honourable Apex Court, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

- 1 UNION OF INDIA
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+1 CC to Mr.R. Ramesh, Advocate sr 43537

W.P.No.44550 of 2006

SP(07/08/2018)