

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11469 of 2018

1. Abhay Sunder, Son of Sri Sudhakar Prasad Sinha, residing at House No. A/9, Mritunjay Chatterje Lane, North of Road No. 6D, P.S.- Gardanibagh, Post- GPO, Patna, District- Patna (Bihar).
2. Kumar Mritunjay Manichandra, Son of Sri Chandra Bhushan Prasad Singh, Residing at A/19, AG Colony, P.S.-Shastrinagar, District- Patna, posted as JAO (Mobile), Central Telegraph Office, Office of the Principal General Manager, BSNL, Patna (Bihar).
3. Raj Kapoor Sinha, Son of Late Tarkeshwar Prasad, residing at West Jai Prakash Nagar, posted as JAO, Tra office of the Telecom, District Manager, BSNL, Hajipur (Bihar).
4. Awadh Kishore Singh, Son of Late Prabhu Narayan Singh, residing at MIG-267, Lohia Nagar, Kankarbagh, Patna- 800020.

... .. Petitioners

Versus

1. The Union of India through the Chairman cum Managing Director, Bharat Sanchar Nigam Limited, 10, Janpath, New Delhi- 110001
2. The Chairman cum Managing Director, Bharat Sanchar Nigam Limited, 10, Janpath, New Delhi- 110001.
3. The Director, Finance, Bharat Sanchar Nigam Limited, 10, Janpath, New Delhi- 110001.
4. The Principal General Manager F.P., Bharat Sanchar Nigam Limited, 10 Janpath, New Delhi- 110001.
5. The Assistant General Manager (SEA), Bharat Sanchar Nigam Limited, 10, Janpath, New Delhi- 110001.
6. The Chief General Manager, Bharat Sanchar Nigam Limited, Bihar Circle, Sanchar Sadan, Budh Marg, Patna
7. The General Manager (Administrative), Office of the Chief General Manager, Bharat Sanchar Nigam Limited, Bihar Circle, Sanchar Sadan, Budh Marg, Patna-800001 (Bihar).
8. The Deputy General Manager (Administration), Office of the Chief General Manager, Bharat Sanchar Nigam Limited, Bihar Circle, Sanchar Sadan, Budh Marg, Patna-800001 (Bihar).

... .. Respondents

Appearance :

For the Petitioners	:	Mr. M.P. Dixit, Advocate Mr. Sanjay Kumar Chaubey, Advocate Mr. Sanjay Kumar Dixit, Advocate
For the Respondents-BSNL:		Mr. Sachida Nand Singh, Advocate



**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 09-01-2020**

Heard learned counsel for the petitioners and learned counsel for the respondents-BSNL.

2. In the instant writ petition, the petitioners have prayed that by quashing Annexure-1 and 2 of this writ petition passed by the Central Administrative Tribunal, Patna Bench, Patna (for short 'the Tribunal') a direction be issued for fixing their seniority to the post of Junior Account Officer (for short 'JAO') against those JAO who had passed Part-II Examination held on 17.09.2003 to 19.09.2003 at par with other similarly placed co-employees Gopal Pandit and Anand Kamal as well as co-employees of U. P. and Orissa Circle, who were allowed to appear in Part-II Examination held on 17.09.2003 to 19.09.2003.

3. The contention of the petitioners is that they have passed JAO Part-I examination but were deprived from appearing in JAO Part-II examination held on 17.09.2003 to 19.09.2003.

4. The petitioners admit that they appeared in JAO Part-II examination in the year 2006 in which they succeeded.



Their claim is that they have been discriminated illegally in the fixation of their seniority and they cannot be denied the benefit of seniority to the post of JAO against 2003 examination.

5. The case of the respondents is that the closing date for receiving application for JAO Part-II examination was fixed on 24.05.2003 and further extended to 12.05.2003. The petitioners were not eligible to apply for the JAO Part-II examination till the closing date for receiving application because they did not possess the passing certificate of JAO Part-II examination at the time of application for the examination of 2003. Since they were not eligible to apply, they were not allowed to appear in the examination in 2003.

6. Though the cause of action for the petitioners arose in 2003, the O.A. application has been filed by them before the Tribunal after eight years in 2011. The O.A. application was dismissed vide Annexure-1 on 12.08.2016 and the review application filed by the petitioners has been dismissed by the Tribunal vide order as contained in Annexure-2 on 28.08.2017. The order dated 12.08.2016 whereby the O.A. application has been dismissed by the Tribunal would show that the same has been dismissed as being devoid of any merit and hopelessly time barred.



7. The Tribunal has rejected the claim of the petitioners taking into consideration the admitted fact that the petitioners did not appear in the examination held on 17-19th September, 2003. While dismissing the application of the petitioners, the Tribunal has also taken into consideration the fact that the petitioners sat tight over the matter for eight years after they were not allowed to participate in the examination.

8. It is an admitted case of the petitioners that the co-employees Gopal Pandit and Anand Kamal had appeared in JAO Part-II Examination held in the month of October, 2002, but failed. Thereafter, they appeared in JAO Part-II Examination in September, 2003 whereas the petitioners did not appear in the examination held in September, 2003. Thus, the case of the petitioners is distinguishable from them.

9. As far as the petitioners are concerned, since they had passed JAO Part-I Examination on 10th September, 2003, they were not even eligible to appear in the examination on 17-19th September, 2003.

10. That apart, the respondents have filed counter affidavit and have stated that JAO is a Circle cadre post. Hence, they can claim for at par benefits with their colleagues of the same Circle and not with the employees of other Circles.



11. In the given facts and circumstances of the case, we are of the opinion that no fault can be found with the orders impugned passed by the Tribunal. The petitioners have been rightly not given seniority to the post of JAO at par with others who had appeared and passed the Part-II examination of the year 2003.

12. We are also of the view that the claim raised by the petitioners before the Tribunal was stale one. The same was barred by law of limitation in view of Section 21 of the Administrative Tribunals Act, 1985.

13. In that view of the matter, we see no merit in the present application.

14. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

(Partha Sarthy, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.01.2020
Transmission Date	NA

