

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7125 of 2024

1. The Chairman cum Managing Director Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi-110001
2. The Director (HR), Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, H.C. Mathur Lane, Janpath, New Delhi-110001.
3. The Dy. General Manager (Estt-I), Corporate Office, Labour Establishment Section, 5th Floor, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, New Delhi-110001.
4. The Chief General Manager, BSNL, Bihar Telecom Circle, Patna-800001.
5. The Dy. General Manager (Admn.), BSNL, O/o the Chief General Manager, Bihar Telecom Circle, Patna- 800001.
6. The Asstt. General Manager (Admn.), BSNL, O/o the Chief General Manager, Bihar Telecom Circle, Patna- 800001.

... .. Petitioner/s

Versus

1. The National Federation of Telecom Employees (BSNL), Bihar Circle, Patna through its Circle Secretary, Shrawan Kumar Dubey.
2. Shri Shashi Bhusan Pandey, Son of Late Satya Narayan Pandey, Resident of Village- Saripatti, P.O.- Bhagwanpur hat, District- Siwa, Present Add- O/o the SDE (Group), BSNL Sitamarhi, under Muzaffarpur SSA.
3. Shri Kanhaiya Kumar Singh Son of Sri Janakdeo Singh, Resident of Village- Rajpur, P.S.- Raghunathpur, District- Siwan, Present Add- O/o the TDM, BSNL, Motihari.
4. Shri Bhuwaneshwar Tiwari Son of - Late Ragho Jee Tiwari, Resident of Village- Sonbarsa, P.O.- Manjhi, District- Saran, Present Add- O/o the SDEP, East BSNL, Rajendra Nagar, Patna.
5. Shri Raju Ranjan Kumar Son of- Sri Gopal Jee Gupta, Resident of AT- Ramgaria, P.O.-Ara, District- Ara (Bhojpur), Official Add- O/o the TDM, BSNL Ara.
6. Shri Ramesh Prasad Son of- Lali Murli Manohar Lal, Resident of- New Colony, near Amirchandra Coloni, Pakri, Ara, Official Add- O/o the TDM, BSNL, Ara.
7. Sri Ganesh Singh Son of Late Ram Pyar Singh, Resident of - At Mohamadpur, P.O.- Karisath, P.S.- Udwant Nagar, District- Bhojpur, Official Add-O/o the SDO, Old Xage, Ara.
8. Sri Jai Kishore Singh Son of- Sri Ram Pravesh Singh Resident of Village- Bhelai Milki, P.O.- Bhelai, P.S.- Udwant Nagar, District- Ara, Official Add- O/o The TDM, BSNL, Ara.
9. Shri Devendra Prasad Singh Son of- Ram Nandan Singh Resident of Village- Doman Bigha, P.O.- Uwer, P.S.- Ghosi, District- Jahanabad, Official Add- O/o the TDM, BSNL, Ara
10. Shri Sheojee Singh Son of- Late Krishna Singh, Resident of Village-



Dariapur, P.O.- Anaith, Ara, Official Add- O/o the SDO (P), BSNL, Ara.

11. Shri Anil Kumar Singh Son of- Lali Dineshwar Singh, Resident of Village- Baranli, P.O.- Alipur, P.S.- Moh. Ara, Present Add- Anand Nagar, Pipraiya Road, Ara.
12. Shri Daya Shankar Rai Son of Late Ram Kawal Rai, Resident of Village- Harnoha, P.O.- Purana Bhojpur, P.S.- Dumraon, District- Buxar, Posted at- Dumraon X age, BSNL, Ara.
13. Shri Shobh Nath Manjhi Son of- Sri Kapil Manjhi, Resident of Village- Mahmad Patti, P.O.- Tujarpur, P.S.- Khaira, District- Saran, Posted at GMTD Chapra.
14. Shri Brijlal Ram Son of- Sri Bishnu Ram, Resident of Village- Aainthi, P.O.- Musehari Bazar, District- Gopalganj, present Add- O/o The SDE, BSNL, Sheohar.
15. Shri Amarjeet Singh Son of- Sri Bharat Singh, Resident of Village- Bajitpur, P.O.- Sonho Bhata, District- Saran, Present Add- O/o the SDE, BSNL, Sitamarhi.
16. Shri Ramsidh Dixit Son Of- Late Rajdhari Dixit, Resident of Village- Pipra, Via- Bhatni, District- Deoria, Present Add- O/o the SDE, BSNL, Siwan.
17. Shri Ajay Kumar Son of- Sri Bihari Bhakta Resident of Village- Rajpur, P.S.- Raghunathpur, District- Siwan, Present Add- O/o the SDE, BSNL, Dhaka, Motihari.
18. Shri Sanjeew Kumar Singh Son of- Late Rampriti Singh Resident of Village- Molamapur, P.O.- Sobhepur, Via- Garkha, District- Saran, Chapra, Present Add- O/o the SDE, Motipur, BSNL, Muzaffarpur.
19. Shri Sheoji Mishra Son of- Late Ramakant Mishra, Resident of- Belouri, P.S.- Guthni, District- Siwan, Present Add- O/o the SDE, FTTH, BSNL, Budhamarg, Patna.
20. Shri Saroj Kumar Mishra Son of- Late Keshaw Mishra Resident of Village- Bajudin, Mahuawan, District- Gopalganj, Present Add- O/o the SDE FTTH, BSNL, Budh Marg, Patna.
21. Shri Jitendra Kumar Singh Son of- Late Kedar Prashad Singh Resident of Village- Kevatsa Baruari, P.S.- Gaighat, Benibad, Muzffarpur, Present address- O/o- The SDE (East), BSNL, Budh Marg, Patna.
22. Shri Kameshwar Kumar Singh Son of- Late Navendra Prasad Singh, Resident of Village- Nakta, P.S.- Motipur, District- Muzaffarpur, Present Add- O/o the GMTD, BSNL, Muzaffarpur.
23. Shri Sheshnath Singh Son of- Sri Devi Saran Singh Resident of Village- Mahuvani, P.O.- Saidpur Jhava, District- Saran, Present Add- O/o the SDE (Tran), BSNL, Chapra.
24. Shri Yogendra Prasad Gupta Son of- Rajeshwar Prasad Gupta Mohalla- Mishan Compound (East), Dahiyawan, District- Chapra, O/o GMTD, Chapra.
25. The Union of India, Through the Secreatry, Department of Telecommunication, Sanchar Bhawan, New Delhi- 110001.
26. The Member Finance, Department of Communication, Sanchar Bawan, New



Delhi- 110001.

27. The Dy. Director General (SEA), Department of Telecommunication, Sanchar Bawan, New Delhi- 110001.
28. The Director (SEA), Department of Telecommunication, Sanchar Bawan, New Delhi- 110001.
29. The Controller of Communication Accounts, CCA Building, Bihar Circle, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Dubey, Advocate
For the Respondent/s	:	Mr. Hemant Kumar Karn, Advocate
		Mr. J.K. Karn, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 10-09-2024

Short question for consideration in the present petition is whether respondents are entitled to have the benefit of official memorandum dated 20.10.2006 insofar as extending 50% of the services rendered in the then Department of Telecommunication, Government of India could be counted for the purpose of extending pension in Bharat Sanchar Nigam Limited (for short 'BSNL') or not?

2. In terms of Letter No. 269-94/98 STN/II dated 29.09.2000, persons who were working on *ad hoc* basis in the Telecommunication Department were to be absorbed in the BSNL w.e.f. 01.10.2000 as per their status as those temporary status Mazdoors who were having temporary status prior to 30.09.2000



and such of those employees were permitted to have the benefit of 50% service to be counted for the purpose of pensionary benefits. Admittedly, respondents' services have been regularized only in the year 2011 in BSNL. In other words, their services have not been absorbed in the light of Letter dated 29.09.2000 (cited supra) read with the official memorandum dated 20.10.2006 vide Annexure-R/3 to the written statement filed on behalf of the respondent nos. 6 to 11 in O.A. No. 792 of 2018. It is necessary to reproduce the Official Memorandum dated 20.10.2006 and it reads as under:-

"Government of India
Ministry of Communication & Information Technology
Department of Telecommunications
20, Ashoka Road, Sanchar Bhawan, New Delhi-110001
No. 27-2/2006-SNG Dated 20.10.2006

OFFICE MEMORANDUM

Subject: Counting of past services of the Temporary Status Mazdoors upon their absorption in BSNL-reg

In supersession to previous orders for absorption in respect of Temporary Status Mazdoors (TSMs), it has been decided that those Temporary Status Mazdoors who have been regularized in pursuance of the office letter no. 269-94/98-STN-II dated 29.09.2000 were to be absorbed in BSNL w.e.f. 1.10.2000 as per their status as existing on 30.09.2000. Accordingly, Presidential Orders may be issued in respect of those Temporary Status Mazdoors who were having TSM status prior to 30.09.2000 so as to



allow them benefit of counting of 50% of the TSM period for pensionary benefits. Related service matters of these TSMs absorbed in BSNL w.e.f. 1.10.2000 may be resolved accordingly. It is further clarified that in respect of those Casual Labourers who were not having TSM status as on 30.09.2000 and who have been regularized in BSNL after 1.10.2000, their status will be of a PSU appointee and therefore no Presidential Order need be issued in such cases.

Prior to issue of Presidential Orders, the cases of eligible TSMs may be examined and forwarded through BSNL, HQ for approval for issue of Presidential Orders. The individual Presidential Orders will be issued at circle level under the signature of the Director (Estt.) designated for the issue of P.O.

(Amarjit Singh)

Under Secretary to the Govt. of India

Tel: 23036226

To

*Chairman & Managing Director
Bharat Sanchar Nigam Limited
Statesman House
New Delhi*

Copy for information to Heads of all circles, BSNL"

3. The Central Administrative Tribunal, Patna Bench, Patna (for short 'CAT') has not taken note of the aforementioned official memorandum and interpreted as the respondents are entitled to have the benefit of 50% of the services rendered in the Department of Telecommunication could be counted for the purpose of pension in the BSNL or not? As long as respondents were not regularized in the light of Letter dated 20.10.2006 and



services were absorbed w.e.f. 01.10.2000 in BSNL, the respondents are not entitled. The same was not appreciated by the CAT. Accordingly, the CAT has committed error in allowing Original Application of the respondent *vide* O.A. No. 050/00792 of 2018 decided on 01.02.2024 and it is set aside. Accordingly, the aforementioned O.A., stands dismissed and the present writ petition stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

