BHARAT SANCHAR NIGAM LIMITED
DE SECTION
Room No.222, Eastern Court,
Janpath, New Delhi.

F.No.63-41/2012-DE

Dated 11th June, 2014

To

All Chief General Managers Telecom Circles, BSNL.
Chief General Manager Kolkata Telephones/Chennai Telephones.
Chief General Manager(Mtce). NTR, BSNL, New Delhi

Subject:OA No.1198/HP/2012 filed by Sh.Gian Chand & Ors before the Hon'ble CAT, Chandigarh-regarding relaxation of standards.

Sir,

I am directed to forward a copy of the judgement dated 22.04.2014 of the Hon'ble CAT, Chandigarh Bench(Circuit Bench at Shimla) given in OA No.1198/2012 filed by Sh.Gian Chand & Ors before the Hon'ble CAT, Chandigarh regarding relaxation of standards in JAO-Part-II exam held on 4 to 6 January, 2010.

2. It is requested that wherever required this judgement may be quoted in the para-wise comments being prepared to defend the cases. The judgement may also be brought to the notice of the concerned courts in respect of ongoing Court cases if any, involving the similar issues.

EncL: as above

Yours faithfully,

Ramesan
(RAMESAN K V) 11/06/2014
AGM(DE-II)
Ph:23766167

Copy to : GM(FP), BSNL CO for information.

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
(CIRCUIT BENCH AT SHIMLA)

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OA. 1198/HP/2012

(Reserved on 04.04.2014)

Chandigarh, this the 22nd day of April, 2014

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CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS.RAJWANT SANDHU, MEMBER(A)

1. Gian Chand, S/o late Sh. Munshi Ram R/o Village & PO Taraun, Tehsil Ghumarwin, District Bilaspur, presently posted as Sr. TOA at CSC Ghumarwin H.P.
2. Rakesh Chand Dhiman S/o late Sh. Dhani Ram, R/o Block No. 17, Flat No. 9, SDO Colony, Vikas Nagar, Shimla, presently posted as Sr. TOA in O/o Executive Engineer (Civil) BSNL Civil Division, Shimla, H.P.
3. Leela Das S/o Shonkia Ram, R/o Bhatia Niwas, near Tota Ram Building, Sector 2, New Shimla, presently posted as Telephone Mechanic in TE building Narain under SDO(T) BSNL Rampur Distt. Shimla, H.P.
4. Vivek Kanwar S/o Sh. Dhani Ram, r/o Village Bheri, P.O. Sajao Piplu, Tehsil Sarkaghat, District Mandi, presently posted as Sr. TOA, O/o GMTD BSNL Mandi, H.P.

...APPLICANT

BY ADVOCATE: **MR. ABHIMANYU RATHORE**

VERSUS

1. Union of India through its Secretary, Ministry of Tele-Communications, Government of India.
2. The Assistant Director General (DE), Bharat Sanchar Nigam Limited, "A" Wing, 9th Floor, Statesmen House, Barakhamba Road, New Delhi-110 001.
3. Chief General Manager Telecom, Bharat Sanchar Nigam Limited, H.P. Circle, Shimla – 171 009.

...RESPONDENTS

BY ADVOCATE: **MR. K.S. RATHORE**

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"(i) Quash instructions dated 31.1.1995 i.e. Annexure A-10 and vide instruction dated 8.1.2007 i.e. Annexure A-11 in so far as they violate Article 14 & 16 of the Constitution of India.

(ii) Direct the respondent authorities to review the result of the present applicants in light of instructions dated 30.11.1992 & 28.12.1992 also grant appropriate consequential benefits to the present applicants."

2. Averment has been made in the OA that the applicants have joined the Department of Telecommunications in the State of

Himachal Pradesh in the years 1990, 1982, 1999 and 1990 respectively. Applicant No. 1 belongs to ST Category and applicants 2-4 belong to the SC Category. The applicants appeared for the internal competitive examination for the post of Junior Accounts Officer against 40% quota and cleared the screening test held on 27.5.2007 (Annexure A-2). The main examination with respect to the 40% quota of vacant posts was held in January, 2010 and results were made available in February-March, 2010. From perusal of the same, it was evident that applicant No. 1 had failed in paper No. 5, applicant No. 2 in papers No. 1, 3 & 4, applicant No. 3 had failed in papers No. 3 & 4 and applicant no. 4 had failed in papers No. 3 & 5. The applicants represented for seeking relaxation of standard as allowed in favour of SC/ST candidates as per the instructions issued by the Department on 28.12.1992. But the applicants were not allowed the benefit of the same as they were advised that as per the instructions dated 31.1.1995 (Annexure A-10) and instructions dated 8.1.2007 (Annexure A-11), relaxed standards were applicable only to the technical cadres. Hence this OA.

3. In the written statement filed on behalf of the respondents, it has been stated that the appointing authority is empowered to review the cases of failed SC/ST candidates on the basis of parameters evolved by it and the parameters can also be reviewed from time to time, keeping in view, the need for such review. Accordingly, the parameters had been approved by Member (Finance), Telecom Commission vide G.I., Department of Telecom letter No. 9-14/95-DE dated 31.1.1995 (Annexure R-2) which was applicable upto 7.1.2007 for review of result of failed SC/ST candidates and thereafter letter No. 10-4/2006-DE dated 08/01/2007 (Annexure A-12) is applicable for review of result of failed SC/ST candidates of this examination.

4. It is further stated that the JAO Part II examination was held on 4th, 5th and 6th January, 2010 in H.P. Circle for 44 vacancies (OC=32, SC=9, ST=3) and the result of the same was declared on 18.2.2010 in which 18 candidates (including 3-SC, 2-ST candidates) were declared successful in General (OC) standards and 1 ST candidate declared successful under relaxed (SC/ST) standards and 25 (OC= 14, SC = 9, ST = 2) vacancies remained unfilled. The review of result of failed SC/ST candidates for 11

(SC=9, ST=2) vacancies was undertaken. The respondent department reviewed the result of eligible failed SC/ST candidates and declared 5 (SC=4, ST=1) candidates successful in SC/ST category (Annexure R-3) and 6(SC=5, ST=1) vacancies remained unfilled as there was no eligible candidate left for review of his result. Since the applicants have neither qualified the exam/test nor were eligible for review of their result, they have no cause of action to file and maintain the instant OA and as such, the same deserves to be dismissed.

5. Arguments advanced by the learned counsel for the parties were heard when the learned counsel for the applicant stated that applicant No. 1 had been promoted as Junior Accounts Officer and now, only the applicants No. 2 & 4 were aggrieved in the matter. Learned counsel for the applicants placed reliance on the circular of 1992 and pressed that the results of the applicants should be reviewed on the basis of this circular and they should be promoted.

6. Learned counsel for the respondents stated that the Circular of 8.1.2007 was applicable to all categories of staff and the result of the applicants had been reviewed keeping in view the

relaxed standard for SC/ST candidates and as stated in the written statement, the applicants No. 2 & 4 had not passed the examination. Learned counsel also cited OA No. 1400/JK/2012 decided on 12.8.2013 and stated that the issue in the present OA has been set at rest through decision in OA No. 1400/JK/2012 and the matter could be decided in the same terms.

7. We have carefully considered the pleadings of the parties, the material on record and the arguments advanced by the learned counsel. The claim of the applicants in the OA that the review of the result of the candidates belonging to SC/ST category as per the instructions dated 28.12.1992, is without merit since the respondent department has revised its instructions regarding parameters for review from time to time and subsequent to 1992 instructions dated 31.1.1995 have been issued and thereafter Circular of 8.1.2007 (Annexure A-12) has been issued. Since the JAO Examination was held in January, 2010, the parameters for review prescribed vide letter dated 8.1.2007 are without doubt applicable to this examination. It may also be mentioned here that the order dated 12.8.2013 in OA. No. 1400/JK/2012 is not material

...ie claim in the present OA as the prayer for relief is quite different therein.

3. In view of the above, this OA is rejected. No costs.

(RAJWANT SANDHU)
MEMBER(A)

(SANJEEV KAUSHIK)
MEMBER(J)

Dated: April 22, 2014.

ID*