

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

423913

I.A. No. 8 IN CIVIL APPEAL NO. 3149 OF 2009

K.VISHWANATHAN &amp; ORS.

Appellant (s)

VERSUS

GOVT.OF INDIA &amp; ORS.

Respondent(s)

(For Directions)

Date: 12/03/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE C.K. PRASAD

Certified to be true copy

Assistant Registrar (Judl)

19.03.10...

For Appellant(s)

Mr. P.P. Rao, Sr. Adv.

Mr. Dilip Pillai, Adv.

for M/S. T.T.K. Deepak &amp; Co., Adv.

For Applicant(s)

Mr. A.T.M. Ranga Ramanujam, Sr. Adv.

Mr. S.M. Tripathy, Adv.

Mr. Gouri K Das, Adv.

Mr. K.K. Tripathi, Adv.

Ms. Anu Gupta, Adv.

For Respondent(s)

Ms. Mahalakshmi Pavani, Adv.

Mr. G Balaji, Adv.

for M/s Mahalakshmi Balaji &amp; Co., Adv.

Mr. C.K. Sharma, Adv.

Mr. Shilpi Kaushik, Adv.

Mr. Prakash Kumar Singh, Adv.

Mr. Hemant Kumar, Adv.

Mr. Ajay Kumar, Adv.

Mrs. Nidhi, Adv.

Ms. Madhu Sikri, Adv

UPON hearing counsel the Court made the following

O R D E R

I.A. No. 8 is dismissed.

[ Charanjeet Kaur ]

Court Master

[ Pushap Lata Bhardwaj ]

Court Master

12/11/09

In the Supreme Court of India, New Delhi  
(Civil Appellate Jurisdiction)

I.A. No. ..8..... of 2009

In

Special Leave Petition (Civil) No. 11339/2008

IN

CIVIL APPEAL NO. 3149 OF 2009

In the Matter of :

K. Vishwanathan and Ors. ....Petitioners

Vs.

Govt. of India and Ors. .... Respondents

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New Delhi  
Date : 3-11-09

ANU GUPTA  
Advocate for Respondents

**In the Supreme Court of India, New Delhi  
(Civil Appellate Jurisdiction)**

**I.A. No. of 2009**

**IN**

**Special Leave Petition (Civil) No. 11339/2008**

**IN**

**Civil Appeal No. 3149 of 2009**

**In the Matter of :**

**K. Vishwanathan and Ors. .... Petitioners**

**Vs.**

**Govt. of India and Ors. .... Respondents**

**An application for direction on behalf of the Respondents**

**To**

**The Hon'ble Chief Justice  
and His companion Justices of  
Hon'ble Supreme Court of India**

**The Humble application of the Applicants**

**MOST RESPECTFULLY SHOWETH :**

1. That the above Special Leave Petition is pending before this Hon'ble Court for disposal, wherein, this Hon'ble Court was pleased to grant leave and hearing expedited, vide order dt. 24.04.2009.
2. That the Petitioners have filed above said Special Leave Pctition challenging the judgment and order dt. 02.04.2008 passed by the High Court of Judicature at Madras in W.P. No. 22087 of 2001, vide which Hon'ble High Court was pleased to upheld the judgment and order dt. 28.09.2001 passed by Hon'ble Central Administrative Tribunal, Madras Bench in O.A. No. 305 of 2001.

3. That this Hon'ble Court, vide order dt. 12.05.2008, was pleased to issue notice in the above said Special Leave Petition and granted status quo as on the date to be maintained.
4. That the subject matter of the present petition relates to preparation of seniority list of Telegraph Engineering Services (Class II Officers) in accordance with their Service Rule called Telegraph Engineering Service (Group B posts) Recruitment Rules, 1981, amended in 1987 & in accordance with the directions of this Hon'ble Court dated 26-4-2000 which is reported in 2000(9) SCC 71.
5. That vide' order dated '1.2.2001 bearing, No. 15-78/99 STG-II Govt. of India/Respondent passed order declaring 270 candidates as successful in Limited Departmental Competitive Examination held on 25<sup>th</sup> and 26<sup>th</sup> May, 1987 and 24<sup>th</sup> and 26<sup>th</sup> November, 1988. Vide this order dated 1.2.2001 it was further provided that the said order has been passed in compliance of order dt. 30.6.2000 passed by Central Administrative Tribunal, Bangalore in O.A. No. 961 of 1999 and order dt. 31.7.2000 passed by Hon'ble Central Administrative Tribunal, Chandigarh in O.A. No. 473/HR/99. This order further provided that seniority of these officers would be fixed as per judgment of this Hon'ble Court dated 26.4.2000 which is reported in 2000(9) SCC 71.
6. That after the above order dt. 1.2.2001 declaring 270 candidates as successful in TES Gr. B Limited Departmental Competitive Examination, the

Govt./Respondent vide letter dated 1-2-2001, 7-2-2001 & 9.2.2001 issued provisional seniority lists of these officers amongst the others. These 270 officers were suitably placed in the seniority lists as per the above judgment dated 26.4.2000 of this Hon'ble Court reported in 2000(9) SCC 71.

7. That further the Govt. of India/Respondent revised seniority list vide letter dt. 20.3.2001 and wrongly/illegally placed these 270 officers on a much higher position at par with officers having 10 to 12 years senior than them. And accordingly the other contemporary candidates like Respondent became 10-12 years juniors to them.
8. That this controversy of preparing seniority list dated 20-3-2001 became subject matter of the O.A. No. 305/2001 before Hon'ble Central Administrative Tribunal, Madras and therein a prayer was made to set aside the order dt. 1.2.2001 passed by the Govt. of India declaring these 270 candidates as successful in the LDCE said above.
9. That Hon'ble Central Administrative Tribunal, Madras vide order dt. 28.09.2001 passed in O.A. No. 305/2001 set aside the order dt. 01.02.2001 passed by the Govt. of India and consequently the seniority list dated 20.03.2001 also failed to exist and Hon'ble Tribunal directed to recast the seniority list dated 20.03.2001.
10. That the Petitioners herein, who were Respondents before Hon'ble Tribunal, challenged this order of Tribunal by filing two writ petitions bearing No.

22087 of 2001 and 21961 of 2001, before the High Court of Judicature at Madras. Hon'ble High Court decided both the writ petitions vide common Judgment & order dated 02.04.2008 and upheld the order passed by the Hon'ble Tribunal setting aside the order dt. 01.02.2001 passed by the Govt. of India and the seniority list dt. 20.03.2001 issued by the Govt. Of India.

11. That in the circumstances, the said Special Leave Petition is filed by the Petitioners claiming for upholding the order dated 01.02.2001 issued by the Govt. of India/Respondent and the seniority list dated 20.03.2001.
12. That some of the officers among the 270 officers who have been illegally given promotion vide order dt. 01.02.2001 passed by the Govt. of India which is subject matter of the petition before this Hon'ble Court, are working under Bharat Sanchar Nigam Limited and Mahanagar Telephone Nigam Limited which are Govt. of Indian Public undertakings.
13. That some of the officers/respondent had given representation to CMD Bharat Sanchar Nigam Limited regarding exclusion of these 270 officers from further promotion as scheduled based on their alleged seniority list dated 20.03.2001. The Bharat Sanchar Nigam Limited replied holding that seniority of these 270 candidates based on order dated 01.02.2001 is subject matter of disputed before this Hon'ble Court in which the status quo is ordered to be maintained. Copy of this order dated

21.08.2009 bearing No. 56-6/2009-PERS(DPC), is annexed and marked herewith as **Annexure A-1**.

14. That, however, the Govt. of India, Department of Telecommunications vide order No. 15-15/2001-STG-II dated 14.09.2009 directed the Chairman and Managing Director, BSNL and MTNL to consider these 270 officers for ad-hoc/regular promotion with reference to the present seniority list dated 20-3-2001 (which is disputed and subject matter before this Hon'ble Court) at par with their juniors. Copy of this order dated 14.09.2009 bearing No. 15-15/2001-STG-II is annexed and marked herewith as **Annexure A-2**.
15. That the above said order dated 14.09.2009 passed by the Govt. of India which is a party Respondent in the present petition, is gross violation of the order dated 12.05.2008 passed by this Hon'ble Court by which this Hon'ble Court was pleased to direct to maintain the status quo as on the date.
16. That the implementation of order dt. 14.09.2009 issued by the Govt. of India will invite further complications and anomaly in preparing the accurate seniority list of the officers under the provisions of Service Rules, 1981 and further amended in 1987.
17. That a representation was given by the General Secretary of All India Bharat Sanchar Nigam Limited Executive Association, New Delhi of the Respondents, to Govt. of India, Department of Telecommunications requesting to withdraw the

order dated 14.09.2009 but no communication regarding withdrawal of the above order has been issued till date. Copy of this representation dated 18.09.2009 on behalf of the Respondents, is annexed and marked herewith as **Annexure A-3**.

In view of the above it is respectfully prayed that this Hon'ble Court be pleased to :

- a. Direct the Govt. of India, Department of Telecommunications which is Party Respondent in this petition to revoke/withdraw the order dated 14.09.2009 bearing No. 15-15/2001-STG-II.
- b. Direct the Govt. of India, Department of Telecommunications and its two public undertakings not to consider the above said 270 officers for further promotion, who were earlier illegally promoted by order dated 01.02.2001 which is impugned herein this petition, till the final disposal of the petition.
- c. Pass such other order or orders as this Hon'ble Court may deem fit and proper in this facts and circumstances.

NEW DELHI

DATE : 3-11-2009

Respondents

Through

Advocate



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In the Supreme Court of India, New Delhi  
(Civil Appellate Jurisdiction)  
I.A. No. of 2009

IN  
Special Leave Petition (Civil) No. 11339/2008  
IN  
Civil Appeal No. 3149 of 2009

In the Matter of :

K. Vishwanathan and Ors. ....Petitioners

Vs.

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AFFIDAVIT

I, Chandra Bhan Singh aged about 45 years S/o Shri Puran Singh R/o 5/89, Chiranjeev Vihar, Ghaziabad, U.P. Presently posted as Divisional Engineer Under Bharat Sanchar Nigam Limited, at present in New Delhi do hereby solemnly affirm and declare as under :

1. That I am the parokar on behalf of Respondents 5,6,10 & 12 in the above matter and also I have been allowed to intervene in this matter by order dt. 24.04.2009 passed by this Hon'ble Court and also I being fully conversant about the facts and circumstances the case, am competent to swear to this affidavit.
2. That I have gone through the contents of accompanying application for direction, which are true and correct to the best of my knowledge and brief and nothing material is concealed therefrom.

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3. That the annexures annexed herewith this application are true copies of their respective originals.

  
DEPONENT

#### VERIFICATION

Verified \_\_\_\_\_ on this day of \_\_\_\_\_ October, 2009 at \_\_\_\_\_ that the contents of above affidavit are true and correct and nothing material is concealed therefrom.

  
DEPONENT