

Mr Joy Mathew
23-6-23

CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD

Order Sheet

Item no.: 9
O.A./55/2023 (AHMEDABAD)
[SENIORITY/PROMOTION]
With
M.A./129/2023
Court No.: 1


No of Adjournment: 5

Order Dated: 16/06/2023

RAKESHKUMAR MEENA AND OTHERS
Vs
BSNL

For Applicant(s) Advocate : P H PATHAK

For Respondent(s) Advocate : JOY MATHEW R-1 TO 3, MEHUL DHONDE R-4 to 10

| <u>Notes of The Registry.</u> | <u>Order of The Tribunal</u> |
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|  | <p>Counsel for the parties are present.</p> <p>2. Learned counsel for the respondent Nos.1 to 3 has moved MA No.129/2023 for vacation of interim relief dated 07.02.2023 vide which it was directed that regarding implementation of the promotion order dated 04.01.2023 (Annexure A/4), <i>status quo</i>, as on that day would be maintained meaning thereby that those who had not joined their duty till that date, would wait till the final outcome of the OA. The said interim relief order also made it clear that it was open to the respondents to re-work on their orders by taking into account the guidelines passed by the Hon'ble Apex Court in K.Meghachandra Singh's case.</p> <p>3. Learned counsel for the respondents submits that out of 57 promoted persons, 40 had already joined the promotion posts and remaining 17 persons could not joined because of this interim order. This promotion order has taken into account the seniority list, draft of which was circulated in the year 2018 and the same was finalised in the year 2019 and was further modified in the year 2020 by deletion of those who either passed away or left the service or retired or who had taken VRS. It has been further submitted that because of this interim relief order, several posts have been left vacant affecting smooth functioning of the Organisation.</p> <p>4. Learned counsel for the applicant submits that seniority list from where these promotion were effected was not prepared in view of the principles laid down to that effect; in particular, observations contained in the order passed by the</p> |

Hon'ble Apex Court in K.Meghachandra Singh's were not factored in. He also submits that while finalising the seniority list of Sub-Division Engineers their *inter-se* seniority, consequent upon the ratio of promotion versus LDCE qualified persons was not properly considered. Learned counsel relied on the interim order passed by the Lucknow Bench of this Tribunal in OA No.245/2022 dated 13.7.2022 and order of Ernakulam Bench of this Tribunal in OA No.295/2021 dated 16.7.2021.

5. Learned counsel for the respondents further submits that these two orders which have been relied upon by the applicant do not pertain to the issue at hand; in both these issues, it was *inter-se* seniority between promotee from JTO and those who became SDE after clearing the LDCE examination under 33.3.% quota. He submitted that applicant's submission was not germane to the issue at hand and therefore, there was no reason to continue with the interim relief.

6. We have heard the counsel for the parties. It appears from the record that when the seniority list was circulated in the year 2018 and finalised in the year 2019 and later modified in the year 2020, there was no effort on the part of the applicants to the question this, although, counsel for the applicant says that the applicants had made representation against it.

7. After perusal of the seniority list, rules of promotion and after taking into account the submissions of both the counsel, we are of the opinion that promotion approved vide Order dated 04.01.2023 need not be withheld from implementation, particularly, because majority have already joined and only 17 out of 57 remain to join. Under this factual matrix, the interim relief granted on 07.02.2023 is hereby vacated. However, promotion so effected, shall be subject to the outcome of this OA.

8. Counsel for the private respondent Nos. 4 to 10 seeks time to file reply to the OA. He may file their reply by the next date.


9. List the matter on 12.7.2023.


A K Dubey
Member (A)


Rameshwar Vyas
Member (J)



तैयार, करनेवाला
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अनुभाग अधिकारी (न्याय)
Section Officer (J)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
अहमदाबाद न्यायपीठ
Ahmedabad Bench