

17.03.2026
Item No.7
Ct. No.1
KS

WP.CT 106 of 2024
The Bharat Sanchar Nigam Limited & Ors.
Vs.
Ankur Kumar Singh

Mr. Partha Sarathi Bhattacharya, Sr. Adv.

Mr. Agniv Sinha

Mr. Sattwik Kundu

..... For the Petitioners

Mr. Victor Chatterjee

Mr. P. Nath

.....For the Respondent

Dictated by Sujoy Paul, CJ.:

1. Parties are represented through their respective learned counsels.
2. With the consent, matter is finally heard.
3. This petition filed under Article 226/227 of the Constitution of India impugns the judgment of Tribunal dated 14.09.2023 passed in O.A. No.350/00098/2015 whereby Tribunal directed to determine the seniority of the petitioner in tune with DoPT OM dated 04.03.2014 in the Grade of Junior Account Officer (JAO).
4. The admitted facts between the parties are that the petitioner while working as JAO, filed aforesaid O.A. challenging the

provisional seniority list in the Grade of JAO dated 10.12.2014. It was further prayed that respondents be directed to decide their pending representation dated 27.12.2014.

5. After completion of pleadings before the Tribunal, the matter was heard and decided by impugned judgment dated 14.09.2023.

The Tribunal recorded its finding as under:-

“5.4 It is not in dispute that the seniority list of JAOs containing the name of the applicant was notified for the first time vide the Provisional Seniority List dated 10.12.2014. Thus, it is clear that the seniority of the applicant was determined on 10.12.2014, notwithstanding the fact that he was appointed as JAO in 2010. Para (h) of the OM quoted above says that the principles laid down in the OM for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012. It, therefore, follows that the seniority of the applicant which was determined in 2014 should have been in consonance with the provisions of OM of 04.03.2014.

*5.5 In this matter we are also guided by the conclusion reached by the Hon'ble Apex Court in its judgment in **Hariharan vs. Harshvardhan Singh Rao & Ors. in SLP (C) No.16161 of 2018** where it was held that the N.R. Parmar (supra) is applicable to the case, as the inter se seniority of the direct recruits and promotees was determined in 2016 although both groups of officials were appointed to the post in 2010. For the limited purpose of applicability of the OM of 2014 issued after the N. R. Parmar judgment, the facts of the case in this OA is similar to the facts in the Hariharan (supra).*

*5.6 At this juncture, following facts are also taken note of. The applicant has been promoted to the post of AO in 2018 on the basis of the impugned seniority list. The judgment in N. R. Parmar case was overruled by a three-judge bench of the Hon'ble Supreme Court in **Meghachandran Singh case** in 2019.*

However, the judgment was given prospective effect from the date it was delivered. In 2022, the judgment in Meghachandran (supra) was held to be per-incuriam in Hariharan (supra) and was recommended for consideration by a larger Bench.

5.7 As far as the instant case is concerned, given the timeline of the facts, issue to be adjudicated is whether the judgment in N. R. Parmar (supra) and DoPT OM of 04.03.2014 would apply in this case or not.

5.8 In the light of the discussions in para 5.5 and 5.6 above, we are of the considered opinion that the respondents have erred in not applying the provisions of DoPT OM of 04.03.2014 while determining the seniority of the applicant in the grade of JAO. Provisional seniority list dated 04.03.2014 and the letter of the BSNL authorities dated 30.01.2015 are accordingly set aside.

Respondents are directed to recast the seniority of the applicant in accordance with the principles laid down in DoPT OM dated 04.03.2014 and grant him all consequential benefits as a result of such exercise within a period of 04 (four) months from the date of this order."

6. Learned senior counsel for the Department

submits that the finding of Tribunal is erroneous. The Tribunal directed to determine the seniority as per the Office Memorandum dated 04.03.2014. The said Office Memorandum, in view of other judgments of Hon'ble Supreme Court passed subsequently, was cancelled and declared as withdrawn with effect from 19.11.2019. The said O.M. dated 13th August, 2021 is filed as Annexure – P4 alongwith this petition.

Unfortunately, this O.M. dated 13th August, 2021 could not be filed before the Tribunal and, therefore, Tribunal had no occasion to examine the impact of this O.M. dated 13th August, 2021 whereby the said O.M. dated 04.03.2014 was directed to be treated as withdrawn.

7. Learned senior counsel submits that on this short ground, the impugned order of Tribunal may be set aside and matter may be sent back to the Tribunal to re-decide the matter, in accordance with law.
8. Learned counsel for the respondent has no objection to this innocuous prayer and accordingly, the impugned judgment dated 14.09.2023 is set aside and O.A. 350/00098/2015 is restored to its original number and file. The Tribunal is requested to expedite the hearing of the matter and endeavour to decide it expeditiously preferably within six months from the date of production copy of this order.

9. Accordingly, petition is dismissed without expressing any opinion on merits.
10. It is, however, made clear that all legal questions and points are kept open to be decided by Tribunal.
11. Before parting with, it is further recorded that on 24.02.2026 though learned counsel for respondent prayed for time, however, it has been inadvertently typed as learned counsel for petitioners prayed for time.
12. The order dated 24.02.2026 be corrected by the Department accordingly and let this order be formed part of the order dated 24.02.2026.
13. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)