



SANCHAR NIGAM EXECUTIVES' ASSOCIATION

CENTRAL HEAD QUARTERS

M. S. Adasul

General Secretary

(M) : 9423082352

E-mail : gssnea2022@gmail.com

All Communications
to the General Secretary

To,

Dr. Kalyan Sagar Nippani ji,
Director HR BSNL Board,
3rd Floor, Bharat Sanchar Bhavan,
Janpath, New Delhi 110001

Letter No. SNEA CHQ/Dir HR/2022-2025

Dated 24th September 2024.

Sub: Request for reinstatement to the post of AGM (R)/DGM (Adhoc) by respecting orders passed by Hon'ble Supreme Court in SLP (C) No. 30281-30282 of 2019 & further directions to finalization of their seniority.

Reference:

1. Hon. SC Judgment dated 16 July 2024 in SLP(C) No. 30281-30282/2019.
2. Hon. HC Punjab and Haryana judgment dated 10/07/2019.
3. BSNL Affidavit before Hon. SC in I.A.No.64440, in SLP (C) No. 24303/2013.
4. Exam Notification Letter No.5-6/2003-DE dated 17/04/2003.
5. DoT letter No.1-1/98-STG.II Dated 26th Aug 2003.

Respected Sir,

With reference to the above subject and letters under reference, we submit the following few lines for kind and sympathetic consideration and justice to the executives who are suffering for no mistake on their part.

This is issue related to Qualifying Cum Competitive Examination held for SDE post and fixation of seniority thereof. As your good office is kind aware that this issue has been taken to the court by different parties and finally Honourable Supreme Court of India in SLP (C) No. 30281-30282 of 2019 vide order under Reference 1 Dated 16/07/2024 wherein BSNL is directed to make earliest compliance to orders issued on 10/07/2019 and 05/09/2019 by issuing a show cause notice to the respondents and granting time to file a reply to the said notice where after appropriate orders shall be passed under written intimation to respondents.

The brief History of the case is attached for ready reference please. From this brief History it is crystal clear that in past this issue is not handled with due care may be due to dispute among the different groups and by now the majority of the executives at this seniority level are retired either through VRS or superannuation and only few of them are left wherein no seniority has been disputed as on today.

Further, BSNL has already made one correction in its actions dated 06/06/2018 in response to notice issued by NCSC, thereby resulting to partial restoration of seniority in regard to some executives from amongst the 2003 Qualifying Cum Competitive Examination passed executives, and there is need to maintain equality among these 2003 Qualifying Cum Competitive Examination passed executives following the judgment dated 16/07/2024 of Hon'ble Supreme Court.

BSNL has always followed very good practices and has promoted hundreds of executives to avoid such reversion due to court cases or issues reported in past and has settled disputes by promoting all affected executives.

In this case, BSNL has promoted much juniors to these executives as AGMs or even DGM Adhoc and there should not be any issue in restoration of seniority of these qualified Executives as it will be in tune of mission of BSNL Management to meritocracy in BSNL.

The Hon. High Court of Punjab & Haryana order in its order dated 10/07/2019 in CWPNo.25405 of 2018 had set aside orders dated 06/06/2018. According to the judgment, the BSNL had not disputed the fact that the seniority settled before the Expert Committee was favourable to the 2003 these qualified executives and on basis of this seniority, they are entitled to get promotions. In addition, the BSNL has not disputed that 06/06/2018 orders had not mention anything about the seniority decided before the Expert Committee.

In view of above we request your good self to kindly reinstate all the 2003 Qualifying Cum Competitive Examination qualified SDEs who are serving today to the posts which they were holding as on dated 05/06/2018 along with seniority on that date and also consider them for DGM Adhoc Promotions at par with their juniors.

This will be proper and justified compliance with the judgment dated 10/07/2019 of Hon'ble High Court of Punjab & Haryana in regard to reinstatement on the post as on 05/06/2018.

We are confident that our request will be given consideration and at least now these deprived executives will be given justice.

With Warm Regards,

Sincerely Yours,

Encl: AA



M. S. Adasul,
General Secretary
SNEA CHQ

Copy to:

1. CMD BSNL for information please.
2. PGM SR BSNL CO for kind information please.
3. PGM Pers BSNL CO for kind information and n/a please.

**Brief History of the Qualifying Cum Competitive Examination 2003
Qualified Executives (147 Case)**

1. The Qualifying Cum Competitive Examination 2003 was notified and conducted in accordance with the Recruitment Rules 1981 as amended in 1986.
2. According to the exam Notification dated 17th April 2003 "All JTOs (SC/ST/OC) recruited against the vacancies caused up to the year 1993 were eligible to appear in both the parts Viz. Qualifying as well as Competitive part of the said Examination".
3. The aforesaid eligibility was further clarified vide DoT Letter No. 1-1/98-STG.II Dated 26th Aug 2003 as issued to all Circles. DoT mentioned that there was no any requirement of 5 years of regular service in the cadre of JTO for appearing in the examination and JTOs appointed against the vacancies for up to 1993 was eligible to appear in the examination irrespective of length of service, in accordance with the Recruitment Rules 1981 as amended in 1986 which was never challenged by any one till date.
4. As per notification, the Qualifying Cum Competitive Examination was conducted for vacancies for years 1994-95, 1995-96 & 1996-97 (up to 22/07/1996).
5. Then in accordance with Hon. HC of Kerala Judgment dated 01/07/2013, seniority of the these executives was given in the 1/3rd Competitive quota positions of the years 1994-95, 1995-96 and 1996-97 (up to 22.07.1996) [Para 40 & 47 of the judgment]. BSNL and others filed SLPs against this judgment in Hon. SC.
6. The Hon. Supreme Court vide its judgment dated 21.01.2015, constituted an Expert Committee to decide seniority of executives including for these Executives qualified in 2003 and in its submission BSNL has fixed seniority of the 2003 of executives in the 1/3rd Competitive quota positions of the years 1994-95, 1995-96 and 1996-97 (up to 22/07/1996).
7. The Expert Committee in its report dated 26/10/2015 stated that the revised seniority was in accordance with the judgment of the Hon. HC of Kerala and was in consonance with judgment dated 21/01/2015 of the Hon. Supreme Court.
8. The BSNL in its affidavit dated 31/08/2016 filed before the Hon. Supreme Court submitted that the seniority of the these executives accepted and endorsed by the Expert Committee was as per law and in accordance with the judgment dated 01/07/2013 of the Hon. HC of Kerala.
9. Further BSNL submitted that the seniority had been acted upon and accordingly prayed for dismissal of the SLPs in view of the developments.
10. Accordingly, the Hon. Supreme Court in its judgment dated 12/12/2017 upheld the judgment dated 01/07/2013 of the Hon. HC of Kerala and dismissed the SLPs.
11. However, to the contrary BSNL Corporate Office vide its letters (i) No. 412-03/2017-Pers.I/IV dated 06/06/2018, (ii) No. 412-03/3017-Pers.I/III dated 06/06/2018, and (iii) No. 56-04/2017-Pers (DPC)/Pt/06 dated 06/06/2018, reverted these executives from the posts of DGM/AGM to AGM/SDE.
12. Due to this action for reversal, the affected executives approached to various judicial forum / Hon. courts.
13. It is accepted principle of legal jurisprudence that Recruitment Rules are rules

notified under proviso to Article 309 of constitution and thereby are purely sacrosanct in themselves and are considered to be part of the law which should have been followed by BSNL without exception.

14. Thus BSNL Order dated 06/06/2018, has inflicted gross injustice to these executives which has also resulted in discrimination among different groups of executives.

15. Undoubtedly BSNL action violated their fundamental rights under the constitution, specifically Articles 14 (equality before the law), 15 (prohibition of discrimination), and 16 (equal opportunities in public employment).

16. Status of various Court Cases which have discussed and decided on BSNL Order Dated 06/06/2018:

a. The Hon. CAT, Bangalore and Guwahati had set aside the 06/06/2018 orders by stating that these orders are not in accordance with the judgment of Hon. HC of Kerala.

b. The Hon. National Commission for Schedule Caste had stated that the order Dated 06/06/2018 is not in accordance with judgment of the Hon. HC of Kerala.

c. **The Hon. High Court of Punjab & Haryana in its order dated 10/07/2019 in CWPNo.25405 of 2018** had set aside orders dated 06/06/2018. According to the judgment, the BSNL had not disputed the fact that the seniority settled before the Expert Committee was favourable to the these qualified executives and on basis of this seniority, they are entitled to get promotions, and in addition, the BSNL had not disputed that 06/06/2018 orders had not mention anything about the seniority decided before the Expert Committee.

d. The Hon. Supreme Court in its judgment dated 16/07/2024 had dismissed the SLP filed by BSNL against the judgment of Hon. HC of Punjab & Haryana, and it has upheld the judgment of Hon. HC of Punjab & Haryana; and directed to settle the matter as per law.

17. BSNL again filed a SLP (C) 30281-30282/ 2019 before the Hon. Supreme Court. **However, the Hon. Supreme Court vide its judgement dated 16/07/2024 had dismissed the SLP filed by BSNL against the Judgement of Hon. HC of Punjab & Haryana and upheld the judgement of Hon. HC of Punjab and Haryana and directed to settle the matter as per Law.**

18. Thus the seniority endorsed by the Expert Committee, according to the Committee and BSNL (affidavit), was as per law (1981 RR as amended in 1986), and terms & conditions as contained in the notification) and in accordance with the judgment dated 01/07/2013 of the Hon. HC of Kerala which was not even disputed by BSNL before the Hon. HC of Punjab & Haryana.

19. Thus, seniority assigned to the these qualified executives of 2003 before the Expert Committee ought to be restored and promotions given to them under this seniority must be restored [they should be reinstated to the post/grade such as AGM (Regular)/ DGM (Adhoc) which they had held as on 05/06/2018.
