



**ALL INDIA
BHARAT SANCHAR NIGAM LIMITED
EXECUTIVES' ASSOCIATION**

**Central Headquarters
New Delhi-110001**

**President
Subhasis Mitra**

M. : 09432001010

E-mail : presidentaibsnlea@gmail.com

**General Secretary
S. Sivakumar**

M. : 09773760445, 09486102121

E-mail : gsaibsnlea@gmail.com

**Financial Secretary
Ram Nath Chhabra**

M. : 09868231711

E-mail : fschqaiibsnlea@gmail.com

Important Points submitted before the Committee by AIBSNLEA on 19.5.2020 for reviewing and cancellation of Reversion orders in respect of SDEs (JTOs of 2001 Recruitment Year) promoted through LDCE 2007 for the Vacancy Year 2005-06

Case History

- 1 Recruited as JTOs on 2001 through All India Competitive Exam and posted to TN Circle as per choice opted based on Merit
- 2 Eligibility for Vacancy Year 2005 - 06 is 3 years of JTO service as on 01.07.2005
- 3 Shortfall of one and half months was due to delayed commencement of training by TN Admin which was only on Aug 2002.
- 4 Even 2001 recruited batch mates of CHTD had undergone training well before Tamilnadu Circle Candidates in the training centre pertains to TN Circle and they became very well eligible.
- 5 2001 Recruited JTOs Applied to appear for above exam as per Column 12 Note 5 of RR 2002 without hiding any facts & they were permitted accordingly as per CO Clarifications then in force and we were declared successful & posted on 2008
- 6 On 03.12.2009, CO directed Circles to identify candidates who were all short of eligibility in strict adherence to Column 12 Note 5 of RR 2002 which was on consequence to a CAT Case filed by 2002 recruited JTO against the allowing of 2002 recruited JTOs & who had passed in the LDCE 2007
- 7 Many Circles replied that no 2002 YOR JTOs were allowed and 2001 YOR JTOs were only allowed as per Column 12 of Note 5 of RR 2002 and clarifications issued by CO, whereas TN Circle issued Show Cause Notice based on BSNL CO clarification issued for successive LDCE

S. Sivakumar

Legal Reality

- 1 Show Cause Notice was challenged under the misguidance of advocates in CAT citing the ambiguous clause in SDE RR, "whether the crucial date of Eligibility of 1st July is against the Year of Vacancy or the year of Examination " even though the eligibility criteria is as per the Column 12 of Note 5 of RR 2002 which was part of the petition and not in Prayer or Relief sought for and was in favor of the candidates
- 2 Meanwhile, the contention on Eligibility had come to finality as follows that "it is the Year of Vacancy and not the year of Examination to be taken as on crucial date" based on the verdict by Honorable PCAT, Delhi which was duly meant for subsequent LDCE and for the vacancy year 2006 -07. It is to be noted that the Honorable PCAT had not changed the relevant notes in Column 12 of Note 5 of RR 2002 & not discussed anything about Vacancy Year 2005 -06 as these clauses were not the subject matter in that OA.
- 3 Citing the above verdict, Review in Hon'ble CAT became favor to BSNL and Hon'ble High Court also endorsed the same and upheld the validity of Show Cause Notice without undergoing the Fact, Nature & Reality of the case & not passed any order for Reversion

Facts & Merits of the Case

- 1 RR is not challenged but only rely and to follow the same strictly
- 2 As per Column 12 Note 5 of RR 2002 only, JTOs of 2001 Recruitment Year who have short of one and half month of qualifying Service of 3 years as on 1.7.2005 applied to LDCE 2007 on comparison to JTO of Same Recruitment Year 2001 who are junior in All India Seniority / Gradation List which is based on JTO Training marks (Note Sheet Copy of CO)
- 3 And Candidature was accepted based on above accordingly as per Corporate Office Clarifications dated 16.04.2007 & 10.07.2007. The purpose of above note stated in RR is mainly to maintain equality and to render justice for the candidates among the same recruitment year which aptly fits to the instant case



- 4 The above note was successively clarified by BSNL on 30.07.2010 for successive LDCEs that the above clause is applicable only for Seniority cum fitness and not for LDCE, based on which Show Cause Notice was issued to us by TN Admin. The same was amended on 2013 & modified only on 2018.
- 5 Actually, this Show Cause Notice action was in consequence to a OA at HYD by 2002 Year Of Recruitment JTO which sought explanation for allowing of 2002 YOR JTOs to appear in LDCE 2007 in comparison with other recruitment year of JTOs by wrong interpretation of Column 12 Note 5, which should be among the same year of recruitment JTOs as per RR 2002 and reiterated successively by Corporate Office Lr. Dated 03.12.09. Hence, the 2001 YOR JTOs who have short of one and half month of qualifying Service of 3 years as on 1.7.2005 allowed for the LDCE 2007, in comparison with same recruitment year 2001 of JTO who were Juniors as per the All India Seniority / Gradation List (which is based on JTO Training marks) and with reference to Column 12 Note 5 of RR 2002 and as per the BSNL Corporate Office Clarifications dated 16.04.2007 & 10.07.2007 (well before the conduction of Exam) is the correct decision.

Suggestions to resolve the issue

After going through the relevant facts and various BSNL CO orders from time to time, the following observations and suggestions are submitted for favorable consideration please.

1. Regarding the eligibility of the candidates for the LDCE 2007, BSNL CO has issued relevant clarifications regarding the applicability of column 12 and Note 5. Except Maharashtra circle, all the Circles had scrutinized the applications and allowed only JTOs of 2001 recruitment year for the vacancy year 2005-06.
2. Hence, JTOs of 2001 recruitment year may be considered favorably as per the relevant clarifications and SDE RR clauses which were in force at that time and the reversion orders & Show Cause Notice orders may kindly be reviewed and cancelled and their Promotions may be reinstated since
 - a. They have completed 12 years of service in the Promoted SDE Post
 - b. They had lost the scopes of successive LDCEs and hence their Juniors have become their Superiors which have led to humiliation



- c. The Honorable High Court also upheld only the validity of Show Cause Notice not passed any order for Reversion and finally
 - d. As per the similar relaxation extended in eligibility in the LDCE 2002 based on same Column 12 of Note 5 of RR 2002
3. Moreover, it is observed that 5 JTOs who were in the reversion list of 2002 recruitment year cleared the subsequent LDCE as per their eligibility and BSNL CO has already changed their seniority accordingly. Only 3 JTOs remains in the list of reversion. Their case is to be considered separately, as per their eligibility of vacancy year so that parity in the same recruitment year 2002 also can be addressed in line with the original case of Hyderabad CAT.
 4. Honourable PCAT and Honourable Chennai High court judgement cleared the ambiguity regarding the "Vacancy Year and Year of examination" and BSNL CO has clarified and modified the RR from vacancy year 2006-07 onwards, in line with the judicial orders.
 5. Thus, these suggestions will end lot of litigations and ensures the parity among the JTOs of the same Recruitment year in line with the SDE RR-2002 provisions which was in force at the time of LDCE 2007.

With Kind regards

Yours Sincerely,



(S. Sivakumar)

General Secretary