



ALL INDIA BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' ASSOCIATION

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No: AIBSNLEA/CHQ/Dir (HR)/2020

Dated 25.08.2020

To

Shri Arvind Vadnerkar,
Director (HR),
BSNL Board
New Delhi- 110001.

Sub: Brief Note and views of AIBSNLEA on Seniority List No 9 of SDE(T)-Reg.

Respected Sir,

On behalf of AIBSNLEA, We are submitting our views and brief note in respect of Seniority list No 9 of SDEs(T) for favour of your kind consideration and favourable order please. In this regard, Kindly refer our earlier Lr.No.AIBSNLEA/CHQ/CMD/2020 dated 09.1.2020(enclosed herewith).

The Post of Sub Divisional Engineer (Telecom), SDE(T) in short, is a 100% promotional post. The promotion to the post of SDE(T) is from the post of Junior Telecom Officer(Telecom) JTO(T) in short. 75% of the vacancies to be filled by promotion on the basis of Seniority cum Fitness (SCF) and 25% of the vacancies to be filled by Limited Departmental Competitive Examinations (LDCE) from amongst JTO(T)s who have completed 3 years of regular service as per **RR 2002**. The quota was modified as 67% for SCF and 33% for LDCE from the Vacancy year 2006-07 onwards in amendment 2007. **The inter-se Seniority between the 67% SCF quota and 33% LDCE quota (that is 2:1 Rotation is applicable WEF 28/08/2018 only) was introduced as an addition/modification to the SDE(T) RR dated on 08.05.2018.**

The promotion order to the grade of SDE(T)through SCF (67% quota) for the SDE Vacancy year 2006-07 – 1101 JTO(T)s and 2007-08 – 940 JTO(T)s were released on 15.05.2009.(Annexure A3) and for 5 JTO(T)s on 16.11.2009) & **subsequent orders(As per SDE(T) Seniority List 9 published on 10.08.2020).**

Subsequently, the promotion order to the grade of SDE(T)through SCF (67% quota) for the SDE Vacancy year 2008-09 for 1860 JTO(T)s was released on 30.03.2011.

BSNL announced the LDCE for 33% quota which exam was conducted on 04.3.2012 for the Vacancy years 2006-07 to 2009-10. The result of the LDCE was declared on 28.06.2013 and the promotion order was issued to the officers successful in the LDCE on 02.07.2013.

The provisional Seniority List 9 is published by BSNL on 10.08.2020 which is the subject matter of the challenge.

The SDE(T) RR 2002 amendment (That is Modification/addition/deletion in SDE(T) RR 2002) circulation dated 08-May-2018 – *“the Inter-se Seniority of the officers promoted against Seniority Quota(SQ-67%) and those who are promoted through LDCE/LICE quota (CQ-33%) against the particular vacancy year shall be fixed in the ratio of 2:1 irrespective of the year of appointment/date of joining”.* *“This Modification applicable with effect from 28/08/2015”.*

- a) Any RR amendment is applicable from that date(that is Prospective in nature)but not on retrospectively.
- b) Here the Seniority cum Fitness (SCF) promotion orders issued on 15.05.2009 (for the vacancy year 2006-2007 & 2007-2008) and promotion orders issued on 30.03.2011(for the vacancy year (2008-09)).
- c) Limited Departmental Competitive Examinations (LDCE) promotion orders issued on 02.07.2013(for the vacancy year 2006-2007, 2007-2008,2008-2009 & 2009-10).
- d) These two SCF promotions (that is 15.05.2009 and 30.03.2011) and single LDCE promotion (that is on 02.07.2013) were issued well before the SDE RR amendment dated 08-May-2018 and well before the effective date, that is 28/08/2015.
- e) So this SDE(T) RR amendment is not applicable for these two SCF promotions (that is 15.05.2009 and 30.03.2011) and single LDCE promotion (that is on 02.07.2013).

Next the provisional Seniority List 9 of SDE(T) is said to have been prepared on the basis of date of joining in SDE(T) cadre in accordance with the Hon'ble SC judgment dated 12.08.2014 (BSNL & others Vs Sh S.K.Dubey & Others) and the judgment dated 02.04.2019 in the case of Shri Vinod Verma Vs UOI & others.

The SDE(T) Seniority list 6 , 7 was prepared based on the Hon'ble Punjab Chandigarh Court Judgement and Supreme Court Judgement dt 12.08.2014. In these judgements SDE(T) Seniority List 8 was not incumbent of the these judgements. While issuing the Provisional List 8 dated 14.03.2016, it was clearly mentioned that List 8 was prepared based on the Hon'ble Punjab Chandigarh Court Judgement i.e., **purely based on Date of Joining only.**

But in the SLP filed in the Hon'ble Supreme Court, the List 8 was included and in the judgment delivered by the Hon'ble Supreme Court dated 02.04.2019, in the case of Shri Vinod Verma Vs UOI & others and list 6,7,8 were the incumbent of the case and **the Final Judgement delivered with instructions to prepare the SDE Seniority List on the basis of the Date of Joining.**

In similar way the SDE(T) List 9 must be prepared based on the Date of Joining as per the judgements as follows in comparison with the List 6,7,8 since there is no provision in the RR of BSNL.

However, the **Provisional Seniority List 9 is not prepared purely on the basis of the date of joining** in accordance with the Hon'ble CAT Chandigarh & Apex Court judgments cited above, **but prepared based on Date of Joining within the vacancy year**, which is clear violation of Hon'ble CAT Chandigarh & Hon'ble Supreme Court judgements, though List 9 is not incumbent of any above court cases.

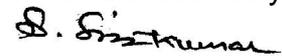
For example 2006-2007 SCF promoted on 15.05.2009 in the Top of the list and 2006-2007 CQ promoted on 02.07.2013 placed below them.

- a) In view of the above, it is feared that the same analogy for the officers promoted through 67% SCF quota (Seniority quota denoted as SQ) on 15.05.2009 for the vacancy year 2007-08 and 67% SCF Quota on 30.03.2011 for the vacancy year 2008-09 are to be placed below the officers promoted on 02.07.2013(CQ officials promoted for the vacancy year 2006-2007) through 33% LDCE quota exam held subsequently on 04.03.2012) which is wrong.
- b) Next The officers promoted through 67% SCF quota (Seniority quota denoted as SQ) on 30.03.2011 for the vacancy year 2008-09 are to be placed below the officers promoted on 02.07.2013 (for the vacancy year 2006-2007 & 2007-2008) through 33% LDCE quota exam held subsequently on 04.03.2012) which is wrong.
- c) Here 2007-2008 & 2008-2009 SCF officials will be losing the Seniority and the promotion opportunities which are against the CAT Chandigarh, High court & Supreme court Judgements in Seniority which is not correct.

In view of the foregoing facts, we request your good-self to kindly intervene in the matter and cause to issue necessary instructions to the Officers concerned to revise **SDE(T) Seniority list No.9 purely based on the Date of Joining only pursuant to the** Hon'ble CAT Chandigarh and Hon'ble Supreme Court Judgements so as to retain the Seniority of the affected Executives with reference to Date of Joining to mitigate the their sufferings.

With kind regards,

Yours Sincerely,



(S. Sivakumar)

General Secretary

Copy for favour of kind information & necessary action to:

1. PGM (Pers.), BSNL Corporate Office, New Delhi-110001