

BEFORE THE LD. EXPERT COMMITTEE COMPRISING OF
HON'BLE SHRI JUSTICE K. RAMAMOORTHY (RETD.),
CHAIRMAN AND HON'BLE DR. D. P. SHARMA, MEMBER

IN THE MATTERS OF:

CA NO. 4389 OF 2010

BSNL ..Petitioner

VERSUS

SOHAN LAL SAYAL ..Respondents

AND ALSO

CA NO. 8929-8945/2012

BSNL ..Petitioner

VERSUS

NANDLAL JAISWAL & ORS ..Respondents

AND ALL OTHER CONNECTED MATTERS

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DATE : 27-06-2015

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The following **brief note** is submitted on behalf of the BSNL Corporation for the kind consideration of this esteemed Expert Committee inter alia, with a view for a better and more effective regulation of the present proceedings.

1. For the reason that on every date some new representations, orally or in writing are getting received by the Ld. Expert Committee and despite it's best efforts no substantial progress is taking place towards the merits and objectives sought to be achieved by the Hon'ble Supreme Court through the assistance of this Committee, the respectful submission of the Establishment Corporation is that in the first instance let the ambit, scope and jurisdiction of the

present proceedings in general be considered and determined by the Ld. Committee.

2. Judgment dated 21.01.2015 rendered by the Hon'ble Supreme Court could be appreciated better in the following manner:

- (i) Para 2 describes the core issue
- (ii) Para 3-10 examine this core issue in terms of the various past judgments of the Hon'ble Court.
- (iii) Para 11 records the preparation of the 17 Seniority lists by the establishment during 1993 covering several thousands of employees.
- (iv) Para 12 disagrees with the action of the department in revising the above 17 Seniority list during 2000-01.
- (v) In Para 13, in continuation of the above the Hon'ble court has disapproved the DOT's action in taking a U turn despite the undertaking dated 27.02.1992, administratively universalizing the DQE primacy , given before Ld. CAT Principal bench, New Delhi in unambiguous terms resulting in the order dated 28-2-1992, has recorded as its last sentence as under:
"In the light of the above conclusion there is no scope to interfere with the judgment impugned in these appeals".
- (vi) Thereafter starts para 17, the para relevant for our purpose where submission made by us that promotions on the revision of 1993 seniority list in 2000 had remained in force for about 15 years covering not less than 10,000 employees. And in the same breath the Hon'ble Apex Court in para 18

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referred to our submissions strongly made that if the Judgment of the Punjab & Haryana High Court was implemented it would affect not less than 8000 officials who are covered by the 1993 seniority list on the one hand and 10,000 employees who were given promotions as a result of 2000 Judgment revision.

Copy of the said judgment dated 21.01.2015 is hereby annexed as **ANNEXURE-A**.

3. Apropos the above the respectful submission is, that the real prelude to the formation of the expert committee is this, namely Para 18 where it was submitted by the corporation's Ld. Sr. counsel that affirmation of the impugned High Court Judgment would have "far reaching consequences" affecting 8000 officials covered by 1993 lists and 10,000 officials by 2000 lists.

4. It is this **single factor** on the basis of which Para 19 has seen sunlight with the start 'on this'. And came the direction of the Court in the following words:

"We are of the considered opinion that in the interest of the Institution namely the Appellants as well as the large number of employees whose grievances are to be sufficiently examined considered and safe guarded with minimum disturbances for fixing their seniority as well as promotions already granted in their favour ought to be restored by this judgment. A detailed consideration of the respective stand requires to be made. Since such an exercise would involve consideration of very many factors involving several thousand of employees and in order to balance the rights of both the groups, we feel it appropriate to entrust the said exercise to be carried out by an independent Expert committee-----"

5. The submission is that every where the reference made by the Hon'ble Court is traceable only to 8000 of 1993 and

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10,000 of 2000. That is thousands involving in the two there and certainly not a roving or fishy enquiry in respect of the hundreds of thousands, the BSNL employs.

6. The irresistible conclusion which therefore anybody could arrive at is that to resolve the various administrative problems resulting from the revision of 1993 to 2000 and the resultant upside down of thousands of employees predominantly, the encountering of these difficulties by the administration this Ld. Committee was formed to be stated even at the cost of repetition solely on the Corporation's request.
7. Thus the purpose and the jurisdiction of the Committee is as circumscribed by above.
8. We get support in submitting so from the last 3 sentences of Para 20 and the first sentence of Para 21 where reference is made to the two groups and both the groups. Still further the Hon'ble court apprehending protraction and confusion, has directed the representations of these two groups by not more than two with their lawyers. This portion of the order runs as under:

Para 20:

".....While suggesting the way out for balancing the rights of the two groups of the employees **referred to above** based on the principle laid down in this judgment. (Emphasis laid by us)"

Para 21:

".....We only direct that **let both the groups** be represented by(Emphasis laid by us)"

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9. However the only exception in the above comes from Para 23 where some liberty has been given to applicants of IA 2, i.e, 147 Officers. But that too providing very limited scope.
 10. So in one sentence the submission is only 2 groups of 8000 and 10,000 with their lawyers and the representatives of 147 and lawyers alone have been permitted to participate in this esteemed committee by the Hon'ble Supreme Court.
 11. The resultant sequitur therefore is that those who did not figure either in 1993 or in 2000 lists have no relevance here and certainly cannot ask for any indulgence.
 12. BSNL Corporation through its Counsels therefore pray that excepting the two groups specifically permitted by the Hon'ble Supreme Court in its Judgment dated 21.01.2015, namely, incumbents 1993 Seniority lists (17 Seniority list), secondly by the lists revised in 2000-01 (1-5 lists) as amended and the 147 group , all others may kindly be excluded from any participation in the present proceedings inter alia, to save the precious public time.

Date : 27-6-2015

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