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GENERAL MANAGER BSNL
A GM (AS)
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भारत संचार निगम लिमिटेड / BHARAT SANCHAR NIGAM LIMITED
(भारत सरकार का उद्यम) / (A GOVT. OF INDIA ENTERPRISE)
मुख्य महाप्रबंधक का कार्यालय 002 600- चेन्नै, तमिलनाडु दूरसंचार परिमंडल,
O/O CHIEF GENERAL MANAGER, T.N.CIRCLE, CHENNAI-2

To
All the Heads of SSA/Units.
All GMs/DGMs of Circle Office.
PCE Civil/Electrical Chennai.
REM/C-A/T Chennai.

No: DPC /10-12/ APAR Rlgs./, 2011(part)Dt Chennai-2, the 01-04-2013.

Sub : Writing of APAR of Executives – reg.

While reviewing the APARs of the Executives by Departmental Promotion Committee,

1. It is observed that for APARs of more than 3 months period also, the remarks such as "Same gradings holds good"/ period short is given. In some cases, for more than 3 months period, no gradings are furnished. This should be avoided by the Reporting Officers and SSAs are instructed to check the above point, in all the APARs before submission to Circle Office.
2. In the APARs, the Resumes are not signed by the Officer reported upon. This may also be verified by the controlling officer before writing the ACR/APAR
3. The rubber stamp of the Reporting Officer and Reviewing Officer are to be affixed below the signature of the respective Officers. This may also be checked while forwarding the same.
4. Integrity should be written as "BEYOND DOUBT" not as " good" or " very good".
5. It is noticed that under Part IV , Sl.No. 2 the reviewing officer is not committing whether he/She is agreeing or not. This should be filled up without fail by the reviewing officer.
6. The signature of the officer reported upon is to be obtained by the concerned reviewing officer in the APAR shown certificate under Part 5 of APAR .

This issues with the approval of the Competant Authority.

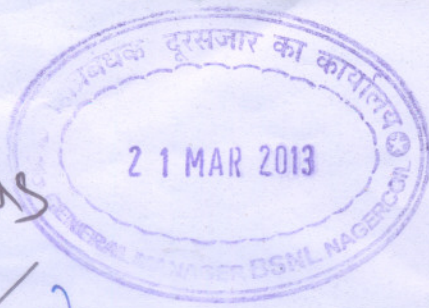
M. Shanmugam
02/04/13
(M.SHANMUGAM)

Deputy General Manager (HR & ADMN)
O/o CGM, BSNL, TN Circle,
Chennai-600 002.

Endt NOE 1 APAR- rulings / 2013-2014 / 1, 2 & 3 dtd 25.06.2013

Fwded to: All AGMs
All DES
DGM (Fin) &
All CAOS
for further N/A.

J. Kumar
सहायक महाप्रबंधक (प्रशासन)
Asst. General Manager (Admin)
कार्या. महाप्रबंधक, टी एस
O/o. General Manager,
नगरकोविल / Nagercoil- 626 004



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BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

Office of the Chief General Manager, Telecommunications
Tamil Nadu Circle, 80, Anna salai, Chennai – 600 002.

27/3/2013

AM DMS
AM AGM CH
AM CHOS
AM DES

All the Heads of SSA/Units.
All GMs/DGMs of Circle Office.
PCE Civil/Electrical Chennai.
REM/C A/T Chennai.

No: DPC /10-12/ APAR Rlgs./2011(part) Dt Chennai-2, the 16-03-2013.

Sub : Writing of APAR of Executives – reg.

While reviewing APAR of Officers by Departmental Promotion Committee, the following points are observed and necessary instructions are issued for favour of information and necessary action.

- 1) Under Part 3 (A),(B), (C) in APARs, the columns showing Assesment of Work output, Assessment of Personal Attitudes and Assessment of Competency, the marks are not given by the Reviewing Authority and also NOT signed by them, if they differ from the assessment of reporting Officers. It should be taken care of. All the Officers concerned may be intimated accordingly.
- 2) APAR shown certificate, found to be not signed by the reviewing Authorities in some of the cases. It may be checked by the Competant authority before submission to Circle Office.
- 3) HRMS Number of the officier/official should be furnished alongwith the name of the officer/official in all the APARs without fail.

This issues with the approval of the Competant Authority.

M. Shanmugam
(M. SHANMUGAM)
Deputy General Manager (HR & ADMN).,
O/o CGM, BSNL, TN Circle,
Chennai-600 002.



AGM(OA)



भारत संचार निगम लिमिटेड / BHARAT SANCHAR NIGAM LIMITED
(भारत सरकार का उद्यम) / (A GOVT.OF INDIA ENTERPRISE)

मुख्य महाप्रबंधक का कार्यालय 002 600- चेन्नै, तमिलनाडु दूरसंचार परिमंडल,
O/O CHIEF GENERAL MANAGER, T.N.CIRCLE, CHENNAI-2

To

- 1.All Heads of SSAs in TN Telecom. Circle.
- 2.AGM(Legal), O/o CGM, BSNL, TN Circle, Chennai-2.
- 3.Principal General Manager(Finance), O/o CGM, BSNL, TN Circle, Chennai-2.
4. PCE (Civil), BSNL TN Circle, Chennai.
5. PCE (Electrical), BSNL, TN Circle, Chennai.

No: DPC /10-10/ APAR Rlgs./2011(part) Dt at CNI-2 , the 05/06-2013

Sub : Order dated 30-01-2013 passed by Hon'ble CAT
Bangalore Bench in OA NO. 173/2010 titled
Sh. V. Govindaraju, Retd GM Vs. BSNL.

Kindly find herewith enclosed copy of BSNL, Corporate office, New Delhi, letter.No.404-28/2010-Pers (Legal) dated 08/04/2013 on the above mentioned subject for your information, guidance and necessary action.

This is in continuation of this office letter of even number dated 14-12-2012.

Encl: As above.

K. Oyyari
(K.OYYARI) 05/6/2013.

सहायक महाप्रबंधक (स्टॉफ)

Assistant General Manager (Staff)

का. म:म.प्र.बी.एस.एन.एल. / O/o CGM,BSNL

तमिलनाडु परिमंडल,चेन्नै 2./ Tamilnadu Circle,Chennai-2

Personnel Section
All India Head Office,
4th Floor, Bharat Sanchar Bhawan,
Janpath New Delhi - 110001.
Ph:011-23327680, Fax:011-23328498

भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

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No: 404-28/2010-Pers.(Legal)

Dated: 08.04.2013

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Per on 23/4/13
AD GM

[Court Case]

To,
All Heads of Telecom Circles and
Administrative Units of BSNL.

Subject: Order dated 30.01.2013 passed by Hon'ble CAT Bangalore Bench in OA No. 173/2010 titled Sh. V.Govindaraju, Retd. GM Vs. BSNL.

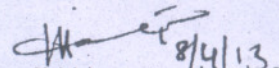
The undersigned is directed to refer to BSNL Corporate Office letter no. 400-106/2011/Pers.-I/93 dated 05.12.2012 (also available on intranet website of BSNL) and to enclosed herewith an order dated 30.01.2013 passed by Hon'ble CAT Bangalore Bench in OA No. 173/2010 titled Sh. V.Govindaraju, Retd. GM Vs. BSNL.

Vide order dated 30.01.2013 the Hon'ble CAT Bangalore Bench has disposed of the abovesaid OA with the following observations:

"10. Considering the submissions made from either side on the legal position, it is confirmed that the legal issue is pending for consideration before the Hon'ble Supreme Court. The applicant is directed to submit his representation, immediately after decision of the Hon'ble Supreme Court. We direct the respondents to consider the case of the applicant as and when the Hon'ble Supreme Court decides the case of A.K.Goel and Uttam Chand Nahta, supra."

This may be brought to the notice of all concerned authorities for information and necessary action.

Encls: as above.


[H.Hanumanthappa]
Asstt. General Manager(Pers. Legal)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.173/2010

DATED THIS THE 30TH DAY OF JANUARY, 2013

HON'BLE SHRI G. SHANTHAPPA, MEMBER(J)

HON'BLE.DR. P. PRABAKARAN, MEMBER(A)

V. Govindaraju,
S/o (late) S. Venkataramanappa,
Aged about 60 years,
Retired Chief General Manager,
Bharat Sanchar Nigam Limited,
Telecom Quality Assurance Circle,
'Sanchar Complex', 2nd Floor,
WMS Compound, 5th Block, Jayanagar,
Bangalore-560 041.
Resident of No.2138/31, 3rd 'A' Main Road,
5th Cross, RPC Layout,
Vijayanagar, Bangalore-560 040.

... Applicant

(By Advocate Shri B. Veerabhadrappa)

V/s

The Chairman cum Managing Director,
Bharath Sanchar Nigama Ltd.,
Bharat Sanchar Bhavan,
Harichandra Mathur Lane,
Janpathm New Delhi-110 001.

..Respondent.

(By Shri Vishnu Bhat, ACGSC)

ORDER (ORAL)

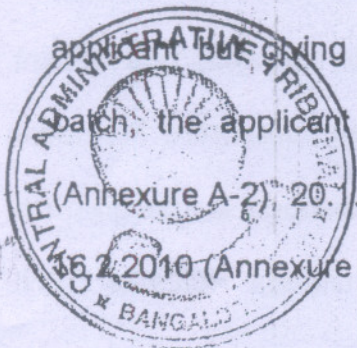
HON'BLE SHRI G. SHANTHAPPA, MEMBER(J)



We have heard the learned Counsel for the respective parties. The above application is filed under Section 19 of the

Administrative Tribunals Act, 1985 for the relief of direction to respondents to consider the representations dated 18.12.2009 (Annexure A-2), 20.1.2010 (Annexure A-3) 9.2.2010 (Annexure A-4) and 16.2.2010 (Annexure A-5) and further relief of direction to consider the case of the applicant for promotion to HAG grade and grant all consequential benefits inclusive of revision of retirement benefits.

2. The brief facts according to the applicant are: The applicant was initially selected and appointed as ADET w.e.f. 12.4.78. He belongs to 1976 batch of ITS Recruitment. In the course of time, he was promoted to various grades on different occasions and while working as Chief General Manager, Telecom, QA Circle, the applicant retired from service on 31.3.2010 on attaining superannuation. The applicant has been absorbed in BSNL vide letter in No.400-104/2009-Pers 1 dated 28.7.2009. The next promotion is to the grade of HAG in HAG scale. The applicant fulfills all the requisite conditions for being promoted to HAG grade. That being the position, the respondent issued a letter dated 23.10.2009 (Annexure A-1) where the juniors to the applicant (ie) 1977 batch officers have been promoted to HAG Grade/ Scale. The applicant's name do not find a place in the said promotion order. Being aggrieved with the action of the respondents in not considering the case of the applicant but giving preference to the juniors, who belongs to 1977 batch, the applicant submitted his representation dated 18.12.2009 (Annexure A-2), 20.1.2010 (Annexure A-3) 9.2.2010 (Annexure A-4) and 16.2.2010 (Annexure A-5) respectively. The applicant also requested the



respondent to provide a copy of ACR under RTI Act vide representation dated 2.2.2010 (Annexure A-6) and in response to the same, the respondent informed the applicant that the information sought pertains to DOT and as such, the application is hereby transferred so that the requisite information may be furnished directly to the applicant vide letter dated 9.2.2010 (Annexure A-7). The Department of Telecommunication issued a letter dated 16.2.2010 (Annexure A-8) stating that the ACR dossier has been handed over to DGM (Pers) on 22nd October 2009 vide their reference No.400-163/2009-Pers.I. As such, the information may be provided to the applicant directly. Despite the same, copies of the CRs have not been furnished nor the legitimate request made by the applicant for promotion to the grade of HAG has been conceded to. The applicant retired from service on 31.3.2010 on attaining superannuation. Hence this application.

3. The respondents have filed the reply statement and vehemently opposed the OA. They have contended that the promotion order to the grade of HAG from SAG was issued by the respondents on 23.10.2009 in pursuance to DOT's order dated 21.10.2009, in respect of non absorbed SAG ITS Group 'A'. The applicant is senior to the officers who were promoted to the HAG grade in the said promotion order. To determine the seniority between absorbed and non absorbed officers, the applicant's name was also considered by the Corporate Promotion Committee (CPC) held on 1.2.2010 for the promotion in the grade of HAG as per the procedure laid down in Recruitment Rules of BSNL



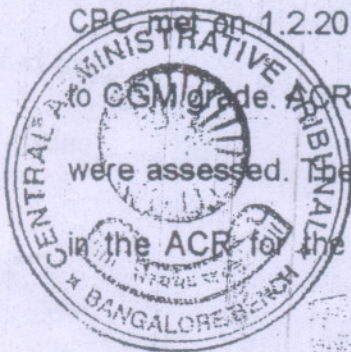
Management Services-2009, which was promulgated on 14.7.2009.

CPC has found that the applicant is not fit for promotion to the said grade due to non-fulfillment of eligibility/ Bench Mark. The Bench Mark stipulated is 'Very Good, No Adverse'. The applicant's grading in the ACR for the year 2005-06 is 'Good'. He was declared 'unfit' by the CPC meeting held on 1.2.2010. Further, in CPC meeting held on 23.3.2010, the applicant's name was also under consideration. However, for the reasons as noted above, he was found 'unfit'.

4.

The CPC assessed/ considered the name of the applicant as per the prescribed eligibility criteria/ selection norms and have found not fit for promotion in CGM grade (Telecom Operations). The eligibility Bench Mark for promotion to CGM grade as prescribed in their Rules is 'Very Good, No Adverse', but his ACR grading for the year 2005-06 is 'Good'. He was declared 'unfit' by the CPC meeting. The ACR dossiers of the year 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09 were assessed. There were no adverse entries in the ACRs for the said period, it was not communicated to the applicant.

5. We have carefully considered the rival contention and perused the pleadings available on record. On the admitted facts that the CPC met on 1.2.2010, the applicant was also considered for promotion to CGM grade. ACRs for the relevant period for 5 years i.e. 1994 to 1999 were assessed. The respondents admit that there was no adverse entry in the ACR for the said period. It was also admitted that no adverse

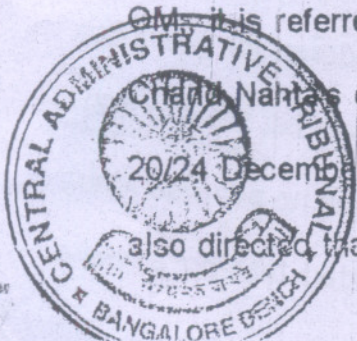


ries for the year 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09.

Hence it was not communicated to the applicant.

6. The learned Counsel for the applicant relied on the Judgement of Hon'ble Supreme Court in the case of Abhjit Ghosh Dastidar vs. Union of India & ors - Special Leave Appeal (Civil) No.2655/04. We have carefully considered the above mentioned judgement and also DOPT OM dated 28.9.2012, which was issued in respect to ACRs with below benchmark grading considered in past DPCs. While issuing the said OM, the DoPT has referred to the judgement of the Hon'ble Supreme Court in SLP(Civil) No.15770/2009-Union of India vs. A.K. Goel & ors. It was further directed by the Department that wherever petitions have been filed in the Court to grant relief on the basis of the decision of the Hon'ble Supreme Court in Dev Dutt's case (Civil) Appeal No.7631/2002, the latest order of the Hon'ble Supreme Court in A.K. Goel's case may be brought to the notice of the Court

7. Learned Counsel for the applicant has relied upon only on the judgement in the case of Abhjit Ghosh Dastidar supra: We have carefully examined the DoPT OM dated 28.9.2012. At para 3 of the said OM, it is referred to the Hon'ble Supreme Court in the SLP in Uttam Chand Nair's case (Slp Civil Appeal No.29515/2010) by orders, dated 20/24 December, 2010 not only tagged the SLP with A.K. Goel case but also directed that status quo in the DPC proceedings which was subject

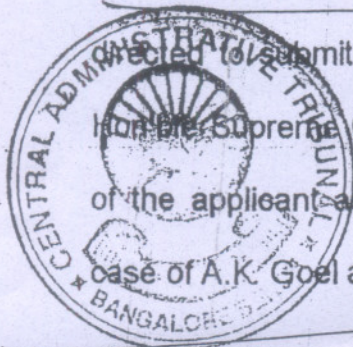


matter of dispute before the CAT/High Court, shall be maintained. In Uttam Chand Nahta's case, the Hon'ble Supreme Court has duly taken note of Abhijit Dastidar case (2009 (16)SCC 146) while granting stay of the High Court order.

8. In para 4 of the said O.M., it is also considered by the DoPT, that wherever petitions have been filed in the Court to grant relief on the basis of the aforesaid decision of the Supreme Court in Dev Dutt case, the orders of the Supreme Court in Uttam Chand Nahta's case by orders dated 20/24 December, 2010 case may be brought to the notice of the Court. While all such petitions are required to be appropriately defended, the limitation period for filing review petition should also be strictly followed.

9. In the present case, the applicant has relied upon only Abhijit Ghosh Dastidar case. The said judgement is the subject matter before the Hon'ble Supreme Court, which is lis pendens.

10. Considering the submissions made from either side on the legal position, it is confirmed that the legal issue is pending for consideration before the Hon'ble Supreme Court. The applicant is directed to submit his representation, immediately after decision of the Hon'ble Supreme Court. We direct the respondents to consider the case of the applicant as and when the Hon'ble Supreme Court decides the case of A.K. Goel and Uttam Chand Nahta, supra.



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11. With the above observation, the OA is disposed of. No order as to costs.



(DR. P. PRABAKARAN)
MEMBER(A)

(G. SHANTHAPPA)
MEMBER(J)

TRUE COPY

[Handwritten Signature]
17/7/13

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE