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No. AIBSNLEA/CHQ/CMD/2018

Dated 12.01.2018

To,

**Shri Anupam Srivastava
CMD BSNL
New Delhi -110 001**

Subject: Implementation of Hon'ble Supreme Court judgment dated 14.12.2017 in the matter of Union of India & Ors Vs Sohan Lal Sayal & ors with regard to the seniority of TES Gr "B" officers and for all the officers similarly situated – Our request regarding

Respected Sir,

On the subject cited above, kindly find attached here with a copy of the order passed by Hon'ble Supreme Court of India in the matter of Civil Appeal No(s).4389 of 2010 Union of India & ORS. Appellants (s) vs Sohan Lal Sayal & ors. Respondent (s) with C.A. No. 1453 of 2015, C.A. No. 1454 of 2015, C.A. No. 1657 of 2015, C.A. No. 5008 of 2012, C.A. No. 1456 of 2015, C.A. Nos. 8929-8945 of 2012, C.A. Nos. 1460-1462 of 2015, C.A. Nos. 1457-1459 of 2015, C.A. No. 6769 of 2013, C.A. No. 9348 of 2013.

Wherein the Hon'ble Supreme Court has categorically mentioned that:

1. *These appeals were dealt with by this Court vide judgment dated 21.01.2015 Union of India & Ors. Vs. Sohan Lal Sayal & Ors., (2015) 12 SCC 360. The matters were, however, kept pending with a view to consider the recommendations of an Expert Committee which was constituted in terms of the said judgment.*
2. *The issue pertains to the seniority of Junior Telecommunication Officers (JTO)/Junior Engineers on promotion to the next higher post of Sub-Divisional Engineer/Assistant Engineers in the BSNL/MTNL.*
3. *Vide judgment of this Court dated 08.04.1986 in SLP(C) No.2284 of 1986 Union of India Vs. Parmanand Lal, criteria for determining of seniority was laid down. However, since the said criteria was with reference to the Rules which were later on revised, the legal position was subsequently clarified in Union of India Vs. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association, (1997) 10 SCC 226 but with a further direction that those persons who had already been given further promotions based on seniority principle applicable before the said judgment may not be disturbed.*
4. *Accordingly, the issue which arose again was settled by the High Court in the impugned judgment, which has given rise to these appeals. While dealing with the appeals on 21.01.2015, this Court upheld the view taken in the impugned judgment with further*

observation that those who have been given further promotions may not be disturbed. This Court observed thus:-

"14. We heard the learned Senior Counsel, Mr. R.D. Agarwala, for BSNL, Mr. V. Giri, learned Senior Counsel for the Promotee Telecom Engineers Forum, Mr. Nidhesh Gupta, learned Senior Counsel for the private respondents and after having perused the impugned judgment, we are also convinced that the ultimate conclusion drawn by the Tribunal as confirmed by the Division Bench does not call for interference. We are convinced that after specific directions contained in paras 17 and 19 of Union of India v. Madras Telephone SC & ST Social Welfare Assn - (2000) 9 SCC 71, when the rights of the private respondents herein got crystallised based on the specific stand of the appellant taken in its undertaking dated 27-2-1992 and the subsequent 17 Seniority Lists drawn by it, the appellant was wholly unjustified in having taken a U-turn in the year 2000 and reverse the seniority of all those who were covered by those 17 Lists. When in the judgment dated 26-4-2000 of this Court in Union of India v. Madras Telephone SC & ST Social Welfare Assn. (2000) 9 SCC 71 made a categorical and clear pronouncement as to how the latter principle laid down in Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Assn (1997) 10 SCC 226 should prevail without affecting the rights of those whose cases were already determined and reached a finality based on the orders of the Courts, the appellant ought not to have meddled with their seniority and subsequent promotions and the benefits granted on that basis in respect of those officers covered by the 17 lists drawn in the year 1993. In the light of our above conclusion, there is no scope to interfere with the judgment impugned in these appeals.

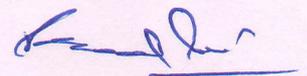
.....

21. We, therefore, constitute an Expert Committee consisting of the Hon'ble Shri Justice K. Ramamoorthy, Retired Judge of the High Court of Madras, residing at "Prashant" D-17, Greater Kailash Enclave-I, New Delhi - 110 048 who will be the Chairman and Mr. D.P. Sharma, Former Secretary in the Ministry of Law and Justice and Former Vice Chairman, Central Administrative Tribunal, Principal Bench at New Delhi shall be the Member. The appellant-Department is directed to provide all necessary details as regards the officers/employees whose names were found in the 17 lists drawn in the year 1993 whose rights have been upheld by the Tribunal and affirmed by the impugned orders of the various High Courts, as well as, the list of those officers who came to be subsequently dealt with and whose seniority was fixed after 2000 i.e. after reversing the 17 Seniority Lists of 1993 along with all the relevant Rules, Regulations and other materials which the Expert Committee wish to call for, for their consideration. We only direct the Expert Committee to ensure that the rights which have been crystallised in favour of the applicants in IA NO. 16 in CA No. 4339 of 1992 reported in the judgment of Union of India v. Madras Telephone SC & ST Social Welfare Assn., (2006) 8 SCC 662 as well as by the judgment in the Contempt Petition No.248 of 2007 reported in Promotee Telecom Engineers Forum v. Department of Tele Communications - (2008) 11 SCC 579, shall not in any way be infringed while suggesting the way out for balancing the rights of the two groups of employees referred to above based on the principles laid down in this judgment."

5. The Committee so constituted has given its report dated 28.10.2015 concluding as follows:-

"214. In fine, in the backdrop of the above facts and circumstances, we recommend that:

1. The seniority lists submitted by BSNL in compliance with the judgment of the Hon'ble Court dated 21.01.2015 is in accordance therewith.
2. The benefits claimed by 155 BSNL officers as mentioned in Annexure A & B may be accepted and this Hon'ble Court be pleased to direct BSNL to grant all benefit including promotion with effect from the date when the junior was promoted with all monetary benefits and service status as mentioned in the Annexure D herein to the 155 BSNL officers and all officers similarly situated.
3. This Hon'ble Court may grant the benefits to the 349 MTNL officers as mentioned in Annexure C herein and this Hon'ble Court be pleased to direct MTNL to grant all benefit including promotion with effect from the date when the junior was promoted with all



monetary benefits and service status as mentioned in the Annexure E herein to the 349 MTNL officers and all officers similarly situated.

4. The rights of the 147 LDCE officers would require consideration by this Hon'ble Court in the concerned SLPs and the objections of BSNL, the 45 DQE officers, the 270 officers and the 512 officers may kindly be considered while considering the concerned SLPs.
 5. The case of 45 officers whose seniority has now been fixed has to be satisfied with the benefit they get on that basis.
 6. The case of 270 officers maybe considered by the department in accordance with the seniority lists and BSNL maybe directed to grant all the monetary and service status benefits consequent on their seniority being fixed.
 7. The case of 12 officers who were benefited by 2001 seniority lists is to be governed by the present seniority list and they are not entitled to any benefits.
 8. In the case of 60 officers who had passed DQE examination in 2003, they are not entitled to any benefits.
 9. This Hon'ble Court may consider the position that on the basis of the seniority lists now submitted by the BSNL and also the officers working in MTNL who were originally under the control of DoT and all officers similarly situated may be granted the consequential monetary and service benefits.
 10. DoT/BSNL/MTNL may be directed to consider the case of all officers similarly situated like the 155 officers for BSNL and 349 MTNL officers irrespective of the fact whether they had made any representation before the Committee or not and grant them all the benefits mentioned in sub-paragraph 1 and 2 of paragraph no.214.
 11. BSNL may be directed to consider the case of all the officers who have made representations before us including Mr. Ashok Kumar Kaushik and K.S. Sengodan who not only made representations but also made submissions before us.”
6. We have heard learned counsel for the parties and perused the record.
7. We do not consider it necessary to pass any further order on above recommendations except that 14 persons who are said to have been given promotions – 3 persons in the BSNL and 11 persons in the MTNL contrary to the law laid down by this Court in (1997) 10 SCC 226 (Supra) may not be now disturbed. Their promotions and seniority may be considered personal to them without their being treated as class or a precedent for future. The judgment of this Court in (2015) 12 SCC 360 (Supra) will be treated as final between the parties on the principle of seniority.

In view of the above judgment, we would, therefore, request you to kindly arrange to implement the above judgment in BSNL at the earliest considering the cases of all officers similarly situated 155 officers for BSNL irrespective of the fact whether they had made any representation before the Committee or not and grant them all the benefits mentioned in sub-paragraph 1 and 2 of paragraph no.214 of the judgment as stated above..

Encl: As above

Yours Sincerely,


(Prahlad Rai)
General Secretary

Copy to:

1. Smt. Sujata Ray, Director (HR), BSNL Board, New Delhi – 110001
2. The PGM (Pers.), BSNL Corporate Office, New Delhi - 110001

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).4389 OF 2010

UNION OF INDIA & ORS. APPELLANT(S)

VERSUS

SOHAN LAL SAYAL & ORS. RESPONDENT(S)

WITH

C.A. No. 1453 of 2015

C.A. No. 1454 of 2015

C.A. No. 1657 of 2015

C.A. No. 5008 of 2012

C.A. No. 1456 of 2015

C.A. Nos. 8929-8945 of 2012

C.A. Nos. 1460-1462 of 2015

C.A. Nos. 1457-1459 of 2015

C.A. No. 6769 of 2013

C.A. No. 9348 of 2013

O R D E R

1. These appeals were dealt with by this Court vide judgment dated 21.01.2015 Union of India & Ors. Vs. Sohan Lal Sayal & Ors., (2015) 12 SCC 360. The matters were, however, kept pending with a view to consider the recommendations of an Expert Committee which was constituted in terms of the said judgment.

2. The issue pertains to the seniority of Junior Telecommunication Officers (JTO)/Junior Engineers on promotion to the next higher post of Sub-Divisional Engineer/Assistant Engineers in the BSNL/MTNL.

3. Vide judgment of this Court dated 08.04.1986 in SLP(C) No.2284 of 1986 Union of India Vs. Parmanand Lal, criteria for determining of seniority was laid down. However, since the said criteria was with reference to the Rules which were later on revised, the legal position was subsequently clarified in Union of India Vs. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association, (1997) 10 SCC 226 but with a further direction that those persons who had already been given further promotions based on seniority principle applicable before the said judgment may not be disturbed.

4. Accordingly, the issue which arose again was settled by the High Court in the impugned judgment, which has given rise to these appeals. While dealing with the appeals on 21.01.2015, this Court upheld the view taken in the impugned judgment with further observation that those who have been given further promotions may not be disturbed. This Court observed thus:-

"14. We heard the learned Senior Counsel, Mr. R.D. Agarwala, for BSNL, Mr. V. Giri, learned Senior Counsel for the Promotee Telecom Engineers Forum, Mr. Nidhesh Gupta, learned Senior Counsel for the private respondents and after having perused the impugned judgment, we are also

convinced that the ultimate conclusion drawn by the Tribunal as confirmed by the Division Bench does not call for interference. We are convinced that after specific directions contained in paras 17 and 19 of Union of India v. Madras Telephone SC & ST Social Welfare Assn - (2000) 9 SCC 71, when the rights of the private respondents herein got crystallised based on the specific stand of the appellant taken in its undertaking dated 27-2-1992 and the subsequent 17 Seniority Lists drawn by it, the appellant was wholly unjustified in having taken a U-turn in the year 2000 and reverse the seniority of all those who were covered by those 17 Lists. When in the judgment dated 26-4-2000 of this Court in Union of India v. Madras Telephone SC & ST Social Welfare Assn., (2000) 9 SCC 71 made a categorical and clear pronouncement as to how the latter principle laid down in Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Assn (1997) 10 SCC 226 should prevail without affecting the rights of those whose cases were already determined and reached a finality based on the orders of the Courts, the appellant ought not to have meddled with their seniority and subsequent promotions and the benefits granted on that basis in respect of those officers covered by the 17 lists drawn in the year 1993. In the light of our above conclusion, there is no scope to interfere with the judgment impugned in these appeals.

21. We, therefore, constitute an Expert Committee consisting of the Hon'ble Shri Justice K. Ramamoorthy, Retired Judge of the High Court of Madras, residing at "Prashant" D-17, Greater Kailash Enclave-I, New Delhi - 110 048 who will be the Chairman and Mr. D.P. Sharma, Former Secretary in the Ministry of Law and Justice and Former Vice Chairman, Central Administrative Tribunal, Principal Bench at New Delhi shall be the Member. The appellant-Department is directed to provide all necessary details as regards the officers/employees whose names were found in the 17 lists drawn in the year 1993 whose rights have been upheld by the Tribunal and affirmed by the impugned orders of the various High Courts, as well as, the list of those officers who came to be subsequently dealt with and whose seniority was fixed after 2000 i.e. after reversing the 17 Seniority Lists of 1993 along with all the

relevant Rules, Regulations and other materials which the Expert Committee wish to call for, for their consideration. We only direct the Expert Committee to ensure that the rights which have been crystallised in favour of the applicants in IA NO. 16 in CA No. 4339 of 1992 reported in the judgment of Union of India v. Madras Telephone SC & ST Social Welfare Assn., (2006) 8 SCC 662 as well as by the judgment in the Contempt Petition No.248 of 2007 reported in Promotee Telecom Engineers Forum v. Department of Tele Communications - (2008) 11 SCC 579, shall not in any way infringed while suggesting the way out for balancing the rights of the two groups of employees referred to above based on the principles laid down in this judgment."

5. The Committee so constituted has given its report dated 28.10.2015 concluding as follows:-

"214. In fine, in the backdrop of the above facts and circumstances, we recommend that:

1. The seniority lists submitted by BSNL in compliance with the judgment of the Hon'ble Court dated 21.01.2015 is in accordance therewith.

2. The benefits claimed by 155 BSNL officers as mentioned in Annexure A & B may be accepted and this Hon'ble Court be pleased to direct BSNL to grant all benefit including promotion with effect from the date when the junior was promoted with all monetary benefits and service status as mentioned in the Annexure D herein to the 155 BSNL officers and all officers similarly situated.

3. This Hon'ble Court may grant the benefits to the 349 MTNL officers as mentioned in Annexure C herein and this Hon'ble Court be pleased to direct MTNL to grant all benefit including promotion with effect from the date when the junior was promoted with all monetary benefits and service status as mentioned in the Annexure E herein to the 349 MTNL officers and all officers similarly situated.

4. The rights of the 147 LDCE officers would require consideration by this Hon'ble Court in the concerned SLPs and the objections of BSNL, the 45 DQE officers, the 270 officers and the 512 officers may kindly be considered while considering the concerned SLPs.
5. The case of 45 officers whose seniority has now been fixed has to be satisfied with the benefit they get on that basis.
6. The case of 270 officers maybe considered by the department in accordance with the seniority lists and BSNL maybe directed to grant all the monetary and service status benefits consequent on their seniority being fixed.
7. The case of 12 officers who were benefited by 2001 seniority lists is to be governed by the present seniority list and they are not entitled to any benefits.
8. In the case of 60 officers who had passed DQE examination in 2003, they are not entitled to any benefits.
9. This Hon'ble Court may consider the position that on the basis of the seniority lists now submitted by the BSNL and also the officers working in MTNL who were originally under the control of DoT and all officers similarly situated may be granted the consequential monetary and service benefits.
10. DoT/BSNL/MTNL may be directed to consider the case of all officers similarly situated like the 155 officers for BSNL and 349 MTNL officers irrespective of the fact whether they had made any representation before the Committee or not and grant them all the benefits mentioned in sub-paragraph 1 and 2 of paragraph no.214.
11. BSNL may be directed to consider the case of all the officers who have made representations before us including Mr. Ashok Kumar Kaushik and K.S. Sengodan who not only made representations but also made submissions before us."

6. We have heard learned counsel for the parties and perused the record.

7. We do not consider it necessary to pass any further order on above recommendations except that 14 persons who are said to have been given promotions - 3 persons in the BSNL and 11 persons in the MTNL contrary to the law laid down by this Court in (1997) 10 SCC 226 (Supra) may not be now disturbed. Their promotions and seniority may be considered personal to them without their being treated as class or a precedent for future. The judgment of this Court in (2015) 12 SCC 360 (Supra) will be treated as final between the parties on the principle of seniority.

8. We, however, make it clear that no arrears will be payable in terms of the impugned judgment. Consequential benefits of pay fixation including the pensionary benefits, if any, will be payable in terms of the impugned judgment only w.e.f. from 01.01.2018 and not for the past.

9. No further orders are necessary on the applications for impleadment and intervention and the same stand disposed of.

10. The appeals are disposed of in above terms.

Pending applications, if any, shall also stand disposed of.

In T.C. (C) No.78/2015:

This matter is de-tagged and may be listed separately in the 2nd week of February, 2018.

.....J.
[ADARSH KUMAR GOEL]

.....J.
[UDAY UMESH LALIT]

NEW DELHI
14th December, 2017

- WITH
- C.A. No. 1453/2015 (XI-A)
- (OFFICE REPORT FOR DIRECTIONS)
- C.A. No. 1454/2015 (XV)
- C.A. No. 1457/2015 (XV)
- C.A. No. 5008/2015 (IV)
- C.A. No. 1456/2015 (IV-A)
- C.A. No. 8929-8942/2015 (IV)
- C.A. No. 1460-1462/2015 (XIV)
- (OFFICE REPORT FOR DIRECTIONS)
- C.A. No. 1457-1459/2015 (XIV)
- (OFFICE REPORT FOR DIRECTIONS)
- C.A. No. 6769/2015 (XVI-A)
- C.A. No. 8948/2015 (XVI-A)
- T.C. (C) No. 78/2015 (XVI-A)

Date : 14-12-2017 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

ITEM NO.101

COURT NO.11

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4389/2010

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

SOHAN LAL SAYAL & ORS.

Respondent(s)

(Office Report for Directions and for [Application for Impleadment and Directions] ON IA 6/2016 FOR [APPLICATION FOR IMPLEADMENT] ON IA 21221/2016 FOR [Application for Impleadment] ON IA 7/2016 FOR INTERVENTION APPLICATION [Application for Impleadment] ON IA 9/2016 FOR [Application for Impleadment] ON IA 10/2016)

WITH

C.A. No. 1453/2015 (XI -A)
(OFFICE REPORT FOR DIRECTIONS)

C.A. No. 1454/2015 (XV)

C.A. No. 1657/2015 (XV)

C.A. No. 5008/2012 (IV)

C.A. No. 1456/2015 (IV-A)

C.A. No. 8929-8945/2012 (IV)

C.A. No. 1460-1462/2015 (XIV)
(OFFICE REPORT FOR DIRECTIONS)C.A. No. 1457-1459/2015 (XIV)
(OFFICE REPORT FOR DIRECTIONS)

C.A. No. 6769/2013 (XVI -A)

C.A. No. 9348/2013 (XVI -A)

T.C.(C) No. 78/2015 (XVI -A)

Date : 14-12-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Parties (s)

Mr. R.D. Agrawala, Sr. Adv.
 Mr. Pavan Kumar, AOR
 Mr. R.N. Pareek, Adv.

Mr. Gautam Narayan, AOR
 Mr. R.A. Iyer, Adv.
 Mr. Mahamaya Chatterjee, Adv.

Mr. Chandan Kumar, Adv.
 Mr. Aniruddha P. Mayee, AOR
 Mr. Chirag Jain, Adv.

Mr. Mohit Kumar Shah, AOR

Mr. Rajshekhar Rao, Adv.
 Ms. Liz Mathew, AOR
 Ms. Gauri Puri, Adv.

Mr. Puneet Jain, Adv.
 Mr. Abhinav Gupta, Adv.
 Ms. Priyal Jain, Adv.
 Ms. Ankita Gupta, Adv.

Mrs. Rani Chhabra, AOR
 Ms. Priyanka Sony, Adv.

Ms. Sadhana Sandhu, Adv.
 Mr. G.S. Makker, Adv.

Ms. Amita Singh Kalkal, AOR
 Ms. Aditi Gupta, Adv.
 Mr. Rohit Chaudhary, Adv.

Mr. Manish Kumar, Adv.
 Mr. Piyush Kaushik, Adv.
 Mr. Varun Kapur, Adv.
 Mr. Rakesh K. Sharma, Adv.

Mr. Gautam Narayan, AOR

Mr. Anupam Raina, AOR
 Mr. Sunando Raha, Adv.
 Ms. Aprana Mattoo, Adv.

Mr. Ajay Brahme, Adv.
 Dr. Kailash Chand, AOR

Mr. Naresh Kaushik, Adv.
 Mr. Manoj Joshi, Adv.
 Mr. Devik Singh, Adv.
 Mr. Omung Raj Gupta, Adv.
 Mrs. Lalita Kaushik, AOR

Mr. A. Raghunath, AOR

Mr. Anis Ahmed Khan, AOR

Mr. Ambar Qamaruddin, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.
Pending applications, if any, shall also stand disposed

of.

In T.C. (C) No.78/2015

This matter is de-tagged and may be listed separately in
the 2nd week of February, 2018.

(SWETA DHYANI)
SENIOR PERSONAL ASSISTANT

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed order is placed on the file)