

**ALL INDIA
BHARAT SANCHAR NIGAM LIMITED
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No. AIBSNLEA/CHQ/CMD/2020

Dated: 09.01.2020

To,

Shri P.K. Purwar
The CMD BSNL
New Delhi-110001

Subject: Casting of SDE (T) Seniority List No. 9 –Reg.

Respected Sir,

We would like to draw your kind attention on the above cited subject. In this regard, we wish to submit the below mentioned points and various Courts orders have to be scrupulously followed while the preparation of the provisional SDE Seniority list No. 9 to avoid Legal disputes.

1. Hon'ble CAT Chandigarh Bench, vide Judgment T.A-84 & 85-HR-2009(CWP 13955 of 2007 etc.) dated 25.08.2009, directed the Respondents (BSNL) to re-draw the Seniority of the officers of TES Group 'B' on the basis of "DATE OF JOINING" within the period of 06 months from the date of receipt of Judgment copy.
2. Vide letter dated 01.04.2015, the Seniority list No 6 and 7 of TES Group 'B' equivalent to SDE (T) have been revised provisionally in compliance with the order dated 25.08.2009 of the Hon'ble CAT Chandigarh Bench in TA. No.84/HR/2009 and order dated 03.12.2014 of Hon'ble High Court of Punjab and Haryana on the basis of date of Joining.
3. Due to Contempt petition filed in the Hon'ble CAT Chandigarh, by the affected persons, DOT/DOPT finally argued on 30.03.2015 for the implementation of Hon'ble CAT Chandigarh decision dated 25.08.2009, although it was against DOPT orders on Seniority and asked BSNL to revise the Seniority list No 6 and 7 (That is based on date of Joining).
4. Vide letter dated 17.04.2015, the revised Provisional Seniority list No 6 and 7, has been submitted to the Hon'ble CAT Chandigarh Bench to mention the date of joining in SDE(T) in the list so as to facilitate verification about the correctness of placement of Seniority.
5. The final Seniority lists No 6 and 7 of SDE (T) as per the judgment dated 25.08.2009 of Hon'ble CAT Chandigarh Bench in TA No. 84/HR/2009 was released on 08.06.2015.
6. The Provisional Seniority List No 8 of SDE (T) was circulated on 14.03.2016 in compliance with the Judgment dated 25.08.2009 of Hon'ble CAT Chandigarh Bench. The Seniority of the executives under Seniority cum Fitness and Competitive Quota has to be drawn based on the promotion orders (i.e., Date of joining of the officers).
7. The affected officers approached the Hon'ble Supreme Court and the Hon'ble Apex Court also upheld the judgement of Hon'ble CAT Chandigarh, and Hon'ble High Court Chandigarh on 12.08.2014 (03 Judge Bench Judgment) i.e., the Date of joining is the right criteria.
8. Some of the affected SDEs (T) challenged the said judgment of Hon'ble High Court Chandigarh in Supreme Court. The Supreme Court vide interim order dated 11.08.2017 has passed an order by which Chandigarh CAT decision 25.08.2009 has been set aside and Seniority list No 6 and 7 issued by DOT/BSNL stands resolved (That is based on 2:1). (Two Bench Judgment).
9. But the BSNL Management has not considered and implemented the Hon'ble Supreme Court Two Bench Judgment stating that the previous Supreme Court Judgment is the three bench Judgment (Date of Joining) is in order. In addition to that Hon'ble Supreme Court pronounced

final judgement in SLP 14967 of 2017 dated 02.04.2019 stating that the date of joining to be followed for the List No 6, 7 & 8 and set aside the Two Bench Judgment.

10. BSNL Management/Board has approved the modification, addition and deletion in SDE (T) RR-2002 and circulated on 08.05.2018 in which the inter-se-Seniority of SQ & CQ against the particular vacancy year shall be fixed in the ratio of 2:1 irrespective of year of appointment/Date of Joining. Further the DOPT guidelines issued from time to time on the subject will be followed in deciding the Inter-se-Seniority.
11. The modification is applicable with effect from 28.08.2015 as per the amendment dated 08.05.2018. In accordance with the CAT Chandigarh order dated 25.08.2009 and Supreme Court order 12.08.2014 and SLP 14967 of 2017 order dated 02.04.2019, the final Seniority List No 8 also prepared based on the Date of joining and published on 31.12.2019. In compliance with Hon'ble CAT Chandigarh Bench the 2:1 ratio against a particular vacancy year is not applicable for the SDE (T)s promoted before 28.08.2015 and all the list-9 officials have been promoted before 28.08.2015. More over the RR amendment is applicable from prospective date only and not on retrospective date.

In view of the foregoing facts, we would request your good self to kindly intervene in this matter and cause to issue necessary instructions to the officers concerned to scrupulously follow the Date of Joining as criteria for the preparation of the provisional SDE Seniority list-9 in accordance with the judgment of Hon'ble CAT Chandigarh Bench which was upheld by the Apex Court on 02.04.2019 and as per the amendment of SDE RR dated 08.05.2018 since all the list -9 officials have been promoted as SDE before 28.08.2015 to avoid Legal disputes.

With kind regards,

Yours Sincerely,
-sd
(S.Sivakumar)
General Secretary

Copy for information and necessary action to:-

1. Shri Arvind Vadnerkar, Director (HR) BSNL Board, New Delhi- 110001.
2. Shri Arun Kumar, PGM (Pers.) BSNL CO, New Delhi- 110001.
3. Shri A.M. Gupta, GM (SR) BSNL CO, New Delhi- 110001.