

**Court Case**  
**Most Urgent**

**Bharat Sanchar Nigam Limited**  
**(A Government of India Enterprise)**  
**5<sup>th</sup> flr. Bharat Sanchar Bhawan, Janpath,**  
**NEW DELHI-110001**  
**Corporate Office**  
**Personnel-IV Section**  
**Website: [www.bsnl.co.in](http://www.bsnl.co.in)**

**No. 3-31/2010/Pers-IV**

**Dated: 10<sup>th</sup> May, 2012**

**To**

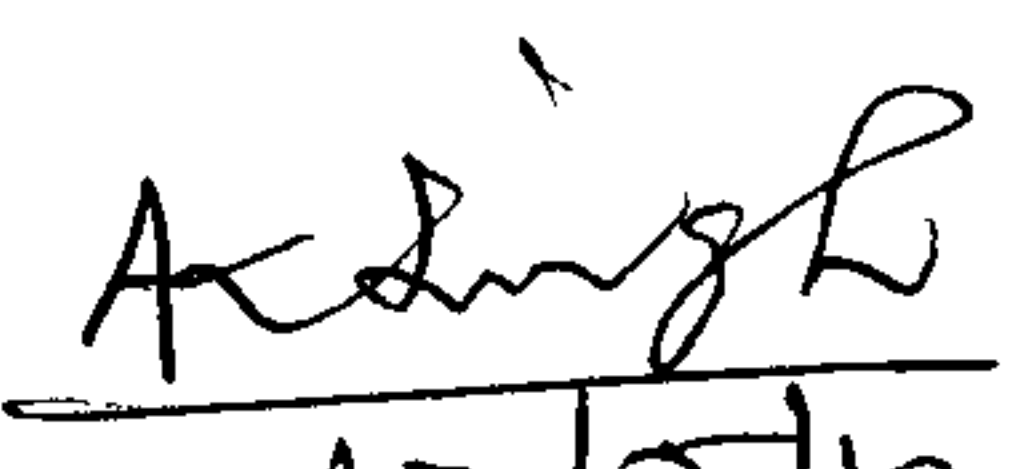
**All Heads of Telecom Circles and**  
**All Heads of other administrative Units.**

**Subject: Orders of CAT, Madras Bench in OA No. 36 of 2011 and**  
**MA Nos. 259 and 535 of 2011 – filed by Shri J. Uday**  
**Kumar and others.**

Kindly find enclosed herewith orders of the CAT, Madras Bench in OA No. 36 of 2011 and MA Nos. 259 and 535 of 2011 – filed by Shri J. Uday Kumar and others. Hon'ble CAT, Madras Bench has upheld the seniority list of JTOs issued in the year 2004 and 2009 by the Chennai Telephones in accordance with the DoP&T O.M. No.22011/7/86-Estt.(D) dated 3.7.1986 and relevant RRs of JTOs. You are requested to bring the orders of the CAT, Madras Bench to the notice of the respective courts, if any similar case stands filed in your circle.

This may be given **TOP PRIORITY**.

Encls:-21 sheets.

  
10/5/12  
(A.K.SINGH)

**Asstt. General Manager (Pers-IV)**  
**☎011- 23734152 & Fax:011-23734051**

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH**

Wednesday, the Second day of May, Two Thousand Twelve

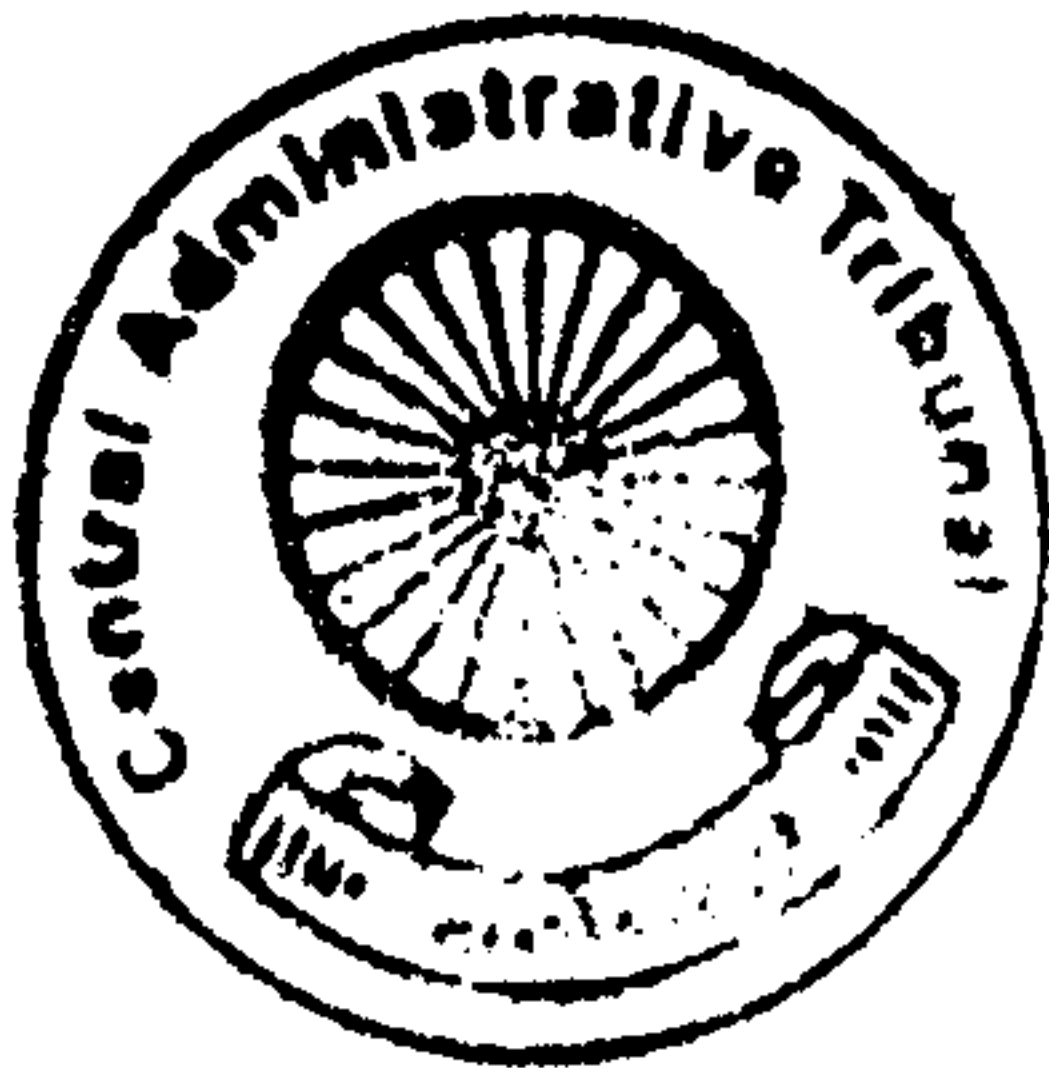
**P R E S E N T**

**THE HON'BLE MR. G. SHANTHAPPA, JUDICIAL MEMBER  
AND  
THE HON'BLE MR. R. SATAPATHY, ADMINISTRATIVE  
MEMBER**

**ORIGINAL APPLICATION NO.36 OF 2011  
AND  
MISCELLANEOUS APPLICATION NOS.259 AND 535 OF  
2011**

1. J. Uday Kumar,  
S/o K. Jaganathan,  
30/1, New No.5 Nattal Garden  
2<sup>nd</sup> Street; Perambur,  
Chennai.
2. S. Umachandran,  
S/o M.O. Sivalingam,  
4/11, Galaxy Apartment,  
Nolambur, Chennai.
3. M. Sudha,  
D/o C. Muthulingam,  
Block-2, H-3, Nutech Indira,  
150, Pillyar Koil Street,  
Jafferkhanpet, Ashok Nagar,  
Chennai.
4. K. Sundeep,  
S/o S. Kasthurirangan,  
E-23, ABHINAYAM Phase I, DABC,  
Sakthi Nagar 2<sup>nd</sup> Avenue,  
Nolumbur, Mugapair West,  
Chennai.
5. B. Venkata Ramanaiah,  
S/o B. Nagaiah,  
111/110, 1<sup>st</sup> Floor, Vellala Street,  
Purasaiwalkam, Chennai.
6. G. Srinivasan,  
S/o B. Gokul Doss,  
No.2A, Narayanan Street, Agaram,  
Jawahar Nagar, Chennai.

Applicants in OA  
and MA 259/2011  
and R 1-6 in MA  
535/2011



*h*

Vs.

1. Bharat Sanchar Nigam Limited  
rep by its Chairman cum Managing  
Director,  
Bharat Sanchar Bhavan,  
Harish Chandra Mathur Lane,  
Janpath, New Delhi.

2. The General Manager(Personnel),  
Bharat Sanchar Nigam Limited(BSNL),  
Bharat Sanchar Bhavan,  
Harish Chandra Mathur Lane,  
Janpath, New Delhi.

3. The Chief General Manager,  
Bharat Sanchar Nigam Limited(BSNL),  
Chennai Telephone District,  
Purasaiwalkam, Chennai.

4. The General Manager (HR/Administration)  
Bharat Sanchar Nigam Limited (BSNL),  
Chennai Telephone District,  
Purasaiwalkam, Chennai.

5. The Deputy General Manager  
(HR/Administration),  
Chennai Telephone, Millers Road,  
Chennai.

.. R. 1-5 in OA  
36/2011 and MA  
259/2011 and  
applicants in MA  
535/2011

6. Savithiri V.,  
SDE Directory  
O/o DE Directory,  
652 Anna Salai, Nandanam,  
Chennai.

7. Vasugi,  
JTO, Kellys 2 Extension 2,  
22 Kellys Road, Chennai.

.. R.6 & 7 in OA 36/2011,  
MA 259/2011 and MA  
535/2011

8. Veerapandian M.K.,  
JTO, WLL, M-6A NGR,  
O/o AGM(C), M-6, III Avenue,  
Anna Nagar East, Chennai.



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9. Jayanthi Jaganathan,  
20, Manikandan Street,  
Iyyappa Nagar,  
Madipakkam.

10. S. Thilaikarasi,  
JTO,  
20, Iyya Mudali Street,  
Chindripet, Chennai.

11. Manonmani,  
JTO,  
W-38-B, Kamar Circle,  
P&T Quarters, Chennai.

12. S. Kumar,  
JTO,  
10, Nagotta Koil Lane,  
Royapuram, Chennai.

.. R 8-12 in OA36/2011  
and R 9-13 in MA  
535/2011

Mr. V. Prakash, Sr. Counsel  
for M/s. Ramapriya Gopalakrishnan.. Counsel for the  
applicants OA 36/2011  
and MA 259/2011 &  
Counsel for R.1-6 in  
MA 535/2011

Mr. M. Govindaraj .. Counsel for R.1-5 in  
OA 36/2011 and  
Counsel for the  
applicants in MA  
535/2011

Mr. P. Rajendran .. Counsel for R.6 & 7  
in OA 36/2011 and  
Counsel for R 7 & 8  
in MA 535/2011

Ms. R. Vaigai, Sr. Counsel  
for M/s S. Meenakshi .. Counsel for R.8-12  
in OA 36/2011 and  
Counsel for R 9-13 in  
MA 535/2011



**ORDER**

(Pronounced by The Hon'ble Mr. R. Satapathy, Administrative Member)

Six applicants have joined together to file this application under Section 19 of the Administrative Tribunals Act, 1985 seeking for the following relief:

"(a) quash the circle eligibility lists prepared for the Chennai Telephone District, for the purpose of promotion of Junior Telecom Officers (JTOs) for promotion to the post of Sub-Divisional Engineer(Telecom) (SDE(T)) by the third respondent and forwarded under the letter No.AST/JTO/TES Gr.B Promotion/X/26 and AST/JTO/TES Gr.B Promotion/X/30 of the fifth respondent dated 22.9.2010 and 1.12.2010 respectively;

(b) direct the 1<sup>st</sup> to 5<sup>th</sup> respondents to fix the inter-se-seniority of direct recruits and promotee JTOs in the Chennai Telecom Circle Strictly in accordance with the DOPT guidelines contained in DOPT O.M. No.22011/7/86-Estt. Dated 3.7.1986 as clarified by DOPT order No.22011/1/2006-Estt.(D) dated 3.3.2008 based on the actual date of entry into the post of JTO maintaining a 1:1 ratio between direct recruit and promotee JTOs.

(c) direct the 1<sup>st</sup> to 5<sup>th</sup> respondents to include the names of the applicants herein in the appropriate places in the fresh list to be so prepared".

2. The facts of the case are that pursuant to the creation of BSNL in the year 2000, there was a shortage of technically qualified professionals at the executive level and to meet the requirements of advancing technologies, the Junior Telecom Officer Recruitment Rules, 2001 were framed under which a number of JTOs were directly



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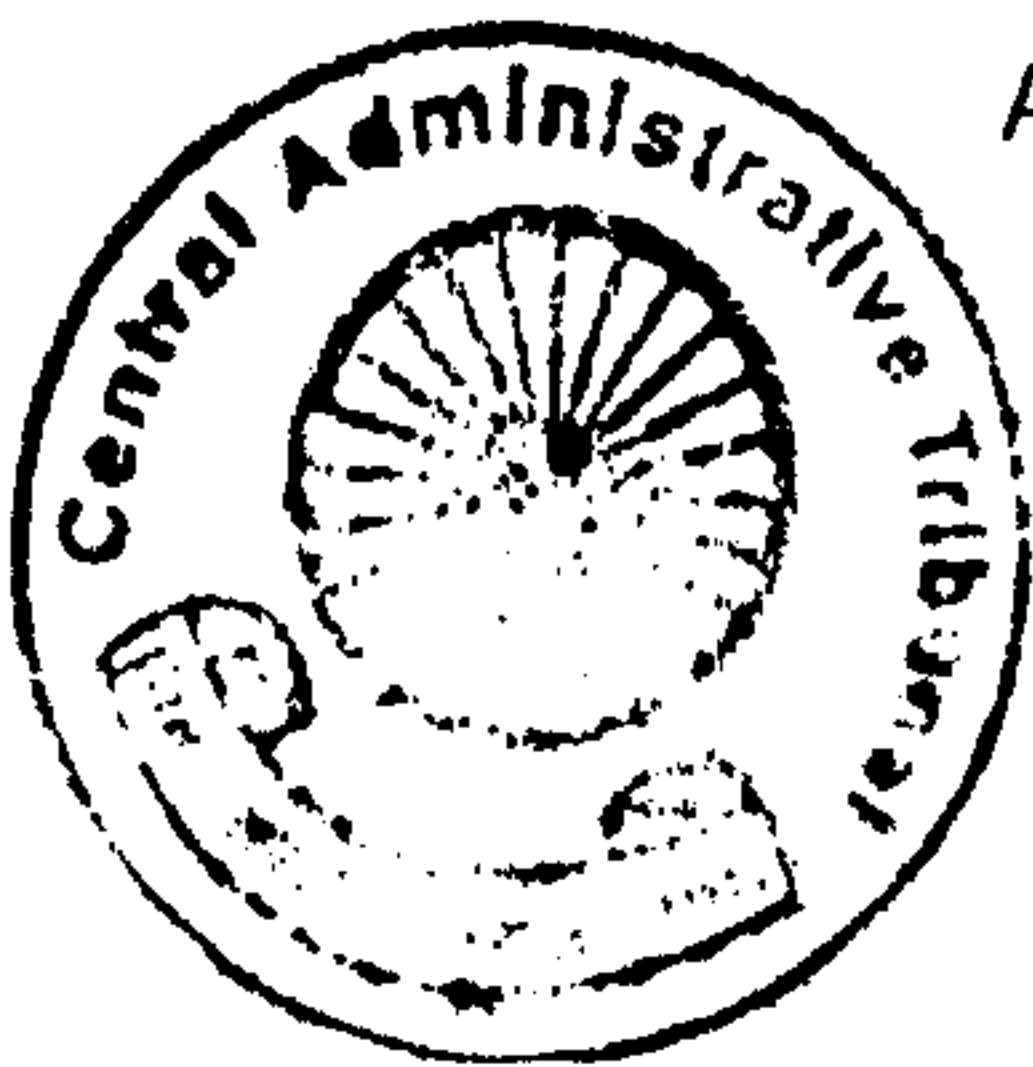
recruited by the BSNL from 2001 onwards. The applicants herein were all recruited in accordance with the said Rules and they have joined the services of the BSNL between 2001 and 2007. Prior to the Rules of 2001, recruitment to the post of JTO was governed by the JTO Recruitment Rules of 1996 and thereafter by 1999 Rules. Earlier in the Department of Telecommunication, the post of JTO was classified as Group 'C' post and pursuant to the recommendation of the Fifth Pay Commission, the JTO was upgraded as Group 'B' Gazetted post in the year 1999. As per the Rules of 1999, the minimum educational qualification for direct recruit JTOs is Degree in Engineering. It is further stated in the application that whenever a post is upgraded to Group B or Group A, the approval of UPSC is required to confirm the suitability of the incumbent to determine the date of upgradation. However, the Department of Telecommunication did not seek any such approval from the UPSC and all the JTOs holding Group C posts in 1999 were assumed as Group B from the day when the post was upgraded without assessing their suitability.

3. As per the JTO Recruitment Rules, 2001, 50% of the JTO posts are to be filled in by direct recruitment and 50% through promotion out of which 35% of the promotees are on the basis of seniority cum fitness and 15% on the basis of Limited Internal Competitive Examination from Group C



employees of BSNL. For promotee candidates also, the prescribed educational qualification is B.E./B.Tec./equivalent engineering Degree or B.Sc. In Maths or Physics or 3 years Diploma in Telecom/Electronics/radio/computer technology. The feeder posts for the promotees/departmental candidates are the post of Telephone Mechanic, Telephone Technical Assistant and Departmental Clerk and the departmental candidates should have completed 10 years of service in a Group C post. It is stated that between the years 1994 and 2000, there was no direct recruitment to the post of JTO.

4. The post of Sub-Divisional Engineer, TES Group B post is the promotional post to JTO. The said post is to be filled up by 67% by promotion on the basis of seniority cum fitness and 33% by Limited Internal Competitive Examination. For considering the eligibility of JTOs for promotion to the post of SDE on seniority cum fitness, circle wise eligibility lists are first prepared on the basis of which All India eligibility list is prepared. BSNL has 27 Telecom Circle and the applicants herein belong to the Chennai Telecom District. On 8.9.2008, an All India Eligibility List of JTOs was published for promotion to the post of SDE. Pointing out the anomalies in the said list, the All India Graduate Engineers Telecom Officers Association in which the applicants herein are all members



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made a representation to the effect that the said list was not prepared in conformity with the relevant DOPT guidelines. More specifically it is pointed out therein that employees promoted as JTOs in 2004 were placed above direct recruit JTOs appointed in the year 2002. The Association also pointed out that upgradation of incumbents in Group C JTO posts in 1999 to Group B was done in violation of DOPT guidelines. As a result, many promotee JTOs included in the list do not fulfil the mandatory qualification and eligibility criteria as per the JTO Recruitment Rules of 1999 and 2001 but they were treated as JTO Group B and placed over and above direct recruit JTOs recruited after 2000. Without considering the objection raised by the Association of the applicants, the respondent have effected promotions on the basis of the anomalous eligibility list.

5. It is the case of the applicants that the circle eligibility list of 22.9.2010 and 1.12.2010 of JTOs for promotion to the post of SDE(T) under seniority quota for the vacancy year 2009-2010 have not been prepared in accordance with the relevant DOPT guidelines relating to fixation of inter-se-seniority between direct recruit and promotee JTOs , in particular the guidelines contained in Order No.22011/7/86-Estt.(D) dated 3.7.1986 which was clarified by the order dated 3.3.2008. They have assailed action of the respondents in placing all promotee JTOs en

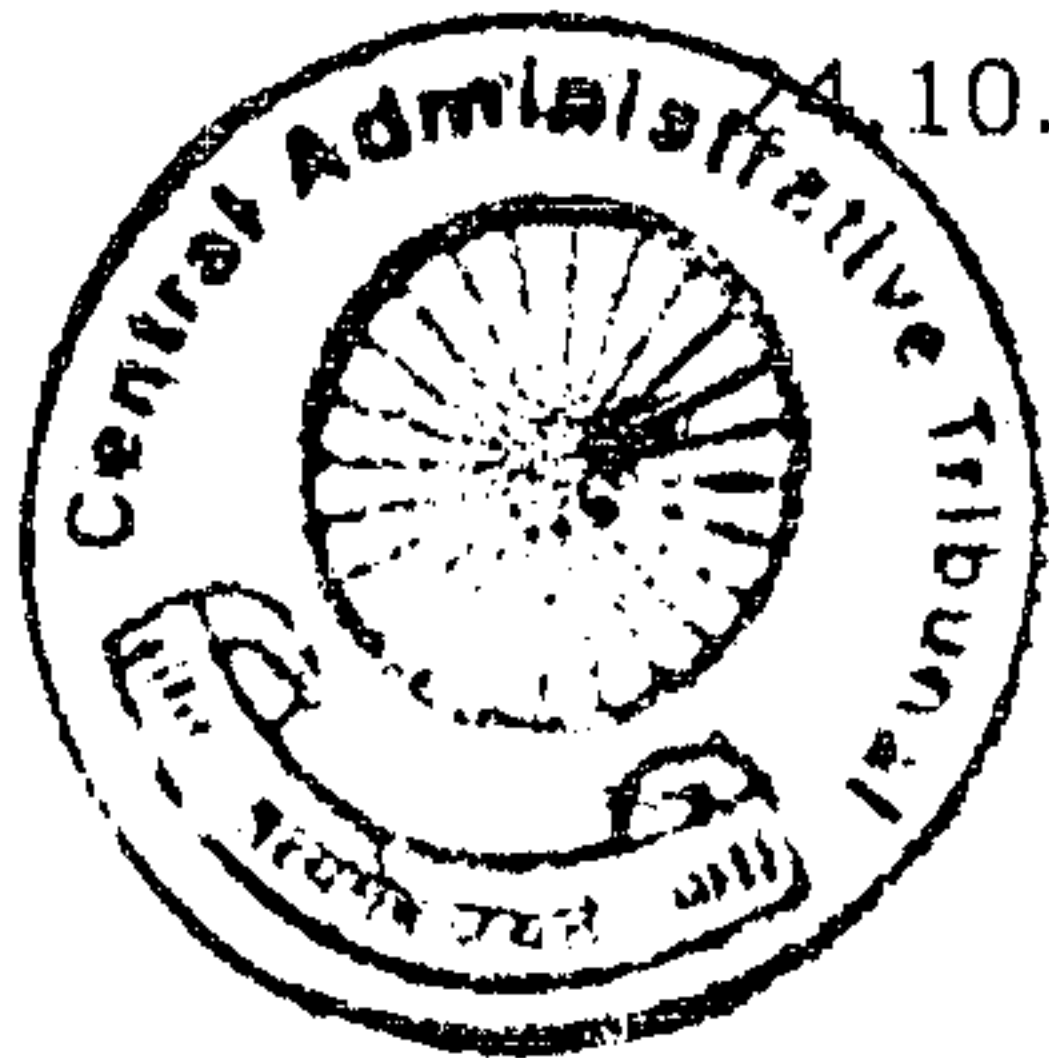


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bloc as senior to direct recruit JTOs appointed from 2001 onwards, irrespective of their year of appointment as JTOs despite the fact that many of them have been appointed much later as JTOs than the direct recruit JTOs appointed from 2001. The further contention of the applicants is that the circle eligibility list of JTO has been improperly prepared on the basis of year of vacancy which has been wrongly terms as the year of recruitment for assigning the seniority of JTOs for the purpose of promotion. According to the applicants that on account of the incorrect manner adopted for fixation of seniority in the impugned eligibility lists, the 200 point roster for reservation has not been maintained and the same is in violation of Article 16(4) of the Constitution. In spite of several representations made by the applicants individually as well as through their Association for proper fixation inter-se-seniority between direct recruits and promotees, no fruitful result has been forthcoming from the official respondents. Hence the OA for the aforementioned relief.

6. A detailed reply has been filed by the official respondents 1 to 5. It is stated by them that the post of JTO(Telecom) was originally a Group C post. Subsequently, on the recommendation of the V th Pay Commission, the pay of JTOs(Telecom) was upgraded to Rs.6500-10500 wef 1.1.1996 vide DOT letter No.1-1/97-PAT dated 4.10.1997 and as per the provisions of contained in



O.M.No.13012/1/98-Estt.(D) dated 20.4.1998, the JTO post has been classified as Group 'B' post. The same has been incorporated in the JTO Recruitment Rules 1999. It is further stated by them that the method of recruitment as per the DOT JTO Recruitment Rules 1996, 1999 and BSNL JTO Recruitment Rules 2001 is 50% by direct recruitment and 50% by promotion from the Departmental candidates. At present, the JTO Recruitment Rules governs the recruitment. The BSNL was established w.e.f. 1.10.2000 and the applicants are all direct recruit JTOs recruited by the 2001 Rules. In other words, the applicants were born in the cadre of JTO(T) only in the year 2001 and therefore they have no locus standi to question the appointments made by the DOT for the vacancies prior to 2001. The seniority of the JTOs i.e. Private respondents herein questioned by the applicants in the application are recruited as per JTO Rules of 1996 for the 50% departmental quota vacancies upto 31.8.1999. In the notification for direct recruitment of 2001 batch, it was clearly stated in the notification itself that their recruitment year is 2001 by notifying that this is Recruitment Graduate Engineers Junior Telecom Officers-2001. The applicants who are direct recruits have also given an undertaking to the effect that they will rank junior to any JTO who had been appointed earlier by the erstwhile DOT/DTS/DTO or BSNL or any aother employees



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of promotional cadre who had already qualified in the JTO Examination but not appointed as JTO by BSNL so far. Having given such an undertaking, even before selection, they know their seniority position and the applicants cannot now challenge the seniority of the JTOs(T) selected/appointed by DOT prior to their year of appointment when they were not born on the service. According to them, the grounds raised by the applicants is based on misconception that seniority is to be determined based on the date of appointment. The date of appointment is by sheer fortuitous circumstances of completing the training and as such seniority cannot be fixed as per date of appointment. Therefore, the date of seniority will not confer any seniority as there is no seniority list as such is existing according to the rules. It is also stated by them that the circle eligibility lists dated 22.9.2010 and 1.12.2010 having the names of the JTOs(T) upto the recruitment year 2001, have been circulated to the concerned JTOs. During the relevant period, the seniority was linked with vacancy year and accordingly JTOs(T) have been allotted recruitment year against the vacancy of which they were appointed irrespective of the year in which appointments took place. The applicants M. Sudha and J. Udaykumar have been appointed in the year 2002 on 1.6.2002 and 1.4.2002 respectively and have been allotted recruitment year 2001. The same procedure



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has been adopted in the subsequent years of appointments in direct quota. Further, the year wise appointments is made for the private respondents 6 & 7 following the judgment rendered by this Tribunal in O.A./1264 of 2000 i.e. they have been allotted the year of recruitment as 1996. Instead of challenging the orders of this Tribunal, they have raised the allegations against the consequential gradation list. It is submitted by the official respondents that the preparation of 200 point roster for reservation has nothing to do with preparation of circle gradation list or all india eligibility list for promotion. The 200 point roster for reservation is maintained by Circles for monitoring the representation of the reserved category candidates. It is also pointed out by them that during the period upto the year 2001 covered in the gradation list, the seniority was linked with year of vacancy and so year of vacancy has been termed as year of recruitment year in the eligibility list. This well established principle relating to fixation of seniority has been followed in the case of applicants and similarly placed candidates having been allotted recruitment year as per the vacancy year. The applicants have been appointed in the year 2002 and have been allotted recruitment year 2001. As such, they rejected the contention made by the applicants in this regard.

7. Separate reply has been filed by the private respondents 6 & 7 as well as respondents 8 to 12.



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8. We have heard Mr. V. Prakash, learned Sr.counsel for the applicants, Mr. M. Govindaraj, learned counsel for the official respondents 1-5, Mr. P. Rajendran, learned counsel for respondents 6 & 7 and Ms. R. Vaigai, learned Sr. Counsel for the respondents 8 to 12 and also perused the relevant materials furnished by the respective parties. We have also gone through the written arguments filed by the applicants as well as the additional reply filed by the private respondents 8 to 12 against the rejoinder filed by the applicants.

9. It is an admitted facts that the applicants have been recruited as per the Notification for Recruitment of Graduate Engineer Junior Telecom Officers 2001 issued by the BSNL wherein it is specifically mentioned that recruitment is governed by the Recruitment Rules in force, as per the latest clarification issued. In the instant case, the post of JTO are governed by the Recruitment Rules of 1996 and 1999. After the formation of BSNL, separate Recruitment Rules came into force and the applicants herein are recruited as per the Recruitment Rules of 2001. Learned senior counsel for the private respondents 8 to 12 Ms. R. Vaigai has brought to our notice that in the Notification for recruitment of JTO, it is specifically mentioned as follows:



"I also understand that if appointed I would rank junior to any JTO who had been appointed earlier by the erstwhile DOT/DTS/DTO of BSNL or any other

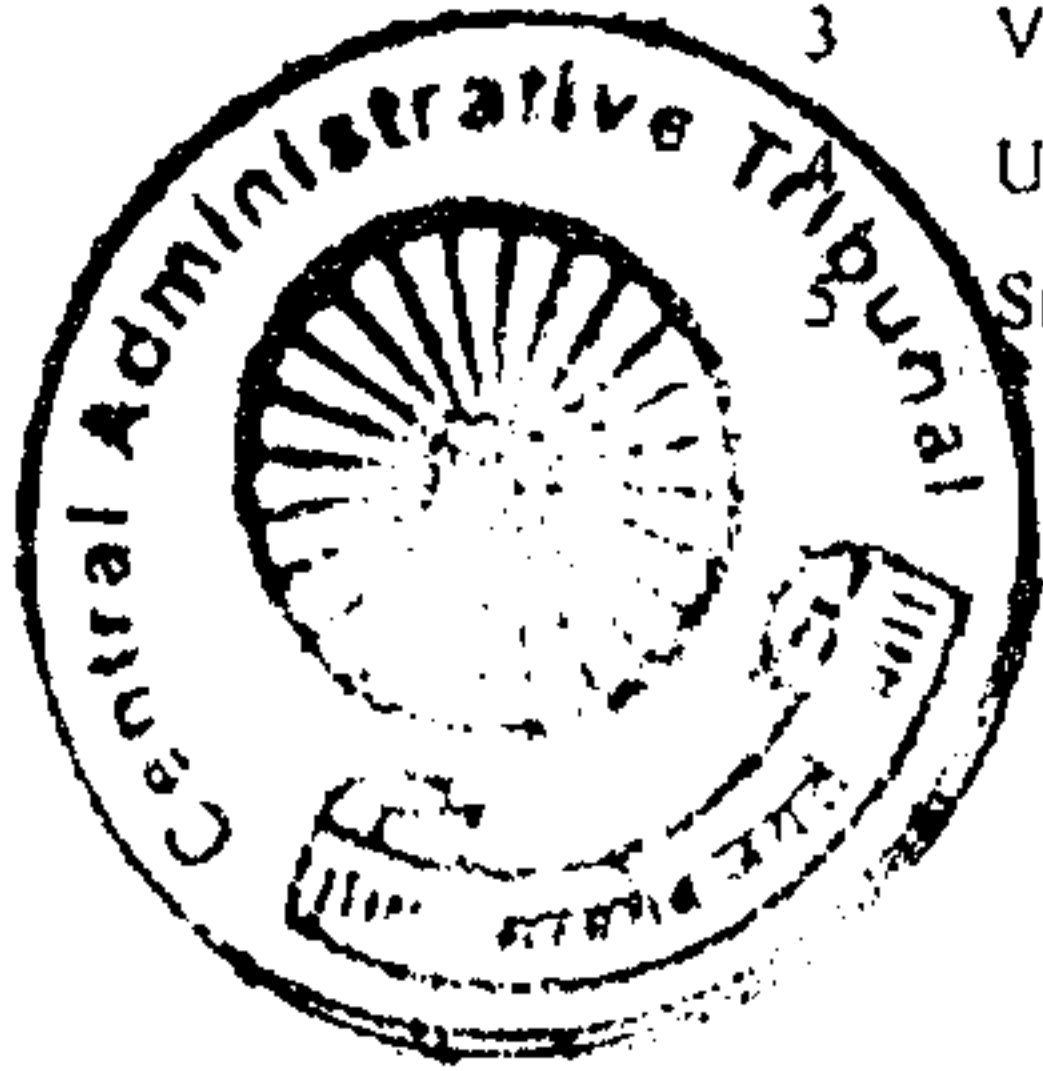
employee in the promotional post who had already qualified in the JTO Examination but not appointed as JTO by BSNL so far."

It is the case of the respondents 8 to 12 that based on this undertaking, the applicants have been ranked junior to all the private respondents and therefore there is nothing illegal. We find some force in this argument.

10. It is also not in dispute that the applicants have all joined during the year 2002 and 2003 whereas the private respondents have joined the post of JTO in the earlier year. Seniority List in respect of JTO has been issued during the year 2004 by proceedings dated 18.8.2004. In the said Seniority List, the applicants have ranked junior to the private respondents. Another Seniority List was also published in the year 2009 i.e. on 1.5.2009. When draft list was issued on both occasions, objections were called for. Chart showing the details of applicants and respondents as shown in the 2004 and 2009 Chennai Telephones Circle Gradation/Seniority List is furnished below:

#### Applicants

Sl. No.	Name	2004 Circle Gradation/Seniority List			2009 Circle Gradation/Seniority List		
Sl. No.	Name	Position	Date of JTO	Yr. of Recruitment	Position	Date of JTO	Yr. of Recruitment
1	Udayakumar J	552	01.04.02	2001	358	01.04.02	2001
2	Sandeep K	626	24.03.03	2002	425	24.03.03	2002
3	Venkataravaniiah B	646	24.03.03	2002	427	24.03.03	2002
	Uma Chandran S	649	24.03.03	2002	430	24.03.03	2002
5	Sudha M	683	01.06.02	2001	462	01.06.02	2001



## Respondents

Sl. No.	Name	2004 Circle Gradation/Seniority List			2009 Circle Gradation/Seniority List		
		Position	Date of JTO	Yr. of Recruitment	Position	Date of JTO	Yr. of Recruitment
6.	Jayanthi Jagannathan	162	12.06.00	1996	84	12.06.00	1996
7.	Thillaikarasi S	251	12.06.00	1997	120	12.06.00	1997
8.	Manonmani S	356	03.09.01	1999	211	03.09.01	1999
9.	Veerapandian M K	363	28.01.02	1999	217	28.01.02	1999
10.	Kumar S		NA **		272	10.12.01	1999

However, the applicants in this OA have not raised any objection and the lists have become final. It is settled position in law that Seniority List should not be interfered with unless there is some grave error found in it. In the instant case, the Seniority List has been published as per the Recruitment Rules in force and as per the undertaking given by the applicants at the time of their recruitment. If the applicants have got any grievance about their seniority position, they had the opportunity to file their objection to rectify the same at the time of draft list circulated to them. There is nothing on record to show that the applicants have made any representations or filed any objection for their seniority position in the Seniority List. As the applicants have slept over their rights, they cannot now wake up after 5 years and challenge the seniority list which has become final as per law. For the aforesaid reasons, we do not find it expedient to unsettle a settled position by the fact that the seniority list has become final.

11. As seen from the relief column, the applicants have challenged the impugned order dated 22.10.2009 which is

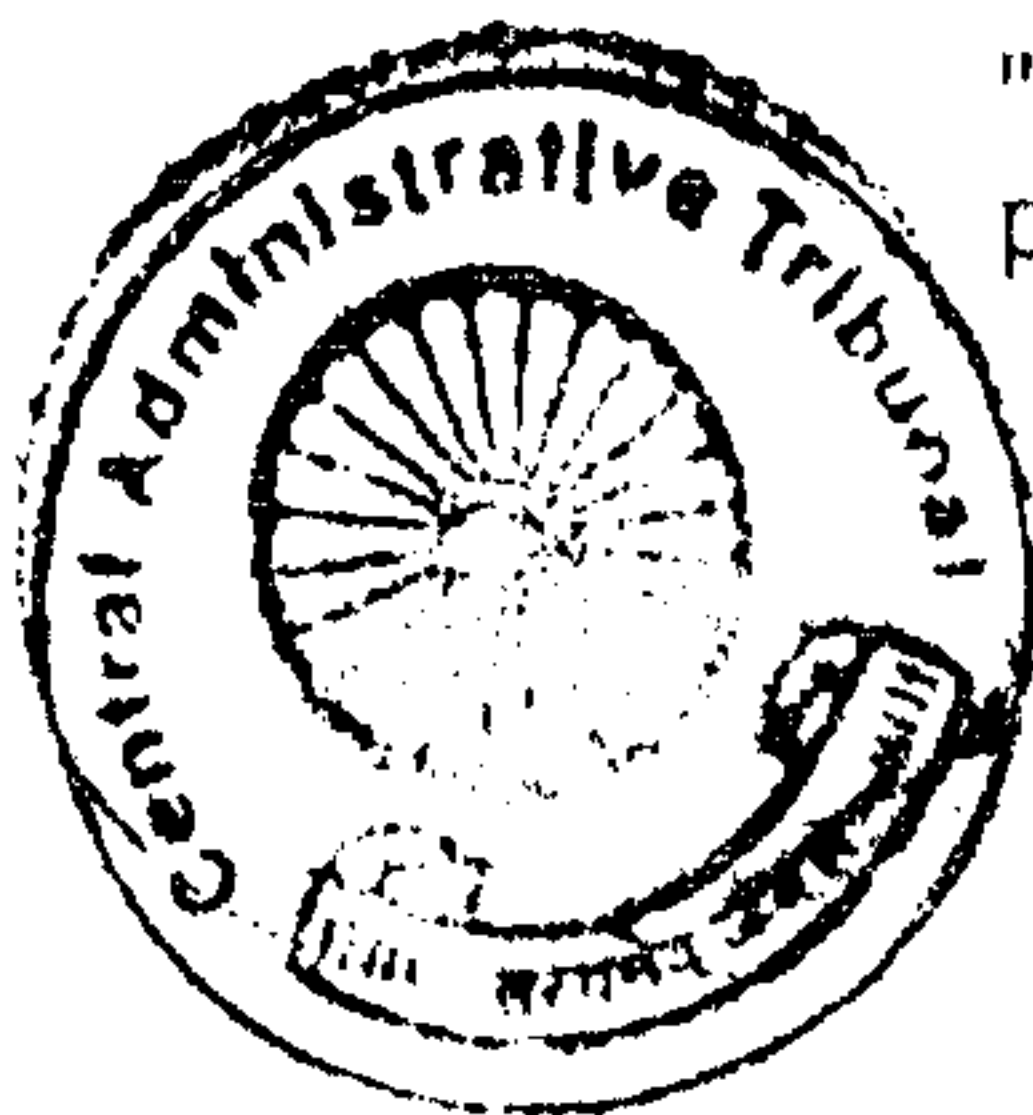


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not the Seniority List but the eligibility list. It may be mentioned here that the JTO post is a circle level post and the Seniority List was prepared only on the circle level. However, the post of SDE is an all India cadre. Under such circumstances, the action of the official respondents to call for the eligibility list of all persons who are holding the post of JTO for the purpose of promotion to the post of SDE cannot be found fault with. The applicants are now challenging the eligibility list as well as the seniority list. As we have already mentioned that the seniority of the applicants as well as the private respondents have already attained finality as early as in 2004. Once ranking of the seniority has been finalised, the eligibility is only the relative ranking in the seniority list. As we have discussed earlier in the preceding paragraph, the applicants have accepted their ranking in the seniority list on more than one occasion without any protest or objection. Therefore, their claim on the eve of promotion is stale and belated.

12. Learned Sr.Counsel for the applicants Mr. V. Prakash has placed heavy reliance on the DOPT instructions/guidelines on seniority(Annexure A-7). The relevant portion of the OM dated 7.2.1986 and 3.7.1986 are extracted as hereunder:

"2.4 The relative seniority of direct recruits and promotees shall be determined according to the rotation of



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vacancies between available direct recruits and promotees which shall be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules.

2.4.1 If adequate number of direct recruits does not become available in any particular year, rotation of quotas for the purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees. In other words, to the extent direct recruits are not available the promotees will be bunched together at the bottom of the seniority list below the last position upto which it is possible to determine seniority, on the basis of rotation of quotas with reference to the actual number of direct recruits who become available. The unfilled direct recruitment quota vacancies would, however be carried forward and added to the corresponding direct recruitment vacancies of the next year (and to subsequent years where necessary) for taking action for direct recruitment for the total number of vacancies for direct recruits and promotees as determined according to the quota for that year. The additional, direct recruits selected against the carried forward vacancies of the previous year would be placed en-bloc below the last promotee (or direct recruit as the case may be), in the seniority list based on the rotation of vacancies for that year. The principle holds good for determining seniority in the event of carry forward, if any, of direct recruitment or promotion quota vacancies (as the case may be) in the subsequent year."

13. The facts in the case before us are that the erstwhile Department of Telecommunication under the Government of India did not resort to any recruitment for the post of JTOs on direct recruits basis between the period 1996 and 2000 since the Government was mulling the idea of formation of Corporation to hive off the Government Department of Telecom to a separate legal entity. When a reference was made by the Government to the UPSC, it was replied by the UPSC that it may not be possible to recruit people on the eve of formation of Corporation. Be that as it may be, we are now concerned with the recruitment that took place between the period 1996 and 2000. The details of recruitment of JTO by promotion from 1996 in the DOT in Chennai Telephone District are as follows:



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<i>Recruitment Year</i>	<i>Departmental (D)</i>	<i>Direct Recruit/ Outsiders(OS)</i>	<i>All India Outsiders (OS) (Appx)</i>
1996	30	0	0
1997	32	0	0
1998	27	0	0
1999	135	0	0
2000	0	0	0

The details of recruitment of JTOs from 2001 in BSNL, Chennai Telephone District are as follows:

<i>Recruitment Year</i>	<i>Departmental (D)</i>	<i>Direct Recruit/ Outsiders(OS)</i>	<i>All India Outsiders (OS) (Appx)</i>
2001	7	63	3500
2002	8	65	3500
2003	8	0	0
2004	14	0	0
2005	15	48	3500
2006	8	0	3
2007	8	29	3000
2008	0	27	3000

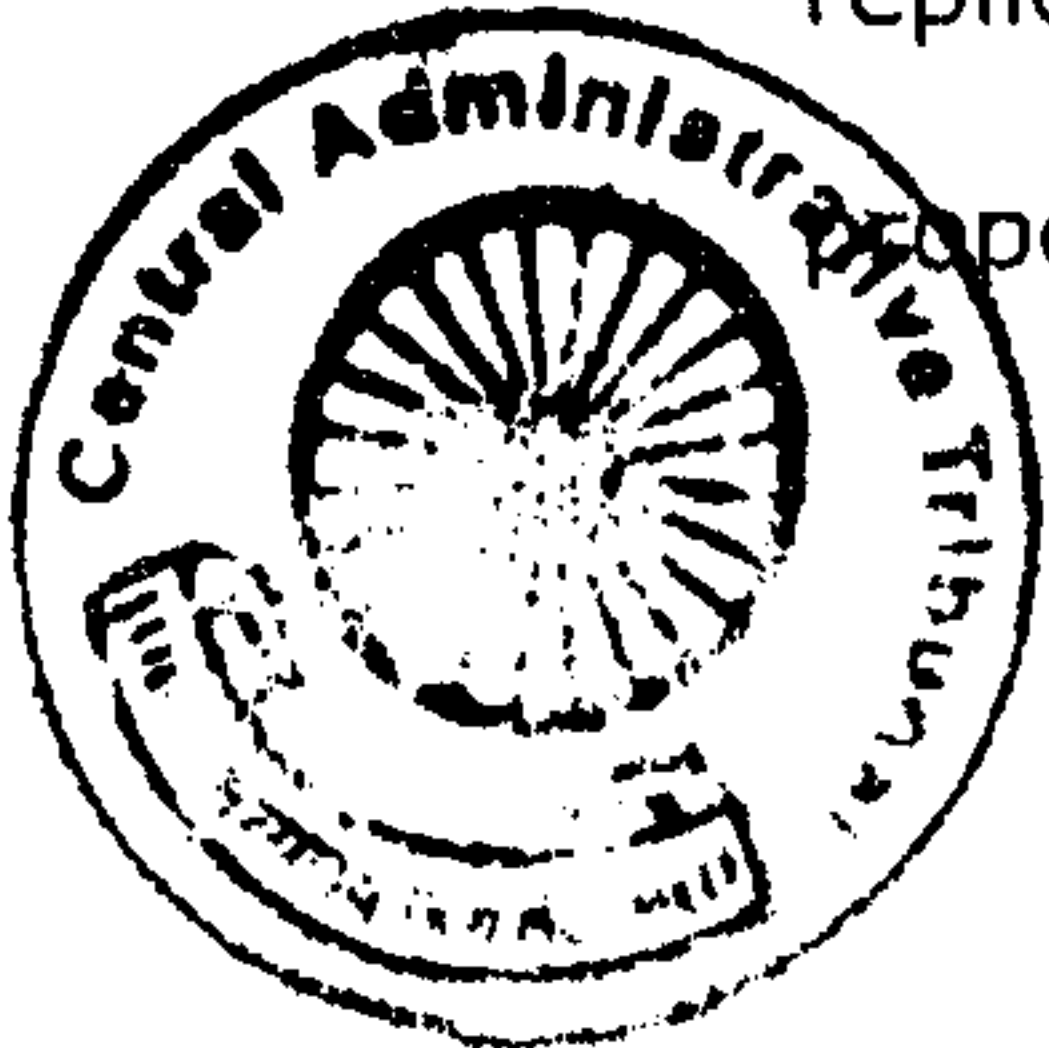
From the above statement it is seen that there was no direct recruitment of JTO during period 1996 to 2000 and direct recruitment has taken place only during the year 2001. Therefore, it is clear that the applicants have joined service only after 2001 whereas the private respondents have been working as JTO much earlier to 2001. The ranking of the promotee JTOs have been made as per the Recruitment Rules applicable to them at the time of their selection.

14. It is an admitted fact that the applicants are not borne in the cadre of JTO prior to 2001. As such, it was not possible to grant seniority to the applicants prior to a date when they were not borne in the cadre. On the other hand the private respondents have been promoted before 2001 and their promotions were also governed by the



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relevant Recruitment Rules exist at that time. It is not the case of the applicants that ineligible persons have been appointed in the JTO cadre under the promotion quota. The private respondents have been recruited as per the relevant rules and instructions which are applicable at the relevant point of time. All the applicants before us have joined service only in the year 2001 as per the Notification published in the year 2000. Therefore, the applicants who joined service in the year 2001 and afterwards cannot be given ranking above the private respondents who were recruited by promotion in the earlier years. Another point that has been raised by the learned senior counsel for the applicants is that the quota rota rule has not been followed. It is true that under the relevant Recruitment Rules of DOT 1996,1999 and the BSNL Recruitment Rules of 2001, the method of recruitment is 50% by direct recruitment and 50% by departmental candidates. However, since the Government has taken a policy decision to corporatise the erstwhile DOT as BSNL, no direct recruitment took place. It is also on record that on 7.1.2000, the Deputy Director General(P) DOT has written a letter to the UPSC(Annexure R 42-Additional reply filed by R.8-12) with regard to the conduct of the JTO Examination by direct recruitment to which the UPSC has replied on 4.2.2000(Annexure R-43) that in view of the proposal to corporatisation of the Department, the matter



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may be re-looked carefully with due regard to all relevant aspects and a decision may be taken to have the direct recruitment or not.

15. From the above facts, it is seen that direct recruitment of JTO could not take place in view of the fact that corporatisation of the Department was very much under the active consideration of the Government and hence the filling up of the 50% direct recruitment got postponed. However, after a gap of 5 years, direct recruitment took place from 2001. The official respondents state that in view of large scale recruitment in the direct recruit category it was practically not possible to follow the quota rota rules. We are in agreement with the submission of the learned counsel for the respondents 1 to 5 that in view of special circumstances leading to the formation of BSNL, the instructions contained in OM which we have extracted earlier in the order could not be adhered to. The applicants have not been able to substantiate that any of their service rights has been affected as they have been recruited only in the year 2001 and accordingly they have been arranged in the Seniority List which was published in the year 2004 and 2009. From the facts of the case we find that the applicants have not been able to prove that any prejudice has been caused to them by issuing the Seniority List of JTO of 2004 and 2009 and also the impugned order of eligibility for the purpose



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of promotion to the post of SDE. Seniority List once finalised should be interfered with to unsettle a settled position.

16. Learned counsel on both sides produced large number of case laws in support of their points. We have considered all of them and in the facts of the case we find that the applicants have not been able to produce convincing reasons that there is any violation of Recruitment Rules or statutory provisions to support their case.

17. We have very carefully considered the written arguments and the documents produced by both sides. A Seniority List is a sacred document in service law. It is not to be interfered with unless grave injustice are pointed out. In the case before us, the applicants are recruited as per the conditions mentioned in the Notification. They have not questioned either the Notification or the selection process. No violation of any Recruitment Rules has been substantiated. Rules made by Department of Telecom govern the service conditions of the private respondents till the formation of BSNL. Applicants being post BSNL employees are governed by rules made by BSNL Rules made in 2001. In the absence of any violation of Recruitment Rules, the applicants cannot claim any relief. We are not convinced that the applicants have made out a case to interfere with the settled seniority list which was



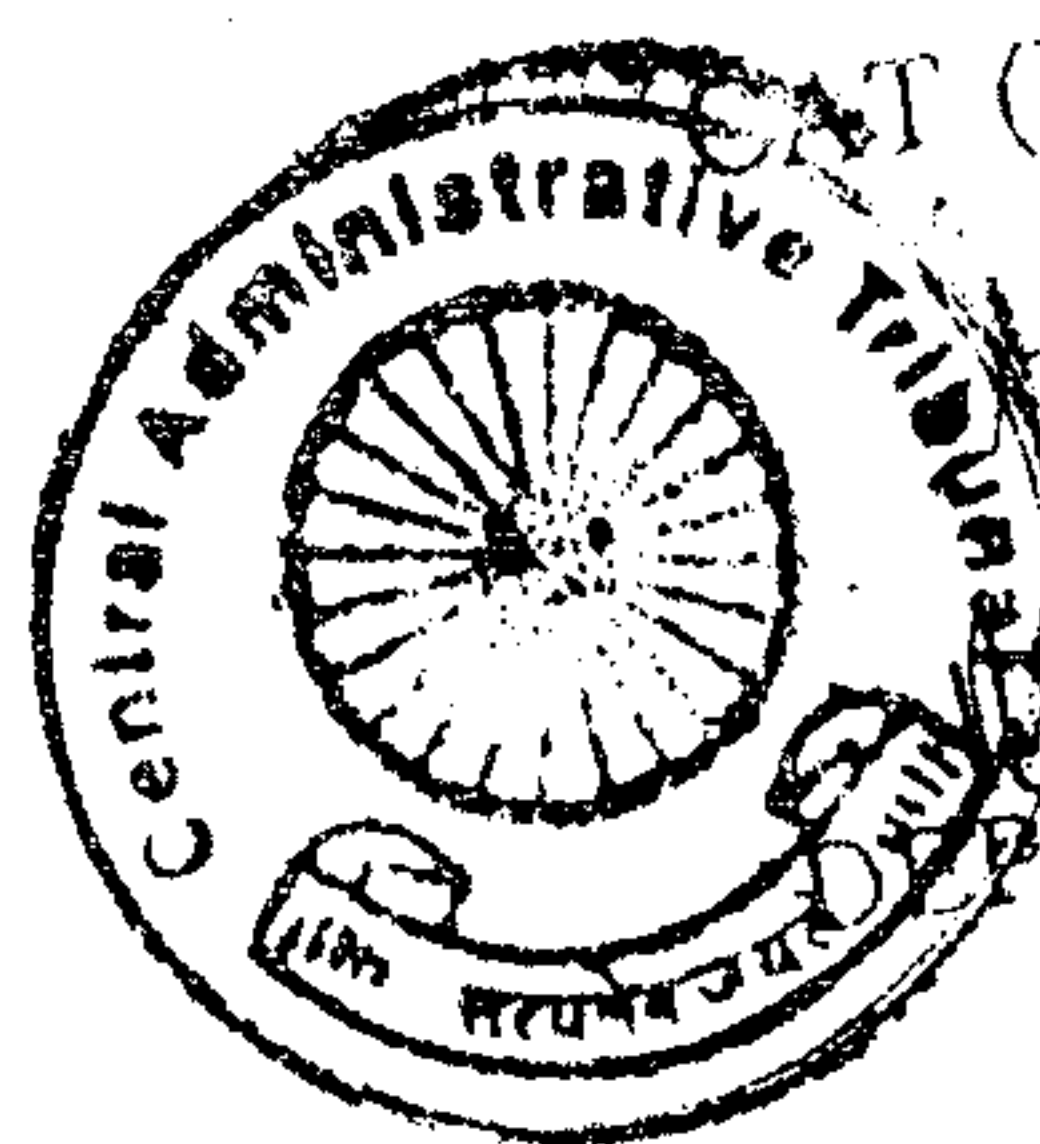
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first published in 2004. In the facts of the case, the relief claimed by the applicant cannot be granted.

18. Another claim made by the applicants is that roster point for SC/ST is not maintained. However, the Notification for JTO Examination 2001, in response to which the applicants have been selected, wherein it is clearly mentioned in the first para itself that the policy of reservation is applicable as per Government guidelines. If the applicants are aggrieved by the Notification, they could have challenged the same. However, it is not the case in the OA. Moreover, the respondents also have stated in their reply statement that they are following the reservation principles as per Government guidelines.

For the aforesaid discussion, we do not find any merit in the OA which is dismissed accordingly. Consequently, the interim injunction prayed for by the applicants in M.A.259 of 2011 is dismissed. As regards the M.A.535 of 2011 filed by the official respondents for vacating the interim order granted by the Tribunal on 13.1.2011 stands allowed. In the circumstances, no order as to costs.

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