

make resultant appointments. Learned counsel for the respondents in those cases made a statement that pending disposal of OA, Department will not fill up 19 vacancies in the cadre of TES Group B Circle level etc.

4. After creation of BSNL w.e.f. 01.10.2000, all the applicants opted for and were allowed to remain in BSNL. This Tribunal issued directions to the respondents BSNL/Govt. of India to finalize the inter-se seniority of the applicants and the private respondents. It was only thereafter that on 10.06.2002, the final seniority list (Annexure P-6) was issued wherein the applicants who were recruits of 1995 were shown junior to the private respondents, who were recruited in the year 1996 and joined subsequent to the date of joining of the applicants. A representation dated 31.12.2001 (Annexure P-6-A) was also made to the Chief General Manager, Telecom by the applicants but to no avail. Since the BSNL was not notified to fall within the jurisdiction of this Tribunal, the OAs filed by the applicants were returned to file the same before the competent forum of law. Hence the Writ Petition was filed before the Hon'ble High Court seeking mainly the following reliefs:

- (i) to quash the final gradation list circulated vide letter dated 10.6.2002 whereby the applicants even though have been selected and appointed as Junior Telecom Officer prior to the respondents have been placed enblock junior to the private respondents.
- (ii) To direct the official respondents to re-fix the inter se seniority of the applicants v-z-a-viz the private respondents on the basis of year of actual recruitment and date of selection and appointment or in the alternative to

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fix the seniority of the applicants also according to the year of occurrence of vacancies i.e. 1991-92 as has been done in the case of private respondents.

- (III) To direct the respondents to consider and promote the applicants to the post of TES Group-B post w.e.f. April, 2002 i.e. the date when the private respondents have been promoted to the said post after declaring them senior to the private respondents along with all consequential benefits including arrears of salary along with interest @ 18% per annum.

5. On issuance of notification by Government of India, bringing BSNL within the purview of jurisdiction of this Tribunal, the Writ Petition was transferred to this Tribunal.

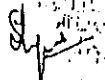
6. Respondents have filed written statement contesting the claim of the applicants. They submit that the advertisement dated 24.9.1995 against which the private respondents were selected and appointed was meant for the vacancies of the year 1993 and 1994. These were not backlog vacancies of previous recruitment years. On the other hand, the advertisement dated 21.12.1995 against which the applicants were selected and appointed was issued as a special recruitment drive to fill up 38 vacancies of the year 1995 in respect of SC/ST candidates. The backlog was to be filled in by December, 1995 in view of the instructions of Ministry of Personnel, Public Grievances and Pension (Direct Recruitment). Thus, these vacancies were distinct from those advertised on 24.09.1995 which were specifically meant for the recruitment year 1993-1994.

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7. As per the provisions of Recruitment rules of JTO also, the crucial date of determining the age limit for departmental as well as direct recruitment has been prescribed as 1<sup>st</sup> of July of the year for departmental as well as direct recruitment for which the applications for recruitment are called for. In the advertisement dated 24.09.1995 for the vacancies of the year 1993 and 1994, the eligibility and age limit was to be determined as on 1<sup>st</sup> of July of that year, whereas in the advertisement dated 21.12.1995, it was specifically mentioned that eligibility for the purpose of age was to be reckoned as on 1.7.1995. Therefore, the recruitment year is determined as per eligibility condition with reference to age and educational qualifications as published in the advertisement and thus, the applicants belong to the recruitment year 1995 and the private respondents belong to the recruitment year 1993-94. The final inter-se seniority of JTOs has been maintained in accordance with the relevant instructions of the Department and the private respondents are ranked senior to the applicants therein keeping in view their respective recruitment year.

8. They further submit that though the process for selection of JTOs for 1993 and 1994 was started much earlier than the special recruitment drive for vacancies of 1995, yet due to some administrative problems, the test for vacancies against advertisement dated 24.09.1995 could not be held in time and so the whole process of selection and appointment got delayed. The gradation list is prepared on the basis of

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year of recruitment allotted to a candidate as per eligibility conditions for that particular year of recruitment. The applicants were already informed vide concerned advertisement that they have been selected as JTO to fill up the backlog vacancies for the year 1995 and therefore, they cannot raise any grievance qua the private respondents as they were selected against the vacancies of 1993-94. Moreover, to raise this issue after a lapse of nine years is time-barred. To support their plea, they referred to the judgment of Hon'ble Punjab & Haryana High court titled Union of India Vs. Anil Kumar & Another (Annexure R-4), whereby the appeal of the Union of India has been allowed and claim of the petitioner for change of recruitment year from 1995 to 1993 has been rejected on the basis of being time-barred.

9. Learned counsel for the applicants argues that the seniority has to be fixed on the basis of the year of recruitment and date of selection and not on the basis of occurrence of vacancies, which is irrelevant in the matter of grant of seniority. There is no provision for fixation of seniority in the JTO Recruitment Rules (Annexure P-1) and it is a well-settled law that in the absence of any specific rules, the length of service will be the criteria for determining inter-se seniority. He has referred to Govt. of India Instructions dated 22.12.59, as amended vide letters dated 3.7.86 and 4.11.1992, whereby it is provided that seniority of the direct recruits is determined in order of merit whereby the incumbents appointed subsequent to an earlier selection will rank junior and thus the

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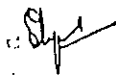
petitioners, being selected candidates of earlier selection are entitled to be shown as senior to the selected candidates of 1996 i.e. private respondents. To support his claim he has placed reliance on Supreme Court judgment rendered in the case of Harish Chander Ram Vs. Mukh Ram Dubey and Others 1995(2) SC, SLJ, 234 whereby it is held that it is incumbent upon the Government that as soon as the vacancy arises, it must be filled by recruiting the candidates either by direct recruitment or promotion from the feeder cadre or by transfer, so as and when recruitment takes place the cases of all the candidates including reserved candidates is to be considered in accordance with the rules, which would arise only when recruitment takes place. Thus, in the present case, the selection of the applicants having taken place earlier than that of the private respondents, entitles them to be ranked en-bloc senior to the private respondents.

10. We have heard learned counsel for the parties and perused the material on the file.

11. There is no dispute about the fixation of seniority of direct recruits in terms of instructions issued by the DoPT dated 21.12.1959, Annexure P-8, which provide that persons appointed as a result of an earlier selection are to be treated senior to those appointed as a result of a subsequent selection. The moot point for consideration before us is as to who were appointed as a result of an earlier selection between the applicants on the one side and private respondents on the other side.

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12. The advertisement dated 24.9.1995 against which the private respondents were appointed was meant for the vacancies of the year 1993 and 1994, whereas the advertisement dated 21.12.1995 against which the applicants were selected and appointed was issued as a special recruitment drive to fill up 38 vacancies of the year 1995 in respect of SC/ST candidates. Thus, the year of vacancies as well as date of advertisement in respect of private respondents are prior in point of time than that of the applicants. In the advertisement dated 24.09.1995 relating to vacancies for the years 1993 and 1994, the eligibility and age limit was to be determined as on 1<sup>st</sup> of July of that year i.e 1993 or 1994, whereas in the advertisement dated 21.12.1995, it was specifically mentioned that eligibility for the purpose of age was to be reckoned as on 1.7.1995. We have no hesitation in agreeing with the plea of the respondents that the applicants, even though they were selected and had joined earlier, belong to the recruitment year 1995 and the private respondents belong to the recruitment year 1993-94 primarily for the reason that the process of selection of private respondents started much earlier than the special recruitment drive for vacancies of 1995 i.e the applicants and it is due to some administrative problems that the test for the vacancies against the advertisement dated 24.09.1995 was not held in time and in our view such delay cannot be used to depress the seniority of the private respondents. It is an admitted position that the seniority list is based on the year of recruitment allotted to the



candidates as per eligibility conditions for that particular year. In the case of private respondents, their eligibility was seen as on 1.7.1993 or 1.7.1994 whereas that of the applicants was seen as on 1.7.1995. Possibility of any of the applicants being not eligible in 1993-94 can also not be ruled out.

13. It is also not in dispute that the applicants were aware that they have been selected as JTO's against backlog vacancies for the year 1995. However, they did not take up the matter for very long time and therefore, the petition is also barred by time and the applicants cannot be allowed to agitate the issue at this stage. We find support in this view from the decision of Hon'ble Punjab & Haryana High court in Union of India Vs. Anil Kumar & Another (supra) in which the claim of the petitioner for change of recruitment year from 1995 to 1993 was rejected on the ground of limitation.

14. The learned counsel for the applicants has further placed reliance on a decision in the case of Swami Din Vs. Union of India & Others, (1989) ATC 58 to claim that if there is no rule for fixation of seniority, it will be governed by Executive Instructions and in the absence of both, the normal rule of length of service will be applicable. There is no doubt that if there is no provision in the rules for determination of seniority, executive instructions will fill in the gap. However, in so far as the second issue of determination of seniority is concerned, the facts of the present case are distinguishable and the said

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decision cannot be applied to this case. In this case, the selection of private respondents having been set in motion prior in point of time than the applicants by issuance of advertisement and the date of eligibility for the vacancies of 1993-94 being as on 1<sup>st</sup> of July of 1993 and 1994, it has to be taken that they were appointed in pursuance of an earlier selection. More so when the respondents admit that it was due to administrative reasons that delay in actual appointment of private respondents took place and it was not even a very huge delay.

Moreover, a well devised system of determination of seniority on the basis of year of vacancy is successfully running in the department. In

Para 8 of the reply it has also been explained by the respondents that that vacancies for direct recruitment of JTOs were first advertised on 2.1.1995 for the year as per direction of DoT and examination was scheduled for 20.5.1995 and 21.5.1995. Due to administrative reasons, this was not conducted and then a combined advertisement dated 24.9.1995 qua the vacancies for the years 1993 and 1994 was issued.

15. The applicants also placed reliance on State of J&K & Others Vs. Javed Iqbal Balwan & Others, 2009 (2) SCT, Page 594, in which it was held that direct recruits cannot claim seniority from the date prior to their appointment when they were not born in the service. To the same effect is the decision in the case of Suraj Parkash Gupta Vs. State of J&K, 2000(3) SCT, 34 in which it was laid down that direct recruits cannot claim appointment from the date of vacancy in the quota



before their selection. These decisions are of no help to the applicants inasmuch as the facts are clearly distinguishable and in this case both the category of employees belong to the same source of recruitment. Just because the selection process of the applicants was completed earlier than that of the private respondents, they cannot be allowed to turn around and claim that they have to be ranked senior to the private respondents. (The private respondents belong to an earlier selection and as such have rightly been given seniority over and above the applicants.

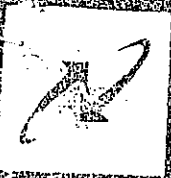
16. In view of the above discussion we find that the applicants have failed to make out their case and this Original Application is found to be without any merit and is barred by time. Therefore, the same is dismissed and disposed of accordingly. No costs.

(PROMILLA ISSAR)  
MEMBER (A)

Place: Chandigarh.  
Date : June 3rd, 2010

(SHYAMA DOGRA)  
MEMBER (J)

*Shyam Kumar*  
11/6/10



# BHARAT SANCHAR NIGAM LIMITED

(A Government of India Enterprise)

## Recruitment of Graduate Engineer Junior Telecom Officers-2007 (1-2/2007-Recit.)

Closing date of receipt of application: 23.03.2008  
Examination Date: 15.06.2008

Bharat Sanchar Nigam Ltd. (BSNL) will recruit about 3591 [subject to variation depending on the availability of vacancies] Graduate Engineer Junior Telecom Officers (JTOs) through a competitive examination to be held on 15.06.2008 on All India basis from amongst qualified graduate engineers. The details of reservation position is as under:

JTO 2007	SC-546	ST-272	OBC-968	OC-1805	TOTAL-3591
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3% of the total vacancy (1.5% for Locomotive and 1.5% for Hearing Impairment) will be reserved for PH quota

Reservation as per Central Govt. guidelines will be applicable for SC/ST/OBC/Physically Handicapped (PH). In respect of Physically Handicapped persons, candidates with following physical disability will be permitted:

- Hearing Impairment - Partially Deaf
- Locomotive Impairment - one arm or one leg or both legs affected  
(The minimum degree of disability is 40% in order for a person to be eligible for any concession/benefits).

### 1. Scale of Pay

The post of J.T.O. is in the IDA pay-scale of Rs. 9850-250-14600.

### 2. Selection for a Particular Circle & Service liability

The BSNL comprises a number of territorial Circles and functional Circles. The recruitment will be made centrally by BSNL and JTOs so recruited will be allotted territorial/functional Circles depending on vacancies, their choice and merit. A list of the existing territorial Circles, their respective headquarters etc., appears in Annexure 'A'.

The Junior Telecom Officer is a Circle-based Cadre and the candidates would be selected against the vacancies in a particular Circle and required to serve minimum of 5 years in that particular Circle only or until they are promoted to All India Cadre, whichever is earlier. However, the officers are liable to be transferred anywhere in India in the interest of service. Applicants shall have the option to be considered for a particular Circle (out of Annexure 'A' Circles) of his/her choice in order of preference given by him/her in the application for examination. Option once exercised shall be final. Change of Circle afterwards would not be allowed. The applicants should exercise their option very carefully and indicate their choice of Circles in order of their preference. Applicants may opt for 5 (Five) Circles in order of their preference from amongst the Circles at Annexure 'A'. If applicants have opted for 5 Circles in order of their preference then applicants shall give "Any where in India" as their sixth choice but if the number of Circles opted in order of their preference is less than 5 then one of option shall be "Any where in India". In case it is not possible to accommodate them in any of the Circles of their choice, they shall be posted to any of the Circles where vacancies are available. A successful applicant will, however, get appointment in the Circle of choice strictly depending upon his/her position in the merit-list drawn on the basis of his/her performance in the All India competitive examination and the number of vacancies available in the Circles. In case an applicant does not indicate his/her preference of Circle, his/her will be allotted the Circle wherever the vacancies remain unfilled irrespective of his/her position in the merit-list solely as per requirements of BSNL.

The above notwithstanding, BSNL has, however, the right to post any selected J.T.O. to any of the Circles either temporarily or on permanent basis. The decision of BSNL in this regard shall be final and binding. The service conditions, seniority etc. of selected candidates will be determined as per prevailing rules of the Corporation from time to time.

### 3. Eligibility

- Nationality: Only Indian Nationals would be eligible to apply.
- Educational Qualifications: Applicant must possess as on 23.03.2008 Bachelor of Engineering/Bachelor of Technology or equivalent Engineering degree in any of the following disciplines from a recognized engineering college/university:
  - Telecommunication,
  - Electronics,
  - Radio,
  - Computer,
  - Electrical.
- Age: The applicant should not be more than 30 years of age on the closing date for receipt of applications from candidates. However, this age is relaxable as per standing instructions on this subject for:
  - Govt. servants upto 5 years in accordance with the instructions or orders issued by the Central Govt.;
  - BSNL employees upto 5 years in accordance with the instructions or orders issued by the BSNL;
  - For Scheduled Castes & Scheduled Tribes upto 5 years;
  - For OBC Candidates upto 3 years;
  - For PH candidates upto 10 years (15 years for SC/ST and 13 years for OBC)
  - For certain other categories like ex-servicemen, displaced persons from East Pakistan (now Bangladesh), repatriates from Burma and Ceylon (now Sri Lanka), residents of Goa, Daman & Diu, persons migrated from Kenya, Uganda, Republic of Tanzania as per instructions issued by the Central Government from time to time in this regard.
  - For Residents of J&K Relaxation shall be in accordance with DoP&T O.M. No. 1501/277/991-Estt.(D) dtid 6.12.2005 pertaining to "Residents of State of Jammu and Kashmir (Relaxation of Upper Age Limit for Recruitment to Central Civil Services & Posts) Rules 1997"

3.1. Further in respect of apprentices who have undergone apprentice training in BSNL successfully, there will be following provision:-

- An apprentice will be required to compete in the common competitive examination conducted by BSNL along with other direct candidates and preference to the apprentices over non-apprentices direct candidates will be given only if apprentices secure equal marks in the examination.

- The apprentices would not be required to get his/her name sponsored by any employment exchange.
- The apprentices would be entitled to age relaxation to the extent of the period for which the apprentice had undergone training as apprentice in the BSNL.

### 4. Mode of selection and nature of Question Paper

The mode of selection is through an All India Competitive Examination. The examination will be of three hours duration. The Question Paper will be fully objective type with multiple options as answers to each question. The standard of paper in Engineering subjects will be that of Engineering Examination of an Indian University. The objective type examination shall be of 3 hours duration with one question paper containing 200 questions of Engineering Stream Section-I, Engineering Stream Section-II and General Ability Test Section-III. The Engineering Stream Section-I and Section-II would include 50 questions each and General Ability Test Section-III would include 20 questions. However, there would be no separate time fixed for attempting the separate sections. Detailed syllabus appears at Annexure 'B'.

### 5. Minimum qualifying standards

BSNL shall fix minimum qualifying marks for OC/OBC/SC/ST/PH candidates for each section as well as in the aggregate. Candidates obtaining less than minimum-qualifying marks in any of the sections or in aggregate shall not be considered for inclusion in the merit-list.

The merit-list will be drawn up depending on the vacancies and the choices indicated by the candidates. The appearance of the name in the merit-list does not confer any right to the candidate for employment. A final call letter/appointment letter will be issued to the candidate after completion of all other formalities.

### 6. Choice of Examination Centre

Applicants are required to indicate their choice of Examination Centre (item 15 of application form) at which they wish to appear. An applicant can opt for any one of the examination centers out of the Circles indicated in the Annexure 'A' and submit the application form to the Office of the CGM of the Circle concerned at whose examination centre the applicant wishes to appear. (e.g. a candidate wishing to appear at Hyderabad centre should submit his/her application to the CGM/CGM (Admin), Office of Chief General Manager, Andhra Pradesh). A list of centers and the Deputy General Managers (Chief General Managers) to whom the application is to be submitted, is given in Annexure 'A'.

Admit cards will be issued to eligible applicants by the Office of the CGM concerned. The examination centre will be the Circle Headquarters city of the CGM concerned as given in Annexure 'A'.

### 7. Fee for examination and application form

The specimen of the application form is included in this advertisement. neatly typed (only on one side of paper) copy in A4 size (30 cms x 20 cms) may be used for making application. The completed application form should be sent by registered post to the CGM concerned. The envelope containing application form should be marked "Application for graduate engineer J.T.O. examination-2007" in bold letters on top of the envelope.

Original advertisement or photocopy of the form in the advertisement must not be used for applying and in case a candidate submits such an application the same will not be entertained. The given application form must be separately typed.

An examination fee of Rs. 500/- is payable in the form of demand draft drawn in favour of Senior Accounts Officer/Accounts Officer payable at the respective stations as given in Annexure 'A'. The amount of fee shall not be accepted in any other form. Fees once paid shall NOT be refunded under any circumstances nor can it be held in reserve for any other examination or selection.

### 8. No Fee payable by SC/ST/PH

Applicants belonging to SC/ST/PH categories only are exempted from the examination fee. In the case of Physically handicapped candidates, this exemption will, however, be available to only those handicapped persons who would otherwise be eligible for appointment to the post on the basis of the standards of medical fitness prescribed for the post (including any concessions specifically extended to the physically handicapped) and who enclose with the application form, a necessary certificate from a Govt. Hospital/Medical Board in support of his claim for being handicapped.

### 9. Travelling Allowance to SC/ST Candidates

The applicants belonging to SC/ST categories will be entitled to T.A. as per provisions of Ministry of Finance (Deptt. of Expenditure) O.M. No. 19014/3/77-E.IV (D) dtid. 17.02.1976

### 10. Closing date for receipt of Application Forms

Application forms complete in every respect must reach on or before 23.03.2008. Applications received after the closing date or not accompanied by the demand draft (wherever applicable) for the prescribed examination fee or incomplete in any respect shall be summarily rejected and no communication in respect of the rejected application forms shall be entertained. Fees paid shall also NOT be refunded. BSNL shall not be responsible for any postal delay.

The applicants would be admitted to the examination on the basis of the information furnished by them in their application form. They are, therefore, advised to ensure that they fulfill all eligibility conditions before applying. In case it is found at a later stage that the information furnished by an applicant is false or an applicant does not fulfill any of the eligibility conditions, the candidature of such applicants would be cancelled and correspondence in this regard would be entertained. Issuance of an admit card for the examination will NOT confer any right for appointment. Appointment will be solely subject to fulfillment of all eligibility conditions.

A-111-8

Government of India  
Ministry of Communications  
DEPARTMENT OF TELECOMMUNICATIONS  
Sanchar Bhawan, 20-Ashoka Road  
New Delhi-110001

No.1-1/97-PAT

Dated 24<sup>th</sup> October 1997

All Heads of Telecom Circles/Metro Districts/  
Maintenance Regions/Project Circles, and  
All Heads of other Administrative units.  
All Heads of MTNI., New Delhi Mumbai

Revised Scale for Junior Telecom Officers (JTOs) to the Department of telecom.

Revised upgraded pay scale for Junior Telecom Officers (JTOs) in the Department of Telecom. have been notified by the Government vide G.S.R. No. 582(E) dated 6-10-1997 as Rs.6500-200-10500 Pay Commission has recommended this upgraded scale subject to change in Recruitment Rules providing B.E. as the minimum qualification for Direct Recruitment. DEPARTMENT OF TELECOM. has accepted this change in the Recruitment Rules and the new Recruitment Rules are under process for issue.

Ministry of Finance has confirmed that the notified upgraded scales may be give w.e.f. 1.1.1996. In respect of categories in whom cases the requisite changes in Recruitment Rules recommended by the Pay Commission have been accepted by the concerned Department/Ministry.

In view of above approval of this office is here by conveyed for grant of upgraded pay scales of Rs. 6500-200-10500 to the JTOs. w.e.f. 1-1-1996. The pay fixation etc. of the JTOs may be done accordingly.

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This issues with the concurrence of Telecom Finance vide the U.O.

No. 2668/FA.1/97 Dated 24-10-1997.

Kindly acknowledge its receipt.

-----sd-----

(R.C. MALHOTRA)  
Asst. Director General (PAT)

<<<True Copy>>>

~~XXXXXX~~  
Bharat Sanchar Nigam Limited

Corporate Office  
(Personnel-IV Section)

(A Government of India Enterprise)

5<sup>th</sup> fl., Bharat Sanchar Bhawan,  
Janpath, NEW DELHI-110001

Website: www.bsnl.co.in

No. 5-31/2001-Pers.IV

Dated: Mar. 4, 2008


To

The Chief General Manager,  
Bharat Sanchar Nigam Ltd.,  
UP (West) Telecom Circle,  
MEERUT-250005

Subject: Seniority case of JTOs in UP (West), Telecom Circle-  
reg.


Kindly refer your office letter no. UP(W)/CR-Cell/JTO/  
Seniority/2006 dated 23-2-2008 on the above cited subject, I am  
directed to intimate that seniority among the officials belonging to  
any cadre is regulated as per DoPT instructions and it is not linked  
with the date of joining in the cadre. In the matter of seniority, the  
DoPT instructions are being followed in BSNL.

In the case under reference, even though the JTOs had joined  
in the year 2004 consequent to relaxation in qualifying standards  
vide letter no. 12-15/2002-DE dated 10-03-2003, the JTOs were  
recruited against 15% quota vacancies of the year 1999. Since these  
JTOs belong to 1999 year of recruitment and will, therefore, rank  
enblock senior to the direct recruit JTOs of the year 2001 or later.

  
P.M. VERMA  
Asstt. Dir. Gen. (Pers. IV)

☎: 011-23734152 & ☎: 011-23725255

Circle copy personally collected by GM UP(W) Circle on 4.3.08.

  
4.3.08