

BY SPEED POST/EMAIL

7th January 2023

To,

✓ 1. **Sh. K Rajaraman**
Secretary Telecom
Department of Telecom
Union of India
Sanchar Bhawan
20 Ashoka Road
New Delhi- 110001
Email: secy-dot@nic.in

2. **Sh. P.K. Purwar**
Chairman and Managing Director
Mahanagar Telephone Nigam Ltd.
BSNL Bhawan, Janpath
New Delhi – 110001
Email: cmd@bol.net.in

WITHOUT PREJUDICE

Sirs,

RE: LEGAL NOTICE FOR IMMEDIATE COMPLIANCE OF FINAL JUDGMENT & ORDER DATED 21.01.2015 PASSED BY THE HON'BLE SUPREME COURT IN "UNION OF INDIA VS. SOHAN LAL SAYAL & ORS." REPORTED AS (2015) 12 SCC 360

I write to you on behalf of my Clients viz. (1) Mr. Dinesh Chandra Sharma and (2) Mr. H.K. Singh ("my Clients"), who have instructed me to issue the present Legal Notice to you for immediate Compliance:

1. That my Clients joined the Department of Telecom ("DOT") as a Joint Telecom Officer ("JTO") and was subsequently absorbed in Mahanagar Telecom Nigam Ltd. ("MTNL"). In 1993-1994, DOT prepared Lists 1-17 wherein the seniority was fixed on the basis of the year of qualifying the departmental examination as per Para 206 of the P&T Manual, Vol IV which included my Clients. These lists were prepared pursuant to a Judgment dated

20.02.1985 passed by the Hon'ble High Court of Allahabad in "*Parmanand Lal vs. Union of India & Ors.*" affirmed by the Hon'ble Supreme Court *vide* Order dated 08.04.1986 in SLP (C) No. 3384-86/1986.

2. In view of the above, my Clients' seniority was to be fixed as per the date of passing of the qualifying examination (as per Paragraph 206 of the P&T Manual, Vol IV) which was done in the Seniority lists 1-17. However, subsequently, the said lists were reversed and my Clients' seniority was meddled with illegally and unlawfully.
3. Thereafter, my Clients were constrained to approach the Hon'ble Central Administrative Tribunal, Principal Bench ("**CAT, Principal Bench**") by filing (1) T.A. No. 1013 of 2009 titled as "*BSNL, MTNL's T.E.S. Group 'B' Officers Forum vs. Union of India & Ors.*" and (2) O.A. No. 2913 of 2009 titled as "*H.K. Singh & 194 Ors. vs. Union of India & Ors.*" seeking *inter alia*, fixation of seniority according to the date of qualifying the departmental examination on the basis of the Judgment dated 20.02.1985 passed by the Hon'ble High Court of Allahabad in *Parmanand Lal* (Supra).
4. In the meanwhile, the Ld. CAT, Chandigarh Bench *vide* Order dated 26.05.2009 in T.A. No. 47/PB/09 (CWP No. 13898/07) titled as "*Nand Lal Jaswal & Ors. vs. BSNL & Ors.*" while noting several decisions of the Hon'ble Supreme Court directed the Department of Telecom and Bharat Sanchar Nigam Limited ("**BSNL**") to consider the representation of the applicants therein (similarly situated as my Client in BSNL) and pass fresh orders on the basis of the ratio aforesaid judgment of Hon'ble Supreme Court.
5. That *vide* Order dated 18.09.2009, CAT, Principal Bench, was pleased to dispose of O.A. No. 1514/2009 filed by similarly situated persons as my Clients, wherein it was observed that the issue was squarely covered by the decision dated 26.05.2009 passed by the CAT, Chandigarh Bench in *Nandlal Jaswal* (supra). You the Noticee(s) No. 1 & 2 were arrayed as Respondent No. 1 & 3 respectively.
6. A review Petition being R.A. No. 196/2009 was filed assailing the Order dated 18.09.2009. However, the CAT Principal Bench *vide* Order dated 04.12.2009, observed that the challenge to the decision passed by the CAT, Chandigarh Bench in *Nandlal Jaswal* (supra) was *sub judice* before the Hon'ble High Court of Punjab and Haryana and held as under:

“3....There would be no need to deal with the present review application as surely, the decision that may be recorded by the High Court shall be binding and be it parties to the TA before the Chandigarh Bench or those who may not be parties to the same, shall have to abide by the decision that may be ultimately delivered by the High Court...Once again, the parties as mentioned above shall have to abide by the decision of the Punjab & Haryana High Court.

4.... The review application and the TA/OAs are thus closed with the observation as made above, with liberty to any of the parties, if so advised, to seek intervention/impleadment in the pending writ petition in the High Court.....” (Emphasis Supplied)

7. Thereafter, my Clients sought impleadment before the Hon'ble High Court of Punjab & Haryana in CWP No. 14817/2009 titled “BSNL vs. Nandlal Jaswal & Ors.” which was disposed of by way of a detailed Judgment on 25.11.2011 thereby upholding the decision dated 26.05.2009 passed by the CAT, Chandigarh Bench.
8. Pertinently, the Hon'ble Supreme Court vide Judgment dated 21.01.2015 passed in a batch of matters titled as “*Union of India & Ors. vs. Sohan Lal Sayal & Ors.*” reported as (2015) 12 SCC 360 upheld the Judgment of the Hon'ble High Court of Punjab & Haryana dated 25.11.2011 and held as under:

“14. ...We are convinced that after specific directions contained in paragraphs 17 and 19 of the Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association – (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 27th February, 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 26th April, 2000 of this Court reported in Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association – (2000) 9 SCC 71 made a categoric and clear pronouncement as to how the latter principle laid down in the judgment of Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association – (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 List of 17 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.”
(Emphasis Supplied)

9. In a nutshell, the Hon’ble Supreme Court in *Sohan Lal Sayal* (supra) upheld the Judgment passed by the Hon’ble High Court of Punjab & Haryana dated 25.11.2011 titled as “*BSNL & Ors. vs. Nandlal Jaswal & Ors.*” which affirmed the decision of the Ld. CAT, Chandigarh Bench passed on 26.05.2009 in T.A. No. 47/PB/09 (CWP No. 13898/07) titled as “*Nandlal Jaswal & Ors. vs. BSNL & Ors.*”
10. You the Noticee No. 1 belatedly, preferred several Writ Petitions before the Hon’ble High Court of Delhi assailing the Order dated 04.12.2009 passed by the Ld. CAT, Principle Bench wherein you the Noticee(s) were to abide by the decision of the Hon’ble High Court of Punjab & Haryana in *Nandlal Jaswal* (Supra), which now is affirmed in *Sohan Lal Sayal* (supra).)
11. Notably, (1) W.P. (C) No. 3076/2012 and (2) W.P. (C) No. 3077/2012 were filed on behalf of you the Noticee No. 1 against the Order dated 04.12.2009 passed in several connected applications including T.A. No: 1013 of 2009 and O.A. No. 2913 of 2009 wherein my Clients were parties.
12. It is pertinent to mention that during the pendency of *Sohan Lal Sayal* (Supra), one of the Writ Petitions filed by the Noticee No. 1 before the Hon’ble High Court of Delhi viz., W.P. (C) No. 3059/2012 titled as “*MTNL vs. Surjan Singh & Ors.*” was transferred before the Hon’ble Supreme Court being Transferred Case No. 78/2015 since the issue raised in the said Writ Petition was already being adjudicated by the Hon’ble Supreme Court in *Sohan Lal Sayal* (Supra).
13. The aforementioned Transferred Case was disposed of by the Hon’ble Supreme Court vide Order dated 22.09.2022, in the following manner:

ORDER

1. Counsel appearing on behalf of the petitioner (Mahanagar Telephone Nigam Limited) states that he has instructions to the effect that the transferred case need not be pressed. In other words, with the closure of the present proceedings, the order of the Central Administrative Tribunal, Principal Bench dated 4 December 2009, would stand.

2. *The Transferred Case is accordingly disposed of.*
 3. *Pending applications, if any, stand disposed of.*"
- (Emphasis Supplied)

14. My Clients thereafter preferred applications being CM No. 48758/2022 in W.P. (C) No. 3076/2012 titled as "*MTNL vs. BSNL MTNL's T.E.S. Group B Officer Forum & Ors.*" and CM No. 48762/2022 in W.P. (C) No. 3077/2012 titled as "*MTNL vs. H.K. Singh & Ors.*" before the Hon'ble High Court of Delhi. By way of the said application, my Clients sought disposal of the Writ Petition on the basis of the Order dated 22.09.2022 passed by the Hon'ble Supreme Court wherein the Order dated 04.12.2009 passed by CAT, Principal Bench was upheld.

15. That *vide* a common Order dated 15.11.2022, the Hon'ble High Court of Delhi was pleased to dispose of W.P. (C) No. 3076/2012 titled as "*MTNL vs. BSNL MTNL's T.E.S. Group B Officer Forum & Ors.*" and W.P. (C) No. 3077/2012 titled as "*MTNL vs. H.K. Singh & Ors.*" in the following manner:

..

ORDER

15.11.2022

1. *The instant petitions arise out of the Order dated 04.12.2009, passed by the Central Administrative Tribunal, Principal Bench, New Delhi in RA No. 196/ 2009 in OA No. 1514/ 2009 and other connected matters.*
2. *The aforesaid Order dated 04.12.2009 was passed in RA No.196/2009 in OA No.1514/2009 and other connected matters bearing OA No.2532/2009, OA No.2393/2009, OA No.2394/2009, OA No.2395/2009, OA No.2913/2009, OA No.362/2009, OA No.754/2009, OA No.2763/2009, TA No.1013/2009 and OA No.277/2009. The undisputed facts of the case reveal that a transfer petition bearing Transferred Case (Civil) No.78/2015 was preferred before the Hon'ble Supreme Court against the same Order dated 04.12.2009 passed by the Tribunal. The Hon'ble Supreme Court *vide* Order dated 22.09.2022 passed the following Order:*

"1. Counsel appearing on behalf of the petitioner (Mahanagar Telephone Nigam Limited) states that he has instructions to the effect that the transferred case need not be pressed. In other words, with the closure of the present proceedings, the order of the Central Administrative Tribunal, Principal Bench dated 4 December 2009, would stand.

2. *The Transferred Case is accordingly disposed of.*
3. *Pending applications, if any, stand disposed of.*"

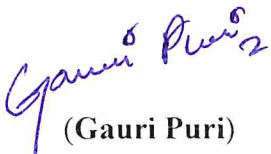
3. *The aforesaid Order passed by the Hon'ble Supreme Court makes it very clear that the Ld. Counsel for the Petitioner/MTNL stated before the Hon'ble Supreme Court that he had instructions to the effect that the transferred case need not be pressed. The Hon'ble Supreme Court after recording the same held that the Order dated 04.12.2009 passed by the Central Administrative Tribunal, Principal Bench would stand.*
4. *In light of the Order passed by the Hon'ble Supreme Court, the present writ petitions are disposed of as the Hon'ble Supreme Court held that the Order dated 04.12.2009, passed by the Central Administrative Tribunal, Principal Bench, would stand.*
5. *Pending applications, if any, stand disposed of.*
6. *The next date of hearing i.e., 07.12.2022 stands cancelled.”*
(Emphasis Supplied)

16. Now, in view of the above, the challenge to the Order dated 04.12.2009 by the Noticee No. 1 stands disposed of and you the Noticees are bound by the directions issued by the CAT, Principal Bench. As such, you the Noticees are bound by the decision of the Hon'ble Supreme Court in *Sohan Lal Sayal* (Supra).

17. Therefore, I call upon you the Noticees to immediately comply with the following decisions viz., (1) Order dated 04.09.2009 passed by the Ld. CAT, Principal Bench in R.A. No. 196/2009 (2) *Union of India & Ors. vs. Sohan Lal Sayal & Ors.* reported as (2015) 12 SCC 360 (3) Order dated 22.09.2022 passed in Transferred Case No. 78/2015 by the Hon'ble Supreme Court & (4) Common Order dated 15.11.2022 passed in W.P. (C) No. 3076/2012 & W.P (C) No. 3077/2012 and consequently, re-fix the seniority of my Client according to the qualifying year of his examination and ensure all his consequential benefits are released in his favour *vis-à-vis* their respective juniors. In the event you the Noticees fail to comply with the present Legal Notice, my Clients would then be constrained to issue appropriate contempt proceedings against you the Noticees.

18. A copy of the present Legal Notice is being retained in my office for record.

Yours Sincerely,


(Gauri Puri)

