ITEM NO.101 COURT NO.8 SECTION XIV
[PART-HEARD]

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 4389/2010

UNION OF INDIA & ORS. Appellant(s)

VERSUS

SOHAN LAL SAYAL & ORS. Respondent(s)

(With application for directions and office report)
WITH
C.A. No. 8929-8945/2012
[B.S.N.L. & ANR. V. NAND LAL JASWAL & ORS.]
(With Office Report)

T.P.(C) No. 1681/2012
[RAM SINGH V. MTNL & ORS.]
(With Office Report)

SLP(C) No. 7659-7661/2013
[BHARAT SANCHAR NIGAM LTD. AND ORS. V DHANI RAM AND ORS.]
(With Office Report)

C.A. No. 6769/2013
[B.S.N.L. & ORS. V. MANOHAR LAL & ORS.]
(With prayer for Prayer for Interim Relief and Office Report)

C.A. No. 9348/2013
[BHARAT SANCHAR NIGAM LTD. & ORS. V. NARESH BHARTI & ORS.]
(With Office Report)

S.L.P.(C)...CC No. 10360/2010
[UNION OF INDIA & ORS. V. MARIAMMA JOHN & ORS.]
(With application for condonation of delay in filing SLP and Office Report)

SLP(C) No. 3319/2012
[B.S.N.L. V. MOHAR SINGH & ORS.]
(With prayer for interim relief and Office Report)

SLP(C) No. 22462/2012
[CHAIRMAN, MANAGING DIRECTOR, BSNL AND ORS. V. VED PRAKASH AND ORS.]
(With Office Report)

SLP(C) No. 4235-4237/2013
[BHARAT SANCHAR NIGAM LTD. & ORS. V. DALWARA SINGH & ANR. ETC.]
(With Office Report)

C.A. No. 5008/2012
[PROMOTEE TELECOM ENGINEER FORUM V.B.S.N.L. & ORS.]
(With Office Report)

SLP(C) No. 5145/2012
[UOI & ANR. V. OM PRAKSH & ORS.]
(With applications for impleadment and Office Report)

Date : 21/01/2015 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Appellant(s)
IN CA 4389, SLP 3319
5145 & CC 10360 Mr. Ambar Qamaruddin, A.O.R.

IN CA 8929-45, 6769, Mr. R.D. Agrawala, Sr. Adv.
9348, SLP 7659-61, Mr. Gaurang Kanth, Adv.
22462, 4235-37 Mr. Mohit Kumar Shah, A.O.R.
Ms. Pawan Kumar, Adv.
Ms. Eshita Baruah, Adv.

IN TP 1681 Mr. Nidhesh Gupta, Sr. Adv.
Mr. Rajshekhar Rao, Adv.
Ms. Liz Mathew, A.O.R.
Ms. Gauri Puri, Adv.

IN CA 5008 Mr. V. Giri, Sr. Adv.
Mr. Sanjay Ghosh, Adv.
Mr. Gautam Narayan, A.O.R.

For Applicant(s) Mr. Sabarish Subramanian, Adv.
Mr. C.B. Gururaj, Adv.
For M/s Legion of Lawyers, Avs.

For Respondent(s)
For UOI in SLP 22462 Mr. J.S. Attri, Sr. Adv.
Mr. AK. Sanghi, Sr. Adv.
Ms. Sunita Sharma, Adv.
Ms. Rekha Pandey, Adv.
Mr. Ajay Sharma, Adv.

	Mr. D.S. Mahra, Adv.
IN CA 4389	
For RR 1-9	**Mr. Naresh Kaushik, Adv.** **Ms. Lalitha Kaushik, A.O.R.**
For RR 10-18	**Mr. C.S. Rajan, Sr. Adv.** **Mr. A. Raghunath, A.O.R.**
For RR 19-506 in CA 4389, R1 in CA 8930, 8932, 8933-35 8939-40, 8929-45 all rrs in CA 5008	**Mr. Nidhesh Gupta, Sr. Adv.** **Mr. Rajshekhar Rao, Adv.** **Ms. Liz Mathew, A.O.R.** **Ms. Gauri Puri, Adv.**
For RR 507-534	**Ms. Rani Chhabra, A.O.R.** **Ms. Priyanka Sony, Adv.**
For RR 1 & 2 in CA 6769	**Mr. Nidhesh Gupta, Sr. Adv.** **Mr. Rajshekhar Rao, Adv.** **Ms. Liz Mathew, A.O.R.** **Ms. Gauri Puri, Adv.**
For RR 1-5 in CA 9348	**Mr. Nidhesh Gupta, Sr. Adv.** **Mr. Rajshekhar Rao, Adv.** **Ms. Liz Mathew, A.O.R.** **Ms. Gauri Puri, Adv.**
For RR in CA 8929-45	**Mr. Gautam Narayan, Adv.** **Ms. Asmita Singh, Adv.**
For Rrs in SLP 3319	**Dr. Sushil Balwada, A.O.R.**
For Rrs in SLP 22462	**Ms. Rani Chhabra, A.O.R.** **Ms. Priyanka Sony, Adv.**
For Rrs in SLP 4235-37	**Ms. Rani Chhabra, A.O.R.** **Ms. Priyanka Sony, Adv.**
For RR in CA 5008	**Mr. Rajshekhar Rao, Adv.** **Ms. Liz Mathew, A.O.R.** **Ms. Gauri, Adv.**
For Rrs in SLP 5145	**Dr. Sushil Balwada, A.O.R.** **Mr. Manish Kumar, Adv.**

	Mr. Amit Kumar, Adv. **Mr. Rakesh K. Sharma, A.O.R.**
For RR 2	**Ms. Rani Chhabra, A.O.R.** **Ms. Priyanka Sony, Adv.**
For RR 59-76	**Mr. R.K. Kapoor, Adv.** **Ms. Rekha Giri, Adv.** **Mr. Anis Ahmed Khan, A.O.R.**

UPON hearing counsel the Court made the following

O R D E R

IA NO. 6 in CA Nos. 8929-8945 is allowed. Cause title be amended accordingly.

Delay condoned.

Leave granted in all the petitions for special leave.

The appeals are disposed of as indicated in the signed reportable judgment but the matters shall be listed immediately after six months on receipt of the Report from the Expert Committee solely for the purpose of passing appropriate orders based on the Report.

Transfer Petition is allowed in terms of the signed order.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER

[SIGNED ORDER IN TRANSFER PETITION AND SIGNED REPORTABLE JUDGMENT IN REST OF THE MATTERS ARE PLACED ON THE FILE.]

[PS: LEARNED COUNSEL FOR BSNL TO GIVE THE CONTACT DETAILS OF THE FORMER LAW SECRETARY WHO HAS BEEN APPOINTED AS ONE OF THE MEMBERS OF THE EXPERT COMMITTEE.]

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.4389 OF 2010

UNION OF INDIA & ORS. ..... APPELLANTS

VERSUS

SOHAN LAL SAYAL & ORS. ..... RESPONDENTS

WITH
CIVIL APPEAL No.5008 OF 2012

PROMOTEE TELECOME ENGINEERS FORUM ..... APPELLANT

VERSUS

B.S.N.L & ORS. ..... RESPONDENTS

CIVIL APPEAL NOS.8929-8945 OF 2012

B.S.N.L. & ANR. ..... APPELLANTS

VERSUS

NAND LAL JASWAL & ORS. ..... RESPONDENTS

CIVIL APPEAL No.6769 OF 2013

B.S.N.L. & ORS. ..... APPELLANTS

VERSUS

MANOHAR LAL & ORS. ..... RESPONDENTS

CIVIL APPEAL NO.9348 OF 2013

BHARAT SANCHAR NIGAM LIMITED & ORS..... APPELLANTS

VERSUS

NARESH BHARTI & ORS. ..... RESPONDENTS

CIVIL APPEAL No. 1454 OF 2015
[ARISING OUT OF S.L.P.(C) NO.3319 OF 2012]

B.S.N.L. ..... APPELLANT

VERSUS

MOHAR SINGH & ORS. ..... RESPONDENTS

CIVIL APPEAL No. 1657 OF 2015
[ARISING OUT OF SLP(C) NO.5145 OF 2012]

UNION OF INDIA & ANR. ..... APPELLANTS

VERSUS

OM PRAKSH & ORS. ..... RESPONDENTS

CIVIL APPEAL No. 1456 OF 2015
[ARISING OUT OF SLP(C) NO.22462 OF 2012]

CHAIRMAN CUMMANAGING DIRECTION,
B.S.N.L. & ORS. ..... APPELLANTS

VERSUS

VED PRAKASH & ORS. ..... RESPONDENTS

CIVIL APPEAL NOS. 1457-1459 OF 2015
[ARISING OUT OF SLP(C) NOS. 4235-4237 OF 2013]

BHARAT SANCHAR NIGAM LIMITED & ORS..... APPELLANTS

VERSUS

DALWARA SINGH & ANR ETC. ..... RESPONDENTS

CIVIL APPEAL NOS. 1460-1462 OF 2015
[ARISING OUT OF SLP(C) NOS.7659-7661 OF 2013]

BHARAT SANCHAR NIGAM LIMITED & ORS..... APPELLANTS

VERSUS

DHANI RAM AND ORS. ..... RESPONDENTS

AND

CIVIL APPEAL NO. 1453 OF 2015
[ARISING OUT OF SLP(C) NO. 3923 OF 2015]
[ARISING OUT OF CC NO.10360 OF 2010]

UNION OF INDIA & ORS. ..... APPELLANT

VERSUS

MARIAMMA JOHN & ORS. ..... RESPONDENTS

J U D G M E N T

FAKKIR MOHAMED IBRAHIM KALIFULLA J.

1. We shall deal with the judgment impugned in the Civil Appeal Nos. 8929-8945 of 2012 for the purpose of referring to the facts as well as the date of judgments of this Court which were either followed or referred to or relied upon by the Tribunal as well as the Division Bench. Further, the issue involved in all connected appeals are also identical though some of the appeals have been preferred against the judgments of other High Courts namely, the High Courts of Himachal Pradesh, Punjab and Haryana, Jammu and Kashmir, Kerala, Rajasthan and Madhya Pradesh. There is a transfer petition seeking transfer of a Writ Petition pending before the High Court of Delhi to this Court wherein identical issue is stated

to be involved.

2. The core issue pertains to the rights of thousands of Junior Telecommunication Officers known as J.T.O. also called Junior Engineers to the next higher post of Sub-Divisional Engineer, also known as, Assistant Engineers and the criteria to be applied namely, whether the order of passing a departmental qualifying examination or the relevant recruitment order/order of entry for the purpose of determining seniority *inter se*. **The issue was earlier dealt with by the Allahabad High Court which came to be considered by this Court and ultimately by a judgment of this Court dated 8th April, 1986, it was held that the order of passing departmental qualifying examination should be the criteria for drawing the Select List for promotion. Subsequently, by the judgment of this Court in** *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association – (1997) 10 SCC 226*, **this Court held that the order of recruitment/order of entry should be the criteria for promotion.**

3. By virtue of such diametrical opposite views expressed by this Court in the judgment dated 8th April, 1986 and the one reported in *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social*

Welfare Association – (1997) 10 SCC 226 **which came to be delivered on 13th February, 1997, a question arose as to which of the criteria has to be uniformly applied for effecting the promotion from the post of Junior Engineer to the post of Assistant Engineer. In such a situation, after the judgment of this Court reported in** *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association – (1997) 10 SCC 226*, **an interlocutory application was filed in this Court viz., IA No.2 of 1999. The said IA was disposed of along with Contempt Petition (C) No.121 of 1999 and connected C.A. Nos. 6485-86 of 1998 as well as IA Nos. 4 and 5 of 1999 in the said Civil Appeals. The said detailed judgment came to be rendered on 26th April, 2000 reported in** *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association* – (2000) 9 SCC 71 **and it will be relevant to refer to the said judgment in the forefront as that would form the basis for our conclusion in this batch of cases.**

4. Relevant paras of the said judgment are extracted hereinbelow:-

> *"17. ….....In accordance with the prescribed procedure for preparation of eligibility list, notified by the Government on 28.6.1996, the Departmental Promotion Committee has to prepare*

separate lists for each year of recruitment in the feeder category. In other words, if in 1958, the Departmental Promotion Committee has to prepare separate lists for each year of recruitment in the feeder category. In other words, if in 1958, the Departmental Promotion Committee is recommending people for promotion to Class II, then all the eligible candidates who had passed the departmental examination and were recruited in the year 1951 and so on and so forth. Once, separate lists are prepared by the Departmental Promotion Committee of the officers recruited indifferent recruitment years in the feeder category and the criterion for promotion being seniority-cum- fitness, then it would create no problem in promoting the officers concerned. As to the inter se position of the officials belonging to the same year of recruitment in the feeder category, the procedure to be adopted has been indicted in para (999) of the memorandum dated 28.6.1966. In this view of the matter, we are of the considered opinion that the judgment of this Court in Civil Appeal No. 4339 of 1995 has rightly been decided in interpreting the relevant provisions of the Recruitment Rules read with the procedure prescribed under the memorandum dated 28.6.1966. We, however, make it clear that the persons who have already got the benefit like Parmanand Lal and Brij Mohan by virtue of the judgments in their favour, will not suffer and their promotion already made will not be affected by this judgment of ours.

19..... We have also indicated that the promotions already effected pursuant tot e judgment of the Allahabad High Court, which was upheld by this Court by dismissing the special leave petition filed by the Union of India, will nto be altered in any manner. This being the position and the judgment of the Allahabad High Court in favour of Parmanand Lal having attained finality, he having received the benefit of the said judgment and having been promoted, could not have been reverted because of some later judgments and directions given either the tribunals or by this Court."

(emphasis added)

5. Having regard to the above referred two paragraphs

set out after considering the earlier judgment of this Court dated 8th April, 1986 and the one rendered on 13th February, 1997, what emerged was that the persons who also got the benefit at par with the appellants covered by the order of this Court dated 8th April, 1986; namely, *Paramanand Lal v. Brij Mohan;* **by virtue of the judgments in their favour held not to be affected and their promotions already made should not be interfered with. The said position was again reiterated in IA No.16 in C.A. No.4339 of 1995 dated 28.09.2006 reported as** *Union of India v. Madras Telephone SC & ST Social Welfare Assn.* - (2006) 8 SCC 662**. Paras 19 and 21 of the said judgment are relevant for our purpose which read as under:**

> *"19. We, therefore, direct that such of the applicants whose seniority had been determined by the competent authority, and who had been given benefit of seniority and promotion pursuant to the orders passed by courts or tribunals following the principles laid down by the Allahabad High Court and approved by this Court, which orders have since attained finality, cannot be reverted with retrospective effect. The determination of their seniority and the consequent promotion having attained finality, the principles laid down in later judgments will not adversely affect their cases.*
>
> *21. Having regard to the above observations and clarification we have no doubt that such of the applicants whose claim to seniority and consequent promotion on the basis of the principles laid down in the Allahabad High Court's judgment in Parmanand Lal Case have been upheld or recognised by the Court or the Tribunal by judgment and order which have attained finality will not be adversely affected by*

the contrary view now taken in the judgment Madras Telephones. Since the rights of such applicants were determined in a duly constituted proceeding, which determination has attained finality, a subsequent judgment of a court or Tribunal taking a contrary view will not adversely affect the applicants in whose cases the orders have attained finality. We order accordingly." (Emphasis added)

6. Subsequently, arising out of the said judgment reported in *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association* – (2006) 8 SCC 662 **a contempt proceeding was initiated in Contempt Petition (C) No.248 of 2007 in IA No. 16 in C.A No.4339 of 1995 in which an order came to be passed in the judgment reported in** *Promotee Telecom Engineers Forum and Others v. D.S. Mathur, Secretary, Department of Telecommunications* - **(2008) 11 SCC 579. In para 21 of the said judgment the following direction has been issued:**

"21. We, therefore, direct that the respondents shall rearrange the seniority in terms of the principles laid down in Parmanand Lal case restoring their earlier position and shall not put any employee over and above the present petitioners on the basis of the seniority in service in the entry year, more particularly S/Shri Belani, Biradar and Kulkarni shall not be put over and above the petitioners herein. This shall be done within 8 weeks from the date of this judgment."

7. It must be stated that whatever benefit granted pursuant to the above judgment namely *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes*

Social Welfare Association – (2006) 8 SCC 662 **and** *Promotee Telecom Engineers Forum and Others v. D.S. Mathur, Secretary, Department of Telecommunications* - **(2008) 11 SCC 579 can be sufficiently safeguarded while passing orders ultimately in this batch of cases.**

8. As far as the present challenge made in these appeals are concerned, it would suffice for us to confine to the principle clearly set out in the above referred to extracted paras 17 and 19 of the judgment reported in *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association* – (2000) 9 SCC 71.

9. Keeping the above-said principles in mind, when we examine the judgment in these main appeals what is required to be noted is the order of the Tribunal dated 28th February, 1992 of the Punjab Bench of the Central Administrative Tribunal. Subsequent to the confirmation of the judgment of the Allahabad High Court by the order of the Supreme Court dated 8th April, 1986, the private respondents herein namely, respondent Nos. 1 to 512 approached the Tribunal seeking for extension of the very same benefit which was conferred on similarly situated persons covered by the order of this Court dated 8th

April, 1986. When the Tribunal was dealing with their claims, the appellants herein filed an Undertaking dated 27th February, 1992 which was as under:-

> *"The anomaly in seniority of TES Group B has arisen of (as?) a consequence of implementation of the decision of CAT Principal Bench, New Delhi dated 07.06.1991.... in respect of the petitions in the said OAs which in other words is implementation of the said decision in respect of limited No. of TES Group B Officers who have gone to Hon'ble Tribunal instead of its implementation to the entire order of TES Group B." and that therefore, in view of the "Supreme Court decision upholding the decision of Principal Bench, the proposal revise the seniority of entire TES Group B officers as per para 206 of P& T Manual Vol. IV is under consideration of the Deptt. Since the cadre of TEA, Group B exceeds 10000, the entire exercise of collecting/compiling/organisation the information is likely to take at least six months time. The exercise has already been initiated. The names of petitions would be accordingly placed, in TES, Group B seniority list and thereafter would be considered for further promotion according to revised list in accordance with rules, availability of vacancies and on the basis of recommendations of DPC."*

10. By virtue of the said specific categoric stand taken by the Department of Telecommunication viz., the predecessor of the appellant, the Tribunal passed its order dated 28th February, 1992 holding as under:-

> *"2. It is clear from what we have extracted above that the respondents have taken a firm decision to give effect to the principle laid down by the decision of the Tribunal which decision stands affirmed by the Supreme Court, by reviewing the promotions of everyone who is similarly situated and not confining it only to those who approached the court for relief. They have conceded that they*

made a mistake in limiting their attention in the matter of giving deemed dates of promotion only to those who obtained orders from the Tribunal and ignoring the cses of others similarly situated only because they had not secured similar orders from the Tribunal. Now they hve realized that once the principle has been laid down by the Tribunal which is of general application, it is their duty tomake a comprehensive review in respect of everyone who is similarly situated whether all of them have obtained orders from the Tribunal or not. The attitude now taken which is reflected in what we have extracted above is correct. That is the only way of satisfactorily giving effect to the principle laid down by the Tribunal in various cases, including those enforcement of which has been sought in these contempt of court petitions. The respondents have stated that though steps have been initiated having regard to the fact that they have to review the cases fo nearly ten thousand persons, the exercise is likely to take about six months' time. They have further stated that after the revised seniority list is prepared, according of further promotion on the basis of the revised seniority list and following the relevant rules would be made on the basis of the recommendations of the DPC.

As right steps have now been taken, there should not be any need for other similarly situated to rush to the Tribunal for grant of relief as they would all get relief by application of the same principle, whether or not they approached the Tribunal and secured orders in their favour...

4. …. A copy of this order be also circulated to other courts in the principal bench dealing with other matters in which similar relief is claimed on the original side."[emphasis added.]

11. Thus, the claims of the private respondents 1 to 511 herein along with thousands of similarly situated Junior Engineers came to be dealt with by the appellant and it is common ground that their seniority was determined in the year 1993, which was reflected in

different lists numbering 17 covering several thousands of employees.

12. While that be so, after the order of this Court passed in IA No. 2 of 1999 reported in *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association* – (2000) 9 SCC 71**, for reasons best known to the Department, the appellant took certain steps by which whatever seniority which was determined in the year 1993 and covered by the 17 lists were stated to have been reversed and a different set of officers were favoured with seniority and promotions. When such a step was taken at the instance of the appellant, challenges were made before the Tribunal by those who were aggrieved and who were part of the List containing 17 in number drawn in the year 1993. While dealing with their grievances, the Tribunal by its order dated 26th May, 2009 passed in T.A. No. 47/PB/09, interfered with the subsequent action of the appellant in having re-determined the Seniority of the members in the 17 Lists drawn in the year 1993. The appellant approached the Punjab and Haryana High Court by way of a writ petition in which the present impugned order came to be passed on 25th November, 2011 holding that the view taken**

by the Tribunal was perfectly justified and there is no scope for interference. Aggrieved by the said decision of the High Court the B.S.N.L. is before us.

13. We heard learned senior counsel Mr. R.D. Agarwala, for B.S.N.L., 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 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.**

14. Even after holding so, we find that the matter does not rest there. As referred to earlier, subsequent to the judgments of this Court which clarified the position while applying the judgment in *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association – (1997) 10 SCC 226*, **namely, the one reported in** *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association* – (2000) 9 SCC 71 **there were two other judgments with**

reference to the very same issue which were reported in *Union of India v. Madras Telephone SC & ST Social Welfare Assn.* - (2006) 8 SCC 662 **and** *Promotee Telecom Engineers Forum and Others v. D.S. Mathur, Secretary, Department of Telecommunications* - **(2008) 11 SCC 579. In fact the rights of the applicants at the instance of the applicants in IA 16 in CA No. 4339 of 1995 were considered in the judgment reported in** *Union of India v. Madras Telephone SC & ST Social Welfare Assn.* - (2006) 8 SCC 662**. Having got the benefit under the said order a contempt petition came to be filed at their instance which came to be disposed of as per the judgment reported in** *Promotee Telecom Engineers Forum and Others v. D.S. Mathur, Secretary, Department of Telecommunications* - **(2008) 11 SCC 579.**

15. While dealing with their stand it was clearly directed as under in paragraph 21.

> *"We, therefore, direct that the respondents shall rearrange the seniority in terms of the principles laid down in Parmanand Lal case restoring their earlier position and shall not put any employee over and above the present petitions on the basis of the seniority in service in the entry year, more particular S/Shri Belani, Biradar and Kulkarni shall not be put over and above the petitioners herein. This shall be done within 8 weeks from the date of this judgment."*

16. Mr. V. Giri, learned senior counsel appearing for those who were aggrieved by the impugned judgment submitted that any orders passed herein should not affect their rights.

17. Having noted the above features, we wish to refer to the submissions of Mr. Agarwala, learned senior counsel appearing for the B.S.N.L. who submitted that after the reversal of the 17 Seniority Lists drawn in the year 1993, which took place in the year 2000, a different course was adopted applying the principle laid down in the judgment reported in *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association – (1997) 10 SCC 226* **and that such promotions effected remains in force for the past nearly 15 years covering not less than 10,000 employees.**

18. Learned senior counsel, therefore, submitted that even if the present impugned judgment of the Punjab and Haryana High Court affirming the order of the Tribunal dated 26th May, 2009 is to be implemented, the same would have far reaching consequences affecting the rights of not less than 8000 employees who were covered by the 17 lists drawn in the year 1993 on the one side and nearly about 10,000 employees who were given the benefit of

promotions subsequent to the order of *Union of India v. Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association* – (2000) 9 SCC 71.

19. On this, we heard Mr. Nidhesh Gupta, learned senior counsel for the private respondents and Mr. V. Giri, counsel appearing for the Telecom Forum. We are of the considered opinion that in the interest of the institution namely, the appellants as well as the large number of employees whose grievances are to be sufficiently examined, considered and safeguarded with minimum disturbance in the matter of fixing their seniority as well as promotions already granted in their favour or to be restored as per this judgment, a detailed consideration of the respective stand requires to be made. Since such an exercise would involve consideration of very many factors involving several thousand employees and in order to balance the rights of both the groups, we feel it appropriate to entrust the said exercise to be carried out by an independent Expert Committee preferably to be headed by a retired Judge of the High Court, with the assistance of a retired Member of the Central Administrative Tribunal based on the principles laid down in the various judgments. The learned counsel appearing

for the appellants and the respondents also submitted that such a course would amicably resolve the crisis.

20. We, therefore, constitute an Expert Committee consisting of 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 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 and Others v. D.S. Mathur, Secretary, Department of Telecommunications* - **(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.**

21. We only direct that let both the groups be represented by a representative body of not more than two along with their lawyers on either sides in order to ensure that the Expert Committee is able to deal with the issue without much protraction and confusion apart from the representation of lawyers on behalf of the appellants. It will be appreciated if the Expert Committee carries out the exercise and submit its Report to this Court within a period of six months.

22. We leave it open to the Chairman of the Expert Committee to determine the remuneration for himself, the other member and the junior counsel which shall be paid

by the appellant B.S.N.L. It is also left to the Chairman to appoint one or two junior counsel of his choice to render necessary assistance for holding the proceedings as well as for the preparation of the Report. It is also left to the Chairman of the Expert Committee to decide the venue for their hearing. It is needless to state that B.S.N.L. should pay all their travel and hospitality and other expenses of the Members of the Expert Committee as well as their junior counsel and other assistants.

23. Intervenors who are stated to be applicants in IA No.2 in SLP(C) NO. 5145 of 2012 are given liberty to represent before the Expert Committee and the Expert Committee take their stand also into account and their grievances and if it requires to be dealt with and any relief to be granted in their favour the same may be set out or else state the grounds for rejection. We leave it open to the Expert Committee to seek for any further directions from this Court if need be.

24. IA Nos.5,6 and 7 in CA No. 1657 of 2015 @ SLP(C) No. 5145 of 2012 are allowed. Cause title be amended accordingly.

25. Leave granted in all the petitions for special

leave.

26. The appeals are disposed of as indicated above but the matters shall be listed immediately after six months on receipt of the Report from the Expert Committee solely for the purpose of passing appropriate orders based on the Report.

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI
JANUARY 21, 2015.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION © NO. 1681 OF 2012

RAM SINGH ….. PETITIONER

VERSUS

M.T.N.L. & ORS. ….. RESPONDENTS

O R D E R

This Transfer Petition has been filed seeking transfer of Writ Petition (C) No. 3059 of 2012 titled *Mahanagar Telephone Nigam Limited v. Sujan Singh & Ors.* pending before the High Court of Delhi at New Delhi to this Court to be heard along with Civil Appeal No. 5008 of 2012.

By a separate order, the aforesaid Civil Appeal has been heard and disposed of along with other similar matters. This Transfer Peittion is de-linked from the above batch of matters. The records of the aforesaid case be called for from the High Court.

List it immediately after the records are received and numbered.

The Transfer Petition is allowed on the above terms.

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI
JANUARY 21, 2015.