

**COMMITTEE ON THE WELFARE OF  
SCHEDULED CASTES AND  
SCHEDULED TRIBES**

**(2020-2021)**

**(SEVENTEENTH LOK SABHA)**

**THIRD REPORT**

**ON**

**MINISTRY OF COMMUNICATIONS  
(DEPARTMENT OF TELECOMMUNICATIONS)**

**"Ways and Means to ensure reservation for SCs and STs in the light of privatisation, outsourcing of work and contractual employment in Government Services, PSUs and Autonomous Bodies with special reference to Bharat Sanchar Nigam Limited".**

**Presented to Lok Sabha on 16.09.2020**

**Laid in Rajya Sabha on 16.09.2020**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**16 September, 2020 / Bhadrapada, 1942(Saka)**

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**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED CASTES  
AND SCHEDULED TRIBES (2020-21)**

**Dr.(Prof.) Kirit Premjibhai Solanki - Chairperson**

**MEMBERS - LOK SABHA**

2. Shri Narayana Swamy Abbaiah
3. Shri Girish Chandra
4. Shri Santokh Singh Chaudhary
5. Shri Tapir Gao
6. Shri Saumitra Khan
7. Ms. Goddeti Madhavi
8. Smt. Pratima Mondal
9. Shri Ashok Mahadeorao Nete
10. Shri Vincent H. Pala
11. Shri Chhedi Paswan
12. Shri Prince Raj
13. Shri Andimuthu Raja
14. Shri Upendra Singh Rawat
15. Smt. Sandhya Ray
16. Shri Ajay Tamta
17. Shri Rebati Tripura
18. Shri Bishweswar Tudu
19. Shri Krupal Balaji Tumane
20. Shri Bhanu Pratap Singh Verma

**MEMBERS - RAJYA SABHA**

21. Shri Abir Ranjan Biswas
22. Shri N. Chandrasegharan
23. Smt. Kanta Kardam
24. Shri Ram Shakal
25. Shri K. Somaprasad
26. Shri Kamakhya Prasad Tasa
27. Shri Ramkumar Verma
28. Vacant
29. Vacant
30. Vacant

**SECRETARIAT**

- |    |                      |   |                  |
|----|----------------------|---|------------------|
| 1. | Shri D.R. Shekhar    | - | Joint Secretary  |
| 2. | Shri A.K. Srivastava | - | Director         |
| 3. | Shri V.K. Shailon    | - | Deputy Secretary |
| 4. | Shri L. Singson      | - | Under Secretary  |

## INTRODUCTION

I, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the Report on their behalf, present this Third Report (Seventeenth Lok Sabha) on the subject "Ways and Means to ensure reservation for SCs and STs in the light of privatisation, outsourcing of work and contractual employment in Government Services, PSUs and Autonomous Bodies with special reference to Bharat Sanchar Nigam Limited " pertaining to the Ministry of Communications (Department of Telecommunications).

2. The Committee took evidence of the representatives of the Ministry of Communications (Department of Telecommunications) and Bharat Sanchar Nigam Limited (BSNL) on 14.08.2019, 22.08.2019 and 28.11.2019. The Committee wish to express their gratitude to the officers of the Ministry of Communications (Department of Telecommunications) and Bharat Sanchar Nigam Limited (BSNL) for placing before the Committee the material and information the Committee required in connection with the examination of the subject.

3. The Report was considered and adopted by the Committee on 18.08.2020.

4. A summary of conclusions/recommendations contained in the Report is appended (Appendix-III).

New Delhi;  
16 September, 2020  
Bhadrapada, 1942(Saka)

**DR.(Prof.) KIRIT P. SOLANKI**  
Chairperson,  
Committee on the Welfare of  
Scheduled Castes and  
Scheduled Tribes.

## CHAPTER - I

### REPORT

#### A. Genesis

The Committee on the Welfare of Scheduled Castes and Scheduled Tribes had presented in Parliament its eleventh report (16<sup>th</sup> Lok Sabha) on 12.04.2017 on the subject “Reservation for and Employment of Scheduled Castes and Scheduled Tribes in Bharat Sanchar Nigam Limited (BSNL)”. Subsequently, the action taken replies received from BSNL were examined and the Committee had presented its Action Taken Report as 21<sup>st</sup> Report (16<sup>th</sup> Lok Sabha) in Parliament on 16.03.2018. Thereafter, it came to notice of the Committee through a representation dated 11.09.2018 by SC/ST Employees Welfare Association of BSNL (SEWA) that the grievances of the SC and ST employees of BSNL had not been redressed appropriately by the management and rather they were being placed at disadvantageous position. In the meantime, Supreme Court on 17.05.2018 had also given some direction based on which DoPT had issued the clarificatory order on 15.06.2018 which were to be followed by all the Government Departments in promotion cases. In these circumstances and also as follow up of their earlier recommendations, the Committee decided to hold meeting with the management of BSNL to discuss all these issues so that SC/ST employees are not discriminated and are given some benefits as per their mandatory entitlement. In this connection, the issues were discussed in the sittings of the Committee held on 19.09.2018, 18.12.2018 and 06.03.2019. The Committee in their sitting held on 06.08.2019 selected various subjects including “Ways and means to ensure reservation for SCs and STs in the light of privatization, outsourcing of work and contractual employment in Government services, PSUs and autonomous bodies” for detailed examination and report. In the subsequent meetings held on 14.08.2019, 22.08.2019 and 28.11.2019, the Committee discussed and deliberated on some of the issues pertaining to the above subject. The present report therefore, deals with follow-up on some issues pertaining to their 11<sup>th</sup> and 21<sup>st</sup> report (16<sup>th</sup> Lok Sabha) and also the issues under the subject as mentioned above, which is under examination by the Committee.

The Committee have thus examined these issues in the succeeding paragraphs in the report.

## **B. BSNL - Background**

2. Bharat Sanchar Nigam Limited (BSNL) came into existence on 1<sup>st</sup> October 2000. It took over business of providing telecom services and network management from the erstwhile Central Government Department of Telecom Services (DTS) and Department of Telecom Operations (DTO) on ongoing basis. It is one of the largest and leading public Sector unit providing comprehensive range of telecom Services in India. BSNL has installed Quality Telecom Network in the country and is now focusing on strengthening & expanding the network, introducing new telecom services with Information & Communication Technology (ICT) applications in villages & continue to win customer confidence. BSNL provides complete bouquet of telecom services viz Wire-line, Wireless in local loop (WLL), Global system of Mobile (GSM) Services including 3 G & Value added Service (VAS), Broad Band (BB) services including Fibre to the Home (FTTH), IN services, Enterprise Data Service, Data Centre Services, National Long Distance Service/International long distance service.

## **C. Organizational Set-up**

3. The Committee have been informed that the Corporate structure of BSNL Board consists of Chairman cum managing Director (CMD) and five full time Directors viz. Director (Consumer Fixed Access), Director (Consumer Mobility), Director (Enterprise), Director (Human Resource) and Director (Finance). Besides, there are two part time nominee Directors from the Government (DoT) and four part time independent Directors. On being enquired about the representation of SC/ST on the Board of the organisation, the representative of BSNL informed the Committee in its sitting held on 19.09.2018 as under:

“दूसरा प्रश्न बीएसएनएल बोर्ड में एससी/एसटी की संख्या के बारे में पूछा गया है। आप लोगों ने जितनी भी मीटिंग की हैं, उनमें मैं स्वयं भी उपस्थित रहा हूँ। राजा साहब,

पुनिया जी और कुलस्ते जी ने भी यह प्रश्न किया है, सभी माननीय सदस्यों ने यह प्रश्न किया है। मैंने यह पूरी प्रक्रिया भारत सरकार को बता दी है। इसमें जो भी सेलेक्शन होता है, वह भारत सरकार के नियमों के अनुरूप होता है। हम ने यह प्रक्रिया इनको बता दी है कि ऐसा कमेटी के माननीय सदस्य का रिक्मेंडेशन है और आप नियमों में परिवर्तन करके हमें बताइए। पीईएसबी के डायरेक्टर का जो सेलेक्शन होता है, इसमें यह प्रश्न भी किया गया था कि बोर्ड के कितने मैम्बर्स हैं। बोर्ड के छह मैम्बर्स हैं और आज के समय में केवल तीन सदस्य काम कर रहे हैं। जहां तक प्रतिशत की बात है तो हमारे बोर्ड में पूरे सदस्य भी नहीं हैं। Instead of six members, there are only one CMD and two Directors. This is the strength of the Board at this point of time”.

#### **D. Representation of SCs/STs in BSNL**

4. According to written reply received, BSNL is following guidelines scrupulously on reservation policies on SCs & STs in direct recruitment and promotions as issued by Government of India from time to time and BSNL is also providing all the concessions and relaxations to all these under privileged sections as per rules. At present, BSNL is facing acute financial crisis and Government has approved its revival plan, as a part of which 'Voluntary Retirement Scheme' is under implementation. Owing to which no recruitment is being done. Due care of shortfall of SC/ST category will be taken in future recruitment as and when it is done. The Committee were also informed that the representation of SCs & STs in BSNL as on November, 2019 was as under:

<b>Grade</b>	<b>Total</b>	<b>SC</b>	<b>%age of SC</b>	<b>ST</b>	<b>%age of ST</b>
Executive	44983	8035	17.86	2705	6.01
Non-Executive	108839	20390	18.73	5819	5.35
Grant total	153823	28425	18.48	8524	5.54

#### **E. Promotion from AO to CAO**

5. In response to queries raised by the Committee on promotion from AO to CAO, the BSNL in a written reply has submitted the position of promotion case from AO to CAO as under:

“The Hon’ble CAT, Chandigarh restrained BSNL from making any further promotion to the grade of CAO vide order dated 28.03.2017. Subsequently, the same was vacated vide order dated 07.09.2018. The case of Sh. Prakash Vir is still sub-judice and the next date of hearing is on 02.03.2020. Subsequent to vacation of stay, the exercise of promotion of Accounts Officer (AO) to Chief Accounts Officer(CAO) was carried out vide order dated 20.11.2018 in which 378 AOs were promoted on regular basis and 90 AOs on adhoc basis. While granting promotion vide order dated 20.11.2018, it was decided that the application of ‘Own Merit’ concept in the matter of promotion of AO to CAO would be postponed till clarity on the matter emerges, and matching number of seats would be kept vacant in view of the fact that application of own merit concept in promotion of SDEs(T) to DEs(T) issued vide order dated 29.06.2018, had resulted in filing of contempt case in CAT Chandigarh. In order to avoid any possibility of cases of contempt of court, it was considered by the Corporate Promotion Committee (CPC) to restrict the percentage of Schedule Caste and Scheduled Tribe to 15% and 7.5% respectively. While doing so, it emerged that 33 senior SC candidates were omitted and their junior General category candidates were promoted. It is pertinent to mention here that seniority of reserved category candidates i.e. consequential seniority resulting from reservation in previous promotion (to the AO grade which is feeder grade for CAO) of the reserved category candidates is also under challenge in Hon’ble CAT Chandigarh. The outcome of this court case may affect either way the seniority of the aforesaid left out candidates. Therefore, the promotion order dtd 20.11.2018 was issued subject to any modification or direction which may be issued by courts dealing with the subject matter”.

6. While during the discussion held on 18.12.2018, the representative of the Department of Personnel & Training (DoPT) has deposed before the Committee as under:

“सर, डीओपीटी ने हमारा जो लेटेस्ट ओ.एम. जारी किया है, उसमें हमने तो यह कहा है कि सुप्रीम कोर्ट का जो ऑर्डर है, उसका पालन होना है”।

“अब सुप्रीम कोर्ट के दो लेटेस्ट जजमेंट्स हैं, जिनको हमने लास्ट ओएम में साइट किया है। एक कहता है, वह ऑपरेटिव पोर्शन में पढ़ देता हूँ “It is directed that the pendency of this SLP will not stand in the way of Union of India taking steps for the purpose of promotion from ‘reserved to reserved’ and ‘unreserved to unreserved’ and also in the matter of promotion on merits..” “Post for further orders after summer vacation.”

“दूसरा जो ऑर्डर दिया गया था “Heard learned counsel for the parties; learned ASG has referred to order dated 17.05.2018 in SLP(C) No.30621/2011. It is made clear that the Union of India is not debarred from making promotions in accordance with law, subject to further orders, pending further consideration of the matter.” जब तक सुप्रीम कोर्ट फाइनल डिसिजन नहीं ले लेता है, तब तक हमने कहा है कि promotion from reserved to reserved, from unreserved to unreserved and on merit should continue, लेकिन एक ही चीज़ लिखा है कि this is subject to the final outcome of the Supreme Court order. सर, अब सुप्रीम कोर्ट में जो ऑर्डर है, उसमें ऑलमोस्ट 80 केसेज टैग हुए हैं और वह सुप्रीम कोर्ट के सामने अभी पड़ा हुआ है, तब तक यह जारी रहेगा। इसमें हम और कुछ खुलासा कर नहीं पा रहे हैं, क्योंकि उसका फाइनलिटी रीच नहीं हुआ है। 80 केसेस टैग हुए हैं और वे सारे सुनवाई में हैं। इन द मीनटाइम नागराज वाले केस में भी जजमेंट आ गया है। उसके बेसिस पर हर एक केस अनटैग होगा और उस पर फिर फैसला सुनाया जाएगा, तब तक यही ओएम हम जारी रखेंगे। इसमें ज़्यादा हम कुछ कह नहीं सकते हैं, क्योंकि सुप्रीम कोर्ट का वैरी क्लियर ऑर्डर यही है कि जब तक फाइनल फैसला नहीं हो जाता है, तब तक इसको कंटीन्यू रखिए subject to the final outcome of the case. यह हमारा स्टैंड है”।

7. Further, during the discussion held on 06.03.2019 the representative of the BSNL has also stated as under:

“Sir, we will take a decision on this without making any further discussion on this. I would like to state on behalf of BSNL that we will be taking time up to 31st March and before 31st March we will be issuing the orders subject to the stipulation of DoPT and the Law Ministry”.

“There was an issue that a few senior SCs/STs candidates have been left out in the DPC. As desired by the Parliamentary Committee, the cases of

all the senior left out candidates were reviewed and a reviewed DPC was held on 30th of January, that is, before 31st January as per the assurance given by the CMD of the BSNL before this Committee. Although we did the DPC, we were unable to declare the results of the DPC because the promotion order could not be issued due to a stay in the CAT in Chandigarh”.

8. In a written reply furnished to the Committee, BSNL has informed that as per the directions of Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, a letter was issued to Secretary, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) and the Secretary, Ministry of Law & Justice (Department of Legal Affairs), inter alia, for seeking their opinion on whether matter already decided by the Supreme Court, whether interim or final, can be stayed by any other subordinate courts including CAT and if so, under what provision of law; and also whether the subordinate courts including CAT can issue contempt order in a matter that have already dealt within Supreme Court judgement and if so, under what provision of law can it do so.

9. In this regard, the Ministry of Law & Justice has stated/replied as under:  
“As per practice, we do not entertain any reference received directly from offices/ Organizations and examine the references received from Union Government’s Ministries/ Departments. In view of the above, it is requested that the matter may be processed through Department of Telecommunication”.

10. However, Department of Telecommunications (DoT) SCT branch vide its letter dated 20.09.2019 addressed to Secretary, Ministry of Law and Justice (Department of Legal Affairs) has requested that in consultation with the Ld. Attorney General their valuable legal opinion on the specific clarifications sought by the Parliamentary Committee on Welfare of SCs and STs may be provided on utmost priority.

11. Further, it has been informed that DoT vide its letter dated 04.10.2019, intimated that DoP&T has asked to forward the proposal in the form of self contained note as per the procedure laid down vide their OM dated 28.10.2015. Accordingly, the BSNL vide letter dated 18.11.2019 has issued a letter to DoT in the form of self contained note, including the above point to seek legal opinion from DoPT in consultation with Ministry of Law and simultaneously Ld. Attorney General of India in the matter. The reply in this regard is still awaited from them.

12. The Committee have been also informed that BSNL filed writ petition No. 9614/2019 before Hon'ble Punjab & Haryana High Court, Chandigarh seeking relief to vacate the status quo order dated 30.11.2018 passed by Hon'ble CAT, Chandigarh Bench. Both the cases i.e. original application before Tribunal and writ petition before High Court were listed for hearing on 29.08.2019 and 17.09.2019 respectively. On being enquired about the outcome, the Committee was informed that the Hon'ble High Court on 17.09.2019 has adjourned the matter with a direction to file the rejoinder by the respondents (Sh. Anupam Yadav & Ors). The matter was posted for hearing on 13.11.2019. On 13.11.2019, the matter could not reach for hearing and posted for further hearing on 28.01.2020.

13. The original application(OA) was listed for hearing in the Tribunal on 27.11.2019. However, no orders were passed in both the above OA & WP(C). The final judgement of Hon'ble High Court of Punjab & Haryana & Hon'ble CAT Chandigarh is yet to be pronounced.

14. In this connection, the BSNL vide letter No. 60-11/2019-SCT/113 dated 6th March, 2020 has informed the Committee the latest status report of various cases pending in Hon'ble High Court of Punjab & Haryana and CAT Chandigarh pertaining to promotions of SC/ST employees. In the case of CWP 9614-2019 filled by BSNL against Anupam Yadav and others in the High Court of Punjab challenging the interim order dated 30.11.2018 and the subsequent interim order dated 19.03.2019 passed in Original Application Nos. 60/1435/2018 titled as "Anupam Yadav and another v/s Bharat Sanchar Nigam Limited" the Hon'ble

High Court observed that keeping in view the totality of facts and circumstances as well as the conceded fact the pleadings before the learned CAT in the aforesaid application as complete and fixed next hearing on 26.03.2020 and also deemed it appropriate to dispose of the present writ petition with direction to the learned CAT to decide at least the application moved by the BSNL for vacation/modification of the initial impugned orders within 15 days of next hearing. In OA No. 060/1435/2018 filed by Shri Anupam Yadav before CAT Chandigarh, the case is adjourned to 26.03.2020. As regards WP (Civil) No. 9314/2019 filed by BSNL in Hon'ble HC Punjab & Haryana against Interim Order of Status Quo dated 30.11.2018 of CAT Chandigarh in OA No. 1435/2018, the learned CAT is also requested to make an endeavour to dispose of the main original application at the earliest and accordingly the case is disposed. In OA No. 060/332/2017 filed by Prakash Vir in Hon'ble CAT Chandigarh the matter posted for 02.03.2020 was preponed to 25.02.2020 and disposed. However, CAT orders is yet to be received.

#### **F. 'Own Merit' Concept**

15. In reply to a query on the total strength of SC/ST officials supposed to be promoted on merit after final judgement of Hon'ble Punjab and Haryana Court and CAT, it has been stated that a total of 120 SC category & 2 ST officers were supposed to be promoted on merit. It was further informed that in respect of 33 SC candidates (on seniority), review DPC had already been done on 30.1.2019. In an earlier promotion of SDE(T) to DE(T), Hon'ble CAT Chandigarh while hearing contempt petition of Ramesh Kumar against the then CMD, BSNL & the then Director(HR), had observed that BSNL has committed contempt by giving reservation to SCs & STs candidates more than the constitutional provisions of 15% & 7.5% respectively. The Committee was further informed that due to consideration of own merit concept, number of SC/ST candidates in promotion became more than 15% & 7.5% respectively, which is under challenge before Hon'ble CAT Chandigarh. Under these circumstances, to avoid any possibility of contempt of court, a considered decision was taken by the management keeping in abeyance the application of own merit concept till the clarity on the issue emerges by taking legal opinions from Additional Solicitor General/Solicitor

General in the matter. So, the promotion order in respect of 33 SC candidates could not be issued.

16. To safeguard the interest of SC/ST candidates, a total number of 124 posts have been kept vacant that may be used to comply the own merit concept if final decision from Hon'ble CAT/DoPT says so. The next date of hearing was 27.11.2019 in Hon'ble CAT Chandigarh.

17. During the meeting held on 28.11.2019 when the Committee enquired about the definition and interpretation of status quo in the parlance of court because promotions in various posts in BSNL was held up for the last couple of years, the Secretary, Department of Legal Affairs, Ministry of Law and Justice deposed as under:

“सर, जहां तक 'स्टेटस को' का मुद्दा है, मैं कहना चाहता हूं कि 'स्टेटस को' दो चीजों का है। पहला तो जो कैट के सामने केस था, जिसके अंदर माननीय कैट ने ऑर्डर किया कि 'स्टेटसको' को मेनटेन किया जाए। जो स्टेटस टर्म उन्होंने यूज किया, that was in relation to the parties, which were the litigants before the hon. CAT. उसमें अगर डिपार्टमेंट, पैटीशनर और रैस्पांडेंट जो भी उनके पक्ष थे, जो भी स्थिति थी, उसको यथास्थिति बनाये रखने के लिए, that was the status quo from the perspective of CAT. जो सुप्रीमकोर्ट का निर्णय आया, क्योंकि उसके सामने इसके बारे में इसकी पूरी एकपिक्चर दी गई कि यह पोजीशन है तो उन्होंने उन ऑर्डर्स को इंटरप्रेट करते हुए कहा कि status quo be maintained in terms of the orders passed by the Supreme Court. जो पहले उन्होंने इस बारे में पहले इंटरप्रीटेशन दिया तो उस बारे में डीओपीटी ने या जिस भी संस्था ने करना है, तो वे उसी एंगल से स्टेटस को मेनटेन करेंगे। दोनों बिल्कुल अलग कंटैक्स्ट हैं। पहली क्वैरी के बारे में मेरा यह कहना है”।

“जहां तक जो आपने दूसरी बात पूछी है, उसके बारे में मैं कहना चाहूंगा कि that the orders of the Supreme Court of India are binding on each and every one in the country. So, they have the primacy. इन परिस्थितियों में जो मुझे लगता है, उन ऑर्डर्स को किस तरीके से माननीय कैट के द्वारा इंटरप्रेट किया गया, that is another part of it. But hon. CAT is also bound by the orders of the hon. Supreme Court of India. यह बात उनके समक्ष रखी जानी चाहिए कि सुप्रीम कोर्ट के ये ऑर्डर्स हैं। तो वे अपने ऑर्डर्स को वैरी करें या वैकेट करें”।

18. While informing the Committee on the latest status report of cases pending in High Court and CAT, BSNL vide letter No. 60-11/2019-SCT/113 dated 6th March, 2020, stated that matter in OA No. 750/2018 and CP No. 92/2018 in OA No. 750/2018 both filed by Ramesh Kumar in CAT Chandigarh has been disposed on 25.02.2020. However, in both the cases, it has been stated that the CAT orders are yet to be received.

#### **G. Promotion from AGM to DGM**

19. During the meeting held on 28.11.2019, the Committee apprise the representatives of the Department of Telecom and the management of BSNL about 1331 vacancies in Telecom cadre which has been reduced to 1000. Amongst them were 250 SCs/STs employees who were eligible for promotion from Assistant General Manager (AGM) to Deputy General Manager (DGM). So far nothing has been done for their promotion. In this regard, the Secretary, Department of Telecommunications stated as under:

“महोदय, आपने एक एजीएम से डीजीएम वाला मुद्दा उठाया है। इस बीच में यह डेवलेपमेंट हुआ है कि बीएसएनएल बिल्कुल क्लोजर की स्थिति में आ गया था और उसका टर्नओवर जो 28,000 करोड़ रुपये था, वह 19,000 करोड़ रुपये हो गया था। अभी सरकार ने इनको एक बहुत बड़ा रिस्ट्रक्चरिंग पैकेज दिया है, जिससे हमें पूरी उम्मीद है कि इन पर जो पूरे देश का भरोसा है, उसके हिसाब से वे कुछ अच्छा ही करेंगे। उसमें एक वीआरएस है। इसमें लगभग 1,55,000 कर्मचारी हैं। अब हमने इनको जो वीआरएस का ऑफर दिया है, उसको लगभग 80,000 कर्मचारियों ने ले लिया है और उसकी आखिरी तिथि 3 तारीख है। हम एजीएम से डीजीएम का कोई भी प्रमोशन करेंगे, लेकिन हम उसको अगले एक या दो महीने में नहीं करेंगे, क्योंकि हमको यह देखना पड़ेगा कि हमारे कितने लोग किस लेवल पर बच गए हैं। इसके साथ ही रिस्ट्रक्चरिंग में हमें कितने पदों की आवश्यकता होगी”।

#### **H. Liaison Officers**

20. The Committee have been informed that the BSNL has nominated a Chief Liaison Officer at Corporate Office level, Liaison Officers at Circle level and Deputy Liaison Officers at Telecom District (Secondary Switching Areas) level with supporting staff. Roster registers are being maintained in all the offices responsible for implementation of reservation policy.

#### **I. Financial Assistance to Employees**

21. BSNL has also granted book awards (i.e from Rs 600 to Rs 1000/- per annum depending upon the class of the student studying) and scholarship (i.e. Rs 180 to Rs 600/-per month depending on the student pursuing technical/non technical courses in recognized college/institutions) to the wards of BSNL employees every year. The minimum prescribed percentage in marks for granting these book awards and scholarship has been relaxed by 10% to children belonging to SC/ST/ employees.

#### **J. Ambedkar Statue**

22. In response to the queries raised by the Committee regarding erection of Dr. B.R. Ambedkar statue at office premises of CGM, Tamilnadu Circle, Chennai, it has been stated that BSNL Management has requested Department of Telecommunications to advise whether erection of statues of personality/notified hero are permissible in the office premises. Department of Telecommunications has further asked advice/ comments of the Directorate of Estates, Ministry of Housing & Urban Affairs, New Delhi vide DOT letter dated 02.11.2018 addressed to Director of Estates.

23. However, during the meeting held on 19.09.2018 the CMD of BSNL assured the Committee as under:

“बीएसएनएल के विभिन्न दफ्तरों में माननीय भीम राव अम्बेडकर जी की मूर्तियां जगह जगह स्थापित हैं। उनके नाम पर एक ट्रेनिंग सेंटर भी चलता है, इसे भारत रत्न भीम राव अम्बेडकर ट्रेनिंग सेंटर कहा जाता है। भारत सरकार की बीएसएनएल के साथ 100 प्रतिशत भागीदारी है, उनकी परमिशन से वहां मूर्ति लगाई थी। हाल ही में एससी एसटी

वैलफेयर एसोसिएशन से अगस्त महीने में ही मीटिंग हुई थी। इसमें यह मुद्दा आया था। हमने पुरानी मूर्तियां भी दूरसंचार विभाग की अनुमति से लगाई थी इसलिए कमेटी ने रिकमेंड करके भारत सरकार को भेजा है। मेरा मानना है कि जल्दी से जल्दी भारत सरकार से अनुमति आ जाएगी। हम निश्चित रूप से भारत संचार निगम लिमिटेड के खर्च से महान मूर्ति की स्थापना करेंगे”।

24. When further asked how much time it will take to implement the project, the Special Secretary (T), Ministry of Communications, Department of Telecommunications assured the Committee as under:

“We will ensure that permission is given within a week”.

#### **K. Status of False Caste Certificate Cases**

25. On specific query of the Committee on the status of false caste certificates, it was informed that at present total number of false caste certificate complaints are 133. Out of these, 109 are pending with the State Level Scrutiny Committee, FIR and removal/dismissal – 9, suspension – 02, and pending with BSNL – 13 (Due to Disciplinary proceedings, investigations and Court cases). Further, BSNL is doing all out efforts to pursue the cases with State Government to get the caste certificates verified from the Scrutiny Committee. In this regard, Secretary DOT has already sent direction to the concerned Chief Secretary of State Government for early verification of false caste certificates vide letters dated 04.04.2018 and 17.07.2019.

#### **L. SC/ST Employees Welfare Association & Quarterly Meeting**

26. During the evidence when the Committee enquired about the last quarterly meeting held with the SC/ST Employees Welfare Association of BSNL (SEWA), the representative of BSNL informed the Committee that the last meeting was held in 2018. On learning this, the Committee suggested the representatives of the Ministry of Communications (Department of Telecommunication) and BSNL that quarterly meeting has to be held regularly and it should not be taken lightly. The Committee further apprised that quarterly meeting has to be conducted regularly and minutes of the meeting should be prepared and provided to the Association.

27. When the Committee further enquired about the long gap in holding quarterly meeting with the SC/ST Association, the Secretary, DoT deposed as under:

“सर, आपकी अनुमति हो तो मैं आपसे कुछ शेयर करना चाहता हूँ। मुझे पर्सनली और विभाग की तरफ से खेद है कि बार-बार आप लोगों का कीमती समय इसमें लगर हा है और जिस मुद्दे पर एक या दो मीटिंग में डिस्मिशन हो सकता था। अभी सेशन चल रहा है और इतने इम्पोर्टेंट बिल्स वगैरह डिस्कशन होने हैं तो भी आपको यहां आना पड़ रहा है, इसके लिए sincerely, we are sorry that this is happened. सर, कुछ चीजें हैं जो आपके स्तर तक शायद आनी ही नहीं चाहिए, जैसे क्वार्टरली मीटिंग की बात है। क्वार्टरली मीटिंग बिल्कुल होनी चाहिए। अगर क्वार्टरली से ज्यादा की भी आवश्यकता है तो उसको करना पड़ेगा।”

28. The Committee have been informed that complaint against the Chief Liaison Officer for interfering in the internal matter of the SC/ST Employees Welfare Association has been examined and found that the allegations made against him are incorrect and baseless. A reply on the complaint received through Lok Sabha Secretariat has already been submitted to the Lok Sabha Secretariat vide letter dated 18.09.2018. Moreover, the then CLO (SCT) has been transferred from SCT Cell and another officer of the rank of GM has been appointed as CLO(SCT) in BSNL.

#### **M. Contract Labourers and Outsourcing**

29. On being asked by the Committee about reservation in contract labour, BSNL submitted:-

“BSNL itself does not employ/engage contract workers. BSNL outsources some specific non-core activities/ works to contractors, who in turn, employ/engage contract workers to accomplish the work. The contract workers are not the direct employees of BSNL and no centralized data base of contract workers is maintained by the BSNL. As such BSNL has no information regarding SC/STs employees as contract labourers by the contractors”.

30. Further the question of representation to the candidates belonging to SC/ST community in such engagements does not arise as contractual labours

are not the employees of BSNL. They are not recruited against any post in BSNL.

31. BSNL outsources some specific non-core works to contractors, who in turn, employ/engage contract workers to accomplish the work through approved tender. Terms and conditions of tender depend upon on the requirement of field works and include provisions of labour-welfare as per existing labour laws, as applicable in respect of contract workers.

32. Since such contractual workers are not the employee of BSNL, no rule and regulation of BSNL, regarding service condition, is applicable in the case of these contract labourers. However, as a Principal Employer, BSNL takes care that applicable statutory provisions of labour laws in respect of contract labourer are complied by the contractors.

## OBSERVATIONS/RECOMMENDATIONS

1. The Committee observe that Bharat Sanchar Nigam Limited (BSNL) is one of the largest and leading public sector undertaking providing comprehensive range of telecom services in India. BSNL has a strength of workforce of 153823 with 44983 in executive category and 108839 in non-executive category. The percentage of SC employees in executive category is 17.86% and in non-executive category is 18.73%. The percentage of ST employees in executive category is 6.01% and in non-executive category, it is 5.35%. In view of the ongoing revival plan, there is a likelihood of substantial changes in man-power composition at different levels in the organizations. The Committee observe that though representative of SC in executive and non-executive category of posts is adequate, the representation of Scheduled Tribes (ST) in executive and non-executive grade which are 6.01% and 5.35% respectively is however below the required level of 7.5% for STs. The Committee strongly recommend that the management of BSNL should maintain strictly the prescribed percentage of reservation for SCs/STs in all executive and non-executive posts. The Committee re-emphasize the fact that it is mandatory to maintain percentage of reservation for STs to ensure more opportunity for the STs. The Committee, therefore, recommend the BSNL to take concerted efforts to fill up the shortage of ST representation in both executive and non-executive grade at the earliest and inform the Committee of the exercise undertaken in this regard.
2. While analyzing the implementation of Hon'ble Supreme Court Order dated 17.05.2018 and DoPT OM No. F.No. 36012/11/2016-Estt.(Res-I) {Pt-II} dated 15.06.2018 regarding reservation in promotion by the Ministry of Communications (Department of Telecommunications) in Bharat Sanchar Nigam Limited (BSNL), the Committee observe that the main impediment that stands in the way of promotion of SC/ST employees is the filing of OA No. 060/332/2017 on 28.03.2017 before Hon'ble Central Administrative Tribunal (CAT) Chandigarh in the matter of reservation in promotion to

Chief Account Officer (CAO) grade which was subsequently vacated vide order dated 07.09.2018. However, the case is still sub-judice and the last hearing held on 02.03.2020. The Committee are, however, distressed to observe that while granting promotion by BSNL vide order dated 20.11.2018 the application of 'own merit' concept in matter of promotion of AO to CAO was postponed till clarity on the matter emerges and keeping matching number of seats as vacant. The Committee are given to understand that application of 'own merit' concept for promotion of SDE<sub>s</sub>(T) to DE<sub>s</sub>(T) issued vide order dated 29.06.2018 had resulted in filing of contempt case against the Management of BSNL in CAT Chandigarh and to avoid it the CPC restricted the percentage of Scheduled Castes and Scheduled Tribes to 15% to 7.5% respectively. This very situation denied legitimate rights of promotion to 124 (including 33 SCs on seniority cum merit) whereas their junior from unreserved category candidates were promoted. It is further noted that even seniority of reserved candidates i.e. consequential seniority resulting from reservation in previous promotion to AO grade which is the feeder grade for CAO of reserved category candidates is also under challenge in Hon'ble CAT Chandigarh. The outcome of this court case may affect either way the seniority of the aforesaid left out candidates. It has been also stated that the promotion order dated 20.11.2018 was issued subject to any modification or direction which may be issued by courts dealing with the subject matter.

From the above way of working of the Ministry, the Committee are of the view that the Ministry must handle the cases of reservation in promotion as per the judgement of the Supreme Court and DoPT order issued in June, 2018 so that legitimate right of SC/ST promotion on seniority-cum-merit would have been upheld without wasting considerable time. The Committee also feel that the Ministry of Communications (Department of Telecommunications) and BSNL should have consulted Ministry of Law and Justice (Department of Legal Affairs) at the time of disposal and address these issue in the right direction. The Committee strongly deplore the casual approach of the Ministry in this regard. The Committee feel that the Government/Ministries should find a workable

solution to the problem so that affected SC/ST employees may get their due benefits with retrospective effect as per the DoPT guidelines on reservation and Supreme Court Judgement of May,2018.

3. The Committee note that due to stay order of CAT Chandigarh, the Ministry of Communications (Department of Telecommunications) might not issued promotion order of 124 SC/ST officials for the post of AO to CAO since 30.11.2018. The Committee for the purpose held 6 meetings and tried to impress upon the Ministry and BSNL from time to time to implement the Hon'ble Supreme Court order of 17 May, 2018 for reservation and subsequent DoPT OM dated 15.06.2018 but they failed to execute the said order due to stay order of CAT Chandigarh in the matter. Views of the Committee was also endorsed by the Law Secretary during the evidence before the Committee by deposing that Ministry did not present the case before CAT Chandigarh in right direction. In view of the above, the Committee are of the firm view that the Ministry of Communications (Department of Telecommunications) as per the advice of the Ministry of Law & Justice (Department of Legal Affairs) should take up the legal course of action in the High Court against the stay order of CAT Chandigarh to implement orders of the Supreme Court and DoPT to facilitate promotion of SC/ST candidates left out in the grade of AO to CAO with all consequential benefits. The Committee desire that responsibility for legal lapses committed by the officials may be fixed. The Committee further recommend that considering the own merit concept, a DPC for the other left out 87 SC/ST officers should be held urgently to provide them their due promotion with all consequential benefits as per Supreme Court order. The Committee are of the view that Department of Telecommunications/BSNL should present their case in High Court in accordance with Supreme Court order and BSNL must ensure that matter of SCs/STs be presented in the High Court in right direction.

Meanwhile, the Committee also desire that the Ministry should also explore the probability of extending ad hoc promotion to SC/ST officials

subject to final judgement of Supreme Court in the matter of reservation in promotion.

4. The Committee are also concerned about the huge backlog of vacancies in Telecom Department especially in the grade of AGM to DGM. In view of ongoing restructuring plan of the Company and VRS option offered to its employees, the Committee feel that the Management will be in a position to analyze the position of remaining staff and vacancies after closure of the scheme. The Committee, therefore, recommend that left out SC/ST vacancies in all grades including from AGM to DGM should be filled by promotion/recruitment as per DoPT norms at the earliest. The Department should also initiate to launch special drive to fill up the said backlog vacancies in a time frame.
5. The Committee appreciate that for the welfare of the wards of SCs/STs employees, the BSNL has every year granted book awards of Rs. 600/- to Rs. 1000/- per annum depending upon the class of the student and also scholarship amount of Rs. 180/- to Rs. 600/- per month depending on the course the student pursued in recognized college/institution. The Committee also observe that BSNL has approximately 26,209 SC/ST employees in non-executive grade alone whose wards could have been the beneficiary of these financial assistance doled out by the company. However, there is no mentioned of the details of the beneficiary to assess the impact of the assistance on the live and career of the wards of the SC/ST employees. The Committee, therefore, recommend that the details of the number of SC/ST student beneficiaries and the amount granted/sanctioned during the last three years.
6. During the evidence, the Committee observed that periodical meeting with the SC/ST Employees Welfare Association (SEWA) was held in 2018, however, it is mandatory on the part of Management of BSNL to hold regular quarterly meeting with SC/ST Employees Welfare Association. The Committee therefore, recommend that the Management should hold regular quarterly meeting with the SEWA and allow them to express their grievances/problems freely and also redress the same within a time frame.

The Committee further recommend that while making posting and transfer of staff, the interest of office bearers of SC/ST Employees Welfare Association should be kept in mind so that their place of posting do not collide with the discharge of his official duties as well as welfare activities of the Association.

7. The Committee note that 133 cases of false caste certificates in BSNL are pending and in various stages of investigation. The Committee, therefore, recommend that in proven cases of false caste certificates, the Management should outrightly terminate the service of the incumbent as per order of Supreme Court in this regard. The Committee also recommend that 13 cases pending due to disciplinary proceedings, investigations and court cases should be expedited and disposed off at the earliest. The Committee further recommend that for the cases pending with state level scrutiny Committee a strong reminder should be sent to the concerned State Government for expeditious disposal. The Committee felt that no useful purpose will be served by deliberately delaying the matter and therefore a concrete and early action should be taken by the Government against the false/fabricated SC/ST Caste Certificate.
8. As regards installation of Dr. B.R. Ambedkar statue at the office premises of CGM, Tamil Nadu Circle, Chennai, the Committee desire to know the advice/comments of the Director of Estates, Ministry of Housing & Urban Affairs, New Delhi for further consideration of the matter.
9. The Committee note that BSNL being a very large organisation with huge manpower and establishment/offices spread across the country are outsourcing jobs/works to contractors. The Committee note that BSNL has outsourced some specific non-core works to contractors who in turn employ/engage contract labourers to accomplish the work through approved tender. BSNL also stated that as a Principal Employer, it ensures that applicable statutory provisions of labour laws in respect of contract labourers are complied with by the contractors. The Committee, therefore, recommend that when BSNL being a principal employer enter into contract, there should be a contract clause for implementation of SCs and STs

reservation policy to be followed by the Contractor while engaging the workers. Further, the Committee also recommend the BSNL to ensure minimum wages, safety and security to all contractual and outsourced worker specially women employees engaged to work in BSNL.

10. The Committee note that in the light of Hon'ble High Court of Punjab and Haryana decision on 28.01.2020 pertaining to CWP. 9614-2019 filed by BSNL against Shri Anupam Yadav and others, the OA No. 750/2018 filed by Shri Ramesh Kumar in CAT Chandigarh in matter related to the case of promotion from SDE (T) to DE/AGM (T) as well as CP No. 92/2018 in OA No. 750/2018 filed by him are also disposed on 25.02.2020. However, it has been stated that the CAT orders are yet to be received and nothing is known about the verdict of the court on promotion of SC/ST employees SDE(T) to DE/AGM(T). The Committee therefore, recommend the BSNL to furnish the details of consequential benefits in promotion of SC/ST employees after disposal of the aforesaid cases at the earliest. The Committee also recommend that the legal issues which are likely to affect the interest of SC/ST employees should be dealt urgently and with utmost sincerity to safeguard their interest. For the purpose, if necessary, the Ministry should take advice of the highest level of the Ministry of Law to tackle the issue of reservation of SCs and STs in the right direction in consonance with the DoPT guidelines and in the spirit of provisions of the Constitution of India and amendments made by the Parliament from time to time.

New Delhi;  
16 September, 2020  
Bhadrapada, 1942(Saka)

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Chairperson,  
Committee on the Welfare of  
Scheduled Castes and  
Scheduled Tribes.