

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
CONTEMPT PETITION No.11/2021
In OA No. 353/2015.**

Dated this the 20th day of October, 2022

Reserved on: 05.09.2022

Pronounced on: 20.10.2022

CORAM:

Hon'ble Sh. Rameshwar Vyas, Member (J)

Hon'ble Dr. A.K. Dubey, Member (A)



1. Vinodkumar Nathubhai Changawala
Son of Nathubhai Changawala
Age about 72 years
Retired employee
Residing at C/44, Pavitrakunj Society,
Near CTM Char rasta,
CTM – Hatkeshwar road, under Flyover Bridge,
Ahmedabad - 380 026.
2. Chimanbhai Muljibhai Jadav
Son of Muljibhai Jadav
Aged about 75 years
Retired employee
Residing at 20, Shantiniketan Society,
Radheswami Road, Ranip, Ahmedabad – 382 480.
3. Aswinkumar Mavjibhai Makwana
Son of Mavibhai Makwana
Aged about 71 years
Retired employee
Residing at Plot no 145/2 Sector 3/A, Gandhinagar.
4. Narsinhbhai Virabhai makwana
Son of Virahai Nakwana
Age about 71 years
Retired employee
Residing at 43, Stayam Sarthi Bungalows,
Near Satyamev Hospital, Behind Sarthi Bungalows, Highway,
Chandkheda, Ahmedabad – 382 424.
5. Vittalbhai Sadabhai Vankar (Jr)
Son of Sadabhai Vankar
Age about 72 years
Retired employee, Residing at Plot no 151,
behind Majur Mahajan Office, East Kalol NG 382 721.



6. Kanabhai Gafurbhai Parmar
Son of Gafurbhai Parmar
Age about 70 years
Retired employee
Residing at A/5 Surekhapark Society
Part -3, Near Shivsakti School, IOC Road,
Chandkheda, Ahmedabad – 382 424.
7. Atmarambhai Punjabhai Parmar
Son of Paunjabhai Parmar
Age about 75 years
Retired employee
Residing at 41 Narayanpark Society,
Naroda Road, Shahijpur, Ahmedabad – 382 340.
8. Mansukhlal Jamanadas Patel
Son of Jamanadas Patel
Age about 71 years
Retired employee
Residing at 138, Swami Akhand Anand Society,
Gate no. 5, Nilkanth Mahadev Road,
Rannapark, Ghatlodia, Ahmedabad – 380 061.
9. Maganlal Jivabhai Parmar
Son of Jivabhai Parmar
Age about 66 years
Retired employee
Residing at 29/217, Kalapinagar,
Asarwa, Ahmedabad – 380 016.
10. Mangabhai Chhaganbhai Waghela
Son of Chhaganbhai Waghela
Age about 72 years
Retired employee
Residing at 38, Shivajipark Society,
Sahijpur Bogha, Ahmedabad – 382 340.
11. Krishnakant Somchanddas Modi
Son of Somchanddas Modi
Age about 72 years
Retired employee
Residing at D-5 Delux Apartment,
Old Shardamandir Road,
Ellisbridge, Ahmedabad – 380 006.
12. Sureshchandra Chhotalal Vaghela
Age about 71 years
Retired employee
Residing at 7, Gnankunj Society,
Opp. Punit Ashram, Maninagar, Ahmedabad – 380 008.



13. Girishchandra Ochhavlal Kothari
Son of Ochhavlal Kothari
Age about 74 years
Retired employee
Residing at 7, Nihir Appartment, Opp. Pinak in Society,
Near Vijaynagar Road, Paldi, Ahmedabad – 380 007.
14. Deviprasad Ichharam Trivedi
Son of Ichharam Trivedi
Age about 74 years
Retired employee
Residing at 149, Manipur Green Bungalows,
Manipur, Dist – Sanand – 382 155.
15. Piyush Rajnikant Vyas
Son of Rajnikant Vyas
Age about 74 years
Retired employee
Residing at F/4, parth Appartment,
Near Old Sharda Crossing,
Ellisbridge, Ahmedabad – 380 006.
16. Sirajbhai Husenibhai Batliwala
Son of Husenibhai Batliwala
Age about 71 years
Retired employee
Residing at 880/A-1, Shakina Villa,
Tokarshah's Pole, Opp. Gali no. 2,
Raikhad, Ahmedabad – 380 001.
17. Victor Shanabhai Khristi
Son of Shanabhai Khristi
Age about 71 years
Retired employee
Residing at 7, Nazareth Colony, Behind Methodist Church,
Sionnagar, Maninagar (East) Ahmedeabad – 380 008.
18. Laxmanbhai Bechardas Sathwara
Son of Bechardas Sathwara
Age about 71 years
Retired employee
Residing at 35, Nana Prabhunagar Society,
Aswara, Ahmedabad – 380 016.
19. Pravinchandra Maganbhai Patel (1)
Son of Maganbhai Patel
Age about 69 years
Retired employee, Residing at 7, Ananddham Society,
Ambica Char Rasta, Ranip, Ahmedabad – 382 480.

20. Vinaykumar Anantrao Katdare
Son of Anantrao Katdare
Age about 70 years
Retired employee
Residing at 101, Jalaram Appartment,
Near Jain Temple, Opp. Railway Station,
Maninagar, Ahmedabad – 380 008.

21. Rameshchandra Chhotalal Sharma
Son of Chhotal Sharma
Age about 69 years
Retired employee
Residing at 28, Shivranjani Society,
Satelite Road, Ahmedabad – 380 015.



22. Gulamalmad Gulam Husen Shaikh
Son of Gulam Husen Shaikh
Age about 70 years
Retired employee
Residing at 1, AL – Habib Duplex,
Opp. Sonal Cinema, Vejalpur, Ahmedabad – 380 055.

...Applicants

(By Advocate Mr. P H Pathak)

Vs

1. Mr. Anshu Prakash
Secretary,
Department of Communication,
Or his successor in office, Sanchar Bhavan,
New Delhi – 110 001.
2. Mr. Anupama Shrivastava
The Chairman, BSNL,
Or his successor in office, 5th floor,
Janpath, New Delhi – 110 001.
3. Mr. Anil Bani
Principle General Manager,
BSNL, Gujarat Telecom Circle,
Or his successor in office
Telephone Bhavan, CG Road, Ahmedabad – 380 015.

...Respondents

(By Advocate Mr. M J Patel)

ORDER**Per: Hon'ble Dr. A K Dubey, Member (A)**

1. Applicants had filed OA No. 353/2015 seeking direction to the respondents to extend to them the benefit of upgradation under 10% BCR Scheme in the light of the judgment of Hon'ble Apex Court in BSNL Vs B.N.Mistry & Ors, as the respondents had not decided the applicants' representation for the same. In the OA No. 353/2015, the applicants had prayed that benefit of 10% BCR could be extended to them on the basis of order of this Tribunal in OA No. 438/2004 and OA No. 280/2006, order of Hon'ble High Court in SCA 21808/2005 and also the order of Hon'ble Apex Court.

- 1.1 While directing the respondents to decide the applicants' representation keeping in mind the discussions in the preceeding paragraphs therein this Tribunal had observed in its order dated 16.02.2021 the following :-

“At the time of final hearin, both the parties reiterated their contentions. The applicants have made several representations to the authorities but without any success. The main issue here appears to be of the procedure which stands confirmend by the Hon'ble Apex Court and accordingly the respondents have gone ahead. BSNL communication dated 09.06.2014, the procedure in this regard has been clarified. It is colear that 10% BCR concept is under very scheme and requirements to be fulfilled in order to ensure promotion of 10% Gr.III officials of the higher grade. It has to be borne in mind that the procedural prescriptions have to be complied with except when the procedure itself exempts from it.”

2. Learned counsel for the applicant submits that the representation pending before the respondents have been decided vide respondent's order dated 20.05.2021 (Annex. A/2) but this order has not been passed in accordance with the direction of this Tribunal in the context of its observation in Para 7 to 9 of its order dated 16.02.2021. His contention is that this act of respondents is an act of contempt of the direction of this Tribunal.



3. Upon notice the counsel for the respondents Mr. M J Patel appears. He submitted that a plain reading of the communication dated 20.05.2021, makes it very clear that the entire order of the respondents has been issued on the basis of the order of this Tribunal in OA No. 353/2015 dated 16.02.2021. It is a detailed order and the operative portion makes it very clear that in view of the relevant records of the case, representations of the applicants and over all assessments of facts and circumstances as per the prevailing orders/instruction of DoT, New Delhi and BSNL, New Delhi and in the light of extant departmental rules and regulations on the subject, the request of the applicants was examined and was not acceded to. Learned counsel for the respondents submitted that the direction of this Tribunal to decide the pending representation has since been complied with and therefore, there was no willful or even procedural disobedience of the order of this Tribunal. It was only under the direction in the order of this Tribunal dated 16.02.2021 that the entire matter was examined in detail and accordingly the representation of the applicant was decided and his plea was not acceded. Going strictly by the technicality of the matter, this did not constitute contempt at all he argued and pleaded that the contempt proceedings may be dropped.

4. We have gone through the records produced before us. It is true that there are certain observations contained in Para – 6 to 9 of the order dated 16.02.2021 (Annexure A/1). However, the respondents were directed to decide the pending representation of the applicants keeping in mind the discussions in the order within a period of 8 weeks. The counsel for the respondents had also argued that irrespective of whether the decision was to the liking of the applicants or not, the matter was attended to and decided as per records as directed by this Tribunal.

5. After going through these details we are clear that the selfexplanatory order of the respondents dated 20.05.2021 constitutes sufficient compliance with the order of this Tribunal dated 16.02.2021 and there is no ground for this contempt petition to continue. Accordingly this Contempt proceeding is dropped, and notice discharged.



(A K Dubey)
Member(A)

PA

(Rameshwar Vyas)
Member(J)