

S. P. O. M.



GOVERNMENT OF INDIA  
NATIONAL COMMISSION FOR SCHEDULED TRIBES

6<sup>th</sup> floor, 'B' Wing, Loknayak Bhawan  
Khan market, New De lhi-110 003.

File No. LS/3/2012/MPNT2/SEPROM/RU-IV

Dated 23/09/2013

To

The Chairman Cum Managing Director,  
BSNL, Bharat Sanchar Bhawan,  
Harish Chandra Mathur Lane,  
New Delhi


Sub: Representation dated 26/07/2013 of Shri Lalan Sah, Assistant Manager, BSNL regarding promotion to the Post of Assistant Manager with effect from April, 2010.

Sir,

I am directed enclose a copy of proceedings of Sitting held in the Commission on 31/05/2013 for necessary action.

I am therefore to request you to kindly send the action taken report to the Commission.

Yours faithfully,

  
(N. Balasubramanian)  
Research Officer

Copy with a copy of proceedings to :

Shri Lalan Sah, Asstt. Manager, NOW-CM Cell, BSNL Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi - 110001

  
(N. Balasubramanian)  
Research Officer

  
23/9

7259-60  
25/9/13  
जादी किया  
ISSUED

o/c

## National Commission for Scheduled Tribes

**Proceedings of the Sitting held in the NCST on 31/05/2013 to discuss the case of Shri Lalan Sah, Assistant Manager, BSNL, New Delhi regarding his promotion w.e.f April 2010**

List of participates at Annexure --1

### **BACKGROUND**

2. A representation dated 26/07/2012 was received from Shri Lalan Sah, Assistant Manager, BSNL Corporate Office New Delhi stating that he was denied promotion from the actual due date of promotion while other candidates were given similar benefits. It was mentioned that he was also harassed earlier when he was due for promotion to the post of UDC w.e.f. 1/07/2004 but the orders were abnormally delayed and he was promoted in the year 2007, with consideration to the recommendations made by the Commission in its letter dated 17/12/2009, but orders were issued on 31/03/2010 only. It was alleged in the representation that his orders were delayed so that he may not appear at the departmental LICE examination held on 10/01/2010. In anticipation of the order, Shri Lalan Sah had applied for permission to appear at the LICE held on 10/01/2010 on provisional basis but neither permission was granted to him nor was any denial issued. Consequently, he appeared in the LICE held on 30/04/2011 and on the basis of the examination he was promoted to the post of Assistant Manager against the current vacancy for the year 2010-11.

### **Findings, and Observations.**

3. The Commission examined all the documents submitted/ presented by the petitioner and those received from / presented by the BSNL officials and discussed the matter in detail. The followings points emerged out of the discussion during the Sitting.

- (i) Promotion of Shri Lalan Sah to the post of UDC was granted w.e.f. 1/07/2004 only after interventions by the NCST, when the discrepancies in the promotion process, particularly in filling the post reserved for STs and the right of the petitioner (a ST candidate) were highlighted by the Commission during the Sitting and the correspondence made by it with BSNL.
- (ii) The requisite action as per the findings given in the Commission's letter dated 17/12/2009 was not taken up timely and no satisfactory reply was furnished to

NCST. Therefore, a Sitting with the Secretary, Department of Telecommunication and CMD, BSNL was convened on 25/03/2010. The Commission was informed by the GM, BSNL during the Sitting that BSNL had decided to promote Shri Lalan Sah w.e.f 1/07/2004 but office order for promotion was yet to be issued. The promotion order was finally issued on 31/03/2010.

- (iii) No action was taken by BSNL on the request submitted by Shri Lalan Sah for allowing him to appear provisionally at the LICE 2010. Neither permission nor any denial was issued to him. It is not clear as to why permission for appearing at the examination provisionally could not be granted, even if decision to grant promotion retrospectively had not been taken by that time. There could have been no cause of any damage/ loss to any one if he had been allowed to appear provisionally subject to the outcome of the decision on his promotion case.
- (iv) The Commission further noted that the LICE 2010 for the year 2009-10 was held on 10/01/2010 to fill a total of 36 posts. These included backlog of 2 ST vacancies for the year 2006-07 and 1 ST vacancy for 2007-08 and 3 ST vacancies for the year 2008-09, beside 29 vacancies for other categories and 6 for SC category for these three years from 2006-07 to 2008-09. There was only one vacancy for the year 2009-10. Out of 5 ST backlog vacancies only one ST point was filled against the year 2006-07 and all other ST backlog reserved vacancies could not be filled on the basis of LICE 2010. Besides 13 OC vacancies and 5 SC vacancies for the year 2008-09 also remained unfilled. **Had Shri Lalan Sah been allowed to appear at the LICE 2010, he would have been promoted against one of the backlog vacancy in that year.**
- (v) It was also noted that another UDC, Smt. Nivedita appeared at the LICE 2010 examination and on the basis of her qualifying that examination, which was held to fill most of the vacancies for the previous years 2006-07 to 2008-09, she has been promoted to the grade of Assistant Manager against the backlog vacancy for the year 2008-09 from the date her junior was promoted and her position in the seniority list of AM has been given accordingly. It was further noted that Smt. Nivedita could get her right only after the intervention of the Hon'ble High Court of Delhi, similar to the fact that Shri Sah (a ST candidate) got promotion to the post of UDC after intervention by the National Commission for Scheduled Tribes.
- (vi) It was also noted from the BSNL order dated 29/03/2010 that out of 33 candidates, promoted on the basis of LICE 2010, 3 candidates (including 1 ST and 1 SC) were declared successful against the vacancies for the year 2006-07, 2 candidates ( including 1 SC) against 2007-08, while 16 candidates (including 1 SC) were declared successful against the vacancies for the year 2008-09, including Smt. Nivedita whose name was added for the year 2008-09 subsequently.
- (vii) The Commission also noted that LICE 2011 was held to fill 18 current as well as 8 unfilled/ backlog vacancies including ST backlog as well as current vacancies. Shri Lalan Sah, who was not given opportunity to appear at LICE 2010 despite

the fact that his promotion with retrospective effect was under active consideration, also qualified the LICE 2011 which was held to fill the ST backlog vacancies also.

- (viii) Since Shri Lalan Sah has qualified the LICE which is essential requirement for promotion to the post of AM and ST backlog vacancies also existed. Shri Sah also equally deserve to be given similar treatment as meted out to the candidates of LICE 2010, since the LICE 2011 was held to fill the vacancies including the backlog vacancies from OC, SC as well as ST categories.

4. It was also noted that the SCT cell of BSNL corporate office has already examined the case in detail and made following observations and recommendation:

- (i) *Had the promotion orders in the grade of UDC been issued in time, Shri Lalan Sah could have appeared in the LICE held on 10/01/2010.*
- (ii) *He may be treated as qualified against the backlog vacancies of ST category remained unfilled in the LICE held on 10/01/2010 and his seniority may be fixed accordingly.*
- (iii) *Keeping in view the peculiar circumstances of the case, corrective measure may be taken by the Cadre –controlling branch.*

*In view of above, it is stated that the request of Shri Lalan Sah to grant him notional promotion at par with the other successful candidates of the vacancy year 2009-10 may be considered by the Cadre-controlling branch keeping in view the constitutional safeguards provided to SC /ST employees.*

5. The Commission further noted that the above views of the SCT cell sought by CSS Branch of BSNL were forwarded by DGM (Pers) to CSS Branch for examination on 10/10/2012. However, DM (CSS), without referring to the views of SCT cell and directions thereon given by DGM (Pers) separately submitted his own views on 3/12/2012 for furnishing a reply to the Commission and the same was approved by all officers upto Director (HRD)/ CMD. This act of DM (CSS) and other officers of BSNL blindly ignoring the views of the Chief Liaison Officer (SCT) of BSNL, who holds a special responsibility to ensure implementation of service safeguards provided for Scheduled Tribes under the Constitution of India, any Law of Parliament and any order of the Government, is not appreciated.

## RECOMMENDATIONS

6. In view of the above findings and observations, the National Commission for Scheduled Tribes notes that (i) Shri Lalan Sah was not given opportunity to appear at LICE 2010 despite the fact that his promotion with retrospective effect was under active consideration in BSNL (ii) the LICE 2011 was held to fill the vacancies including the backlog vacancies from OC, SC as well as ST categories, and (iii) the candidates

found successful at LICE 2011 also equally deserve to be given similar treatment as meted out to the candidates who succeeded at the LICE 2010; and therefore Shri Lalan Sah certainly deserves to be promoted against one of the earliest ST backlog vacancies which were covered in LICE 2010 as well as in LICE 2011. **Accordingly, the National Commission for Scheduled Tribes recommends that BSNL may examine the promotion of Shri Lalan Sah against the ST backlog vacancy and place him at the appropriate position in the seniority list of Assistant Manager, as in the case of successful candidates at the LICE 2010.** Information about the action taken in the matter along with copies of the order issued in this case may be furnished to the National Commission Scheduled Tribes at the earliest.



के० कमला कुमारी / K. KAMALA KUMARI  
सदस्य / Member  
राष्ट्रीय अनुसूचित जनजाति आयोग  
National Commission for Scheduled Tribes  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi

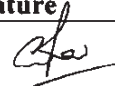



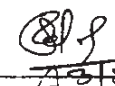



**ATTENDANCE SHEET**  
**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

Sitting held on 31.05.2013 at 11:30.hrs. in the case of representation of Shri Lalan Sah, Assistant Manager, BSNL regarding denial of promotion.


**I. NATIONAL COMMISSION FOR SCHEDULED TRIBES**

S.No	Name & Designation	Address & Phone No.	Signature
1.	Smt. K. Kamala Kumari, Hon'ble Member		
2.	Shri Aditya Mishra, Joint Secretary		
3.	K.D. Bhansor.Mrs. Deputy Director		
4.	Shri N. Balasubramanian, Research Officer		

**II. BSNL**

S.No	Name & Designation	Address & Phone No.	Signature
1.	ANKAI Di (HR) BSNL	9868537888	
2.	A.K. JAIN SYGM (PWS)	9868172211	
3.	DEEPA ADARSH DGM (PRES)	9868210081	
4.	A.K. SINHA AGM (CSS)	9868520361	
5.	RAM SHARAL CLO (SCT) BSNL	9868276555	 31.5.2013
6.	P.K. PUNIA Assistant Manager (SCT)	9868262435	
7.	S. Ravishankar D.M. (CSS)	9868179415	
8.	Amal Sahu AM	8447216463	

**III. Petitioner**

1.	LALAN SAH A.M	9868266002	
----	------------------	------------	---