

**COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES
(2017-2018)**

(SIXTEENTH LOK SABHA)

TWENTY-FIRST REPORT

ON

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

Action taken by the Government on the recommendations contained in the Eleventh Report (Sixteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject “Reservation for and employment of Scheduled Castes and Scheduled Tribes in Bharat Sanchar Nigam Limited (BSNL)”.

Presented to Lok Sabha on 16.03.2018

Laid in Rajya Sabha on 16.03.2018



LOK SABHA SECRETARIAT

NEW DELHI

16th March, 2018/ Phalguna ,1939 (Saka)

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**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED
CASTES AND SCHEDULED TRIBES (2017-2018)**

Dr. Kirit P. Solanki - Chairperson

MEMBERS - LOK SABHA

2. Shri Kanti Lal Bhuria
3. Shri P.K. Biju
4. Shri B.N. Chandrappa
5. Dr. (Smt.) Heena Vijaykumar Gavit
6. Dr. K. Gopal
7. Shri Rattan Lal Kataria
8. Smt. Pratima Mondal
9. Prof. Ajmeera Seeta Ram Naik
10. Shri Ram Charitra Nishad
11. Shri Ravindra Babu Pandula
12. Shri Kamlesh Paswan
13. Shri Ram Chandra Paswan
14. Shri Vishnu Dayal Ram
15. Smt. Rita Tarai
16. Shri Krupal Balaji Tumane
17. Shri Vikram Usendi
18. Shri Bhanu Pratap Singh Verma
19. Dr. Bhagirath Prasad
20. Shri Chintaman Navasha Wanaga*

MEMBERS - RAJYA SABHA

21. Shri Shamsheer Singh Dullo
22. Shri D. Raja
23. Shri Amar Shankar Sable
24. Shri Veer Singh
25. Shri Tiruchi Siva
26. Smt. Wansuk Syiem
27. Shri Pradeep Tamta
28. Shri Dilip Kumar Tirkey
29. Mahant Shambhuprasadji Tundiya
30. Shri Ramkumar Verma

SECRETARIAT

- | | | | |
|----|-------------------|---|-------------------|
| 1. | Shri N.C. Gupta | - | Joint Secretary |
| 2. | Shri D.R. Shekhar | - | Director |
| 3. | Shri V.K. Shailon | - | Deputy Secretary |
| 4. | Shri L. Singson | - | Committee Officer |

*** ceased to be Member of the Committee w.e.f 30.01.2018 upon his sad demise.**

INTRODUCTION

I, the Chairperson, 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 Twenty-first Report (Sixteenth Lok Sabha) on Action Taken by the Government on the recommendations/observations contained in the Eleventh Report (Sixteenth Lok Sabha) on “Reservation for and employment of Scheduled Castes and Scheduled Tribes in Bharat Sanchar Nigam Limited (BSNL)” pertaining to the Ministry of Communications (Department of Telecommunications).

2. The draft Report was considered and adopted by the Committee at their sitting held on 14.03.2018 (Appendix-II).
3. The Report has been divided into the following chapters:-
 - I Report
 - II Recommendations/Observations which have been accepted by the Government.
 - III Recommendations/Observations which the Committee do not desire to pursue in view of replies of the Government.
 - IV Recommendations /Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration.
 - V Recommendations / Observations in respect of which final replies of the Government have not been received.
4. An analysis of the Action Taken by the Government on the recommendations contained in the Eleventh Report (Sixteenth Lok Sabha) of the Committee is given in Appendix-II.

**New Delhi;
16th March, 2018
Phalguna, 1939(Saka)**

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

CHAPTER I

Report

This Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes deals with the Action Taken by the Government on the recommendations contained in the Eleventh Report (Sixteenth Lok Sabha) on the Ministry of Communications (Department of Telecommunications) regarding “Reservation for and employment of Scheduled Castes and Scheduled Tribes in Bharat Sanchar Nigam Limited (BSNL)”.

1.2 The Eleventh Report was presented to Lok Sabha on 12th April, 2017. It contained 28 recommendations/observations. Replies of the Government in respect of all these recommendations/observations have been examined and may be categorized as under:-

- (i) Recommendations/observations which have been accepted by the Government (SI Nos. 2,3,8,9,10,14,18,19,20,21,22,25,27&28).
- (ii) Recommendations/observations which the Committee do not desire to pursue in the light of the replies received from the Government (SI Nos. 4,5,6,12,13,15,16,24 & 26)
- (iii) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (SI Nos. 1,7, 11,17 & 23).
- (iv) Recommendations/observations in respect of which final replies of the Government have not been received (Nil).

1.3 The Committee will now deal with the Action Taken by the Government on some of the recommendations/observations which need reiteration or comments.

Recommendation (Sl. No. 1, Para No. 2.5)

1.4 The prescribed percentage of reservation for Scheduled Tribes on all India basis is 7.5% but BSNL has not been able to maintain it both in executive and non-executive posts. The main reason cited for shortfall in staff strength is attributed to various court cases and non-availability of eligible candidates. The reasons stated for the shortfall and nature of reply show the callous approach of the Management towards maintenance of prescribed percentage of reserved vacancies in general and ST in particular. The Committee are of the view that being a Government company, it is the bounden duty of the BSNL to follow the reservation policy and to maintain the prescribed percentage for Scheduled Tribes. The Committee, therefore, recommend that the BSNL should endeavour to resolve all court cases including possibility to settle them out of Court at the earliest and ensure that the prescribed percentage of 7.5 prescribed for ST is maintained by BSNL.

Reply of the Government

1.5 It is submitted that BSNL is following all the rules/regulations of the DoP&T in case of reservation in recruitment and promotion. However due to court stay on the reservation in promotion of executive cadres, BSNL is finding difficulty to achieve prescribed % of reservation for STs.

1.6 There were six court cases filed in the Hon^{ble} CAT Chandigarh relating to the reservation in the promotion of JTO, JAO and SDE by way of Internal Department Competitive Examination (LICE) or by Seniority cum Fitness (SCF) and the Court directed BSNL to not to apply reservation in promotion by LDCE/LICE or SCF. In the case of promotion of JAO through LICE, the Hon^{ble} CAT had directed BSNL to depute JAO written qualified applicant belonging to General Category for pre-appointment/promotion training. BSNL had challenged four orders of the Hon^{ble} CAT in the Hon^{ble} Punjab & Haryana High Court. However, all the Writ Petitions were dismissed by the Hon^{ble} Court. In the other two cases, the judgement have recently pronounced and BSNL is examining the judgement for further course of action.

1.7 This Department has also advised BSNL to take legal advice in the matter from learned Additional Solicitor General of India /learned Solicitor General of India vide DoT letter No.25-9/2017-STG.II dated 06.04.2017. BSNL had filed SLPs in Hon^{ble} Supreme

Court in all four cases and in two cases, the Hon^{ble} Supreme Court granted leave without stay, in another case, Hon^{ble} Supreme Court granted leave with stay to the CP and while in case of JAO promotion, the SLP yet to be listed and as contempt petition was filed in the Hon^{ble} Punjab & Haryana High Court, BSNL had implemented Hon^{ble} CAT order relating to promotion to JAO. It is expected that these cases will soon be disposed of by the Hon^{ble} Supreme Court of India.

1.8 BSNL has taken all necessary action to defend the court cases relating to the reservation in promotion. A couple of officers from BSNL CO visited Chandigarh to brief the counsel before the crucial dates of hearing and also Sr. Advocate & an Advocate of Supreme Court were deputed to Chandigarh for arguing the case before the Hon^{ble} CAT & Hon^{ble} High Court. All the orders of CAT / High Court have been given against BSNL based on the mandate of Hon^{ble} Supreme Court's judgement in M. Nagaraj's case on the extent of reservation in promotion. BSNL's plea that it fulfils the parameters of backwardness, inadequacy of representation and overall administrative efficiency, as mandated by M. Nagaraj's judgement, were not accepted by CAT / High Court, resulting in orders against BSNL. Since all the court cases are sub-judiced in the form of pending CP / SLP, the possibility of out of court settlement may not be feasible at this junction.

Comments of the Committee

1.9 The Committee are not satisfied with the reply of the Government that BSNL is not able to maintain the prescribed percentage of 7.5 for STs due to court stay on reservation in promotion of executives of various cadres. The Committee feel that if the official of the company had been a little more concern and cautious about the welfare of SCs/STs in terms of proper and timely implementation of reservation policy in recruitment and promotion then these employees would not have been compelled to approach the courts to address their grievances especially the SCs/STs. Now due to sluggishness of company and courts verdict, the promotion prospects of many SC/ST employees have already been adversely affected. The Committee are distressed to note that since all the cases are sub-judiced, hence the prospect of out of court settlement are not feasible. The Committee, therefore, reiterate again that BSNL should make all out efforts to expeditiously resolve all court cases and maintain the prescribed percentage of STs as per prescribed percentage of the Government.

Recommendation (Sl. No. 4, Para No. 2.15)

1.10 The Committee recommend that 2 SC and 1 ST vacancies of JAO which could not be filled due to insufficient SC/ST candidates qualifying the recruitment exam held in 2015 and carried forward should be filled within three months by the scheduled Special Recruitment Drive at the earliest possible.

Reply of the Government

1.11 BSNL has informed that for the carried forward 2 SC and 1 ST vacancies of JAO and to fill up vacancies in the grade of JAO against Direct recruitment quota exam is scheduled to be held during 2017-18. BSNL is taking action accordingly.

Comments of the Committee

1.12 The Committee may be apprised of the status of action taken to fill 02 SC and 01 ST carried forward vacancies purportedly to be filled up through direct recruitment exam scheduled to be held during 2017-18.

Recommendation (Sl. No. 5, Para No. 2.18)

1.13 The Committee note that pre-appointment formalities for newly recruited JE(TTA) in 2016 is likely to be completed by 30.06.2017 after due process. The Committee also note that notified vacancies for SCs/STs are likely to be fulfilled as waiting list is maintained by Recruitment Branch of the Corporate Office for allotting replacements in case of selected candidates not turning up or being found ineligible. The Committee desire that pre-appointment formalities should be completed expeditiously without further delay. Necessary steps should also be taken to ensure that all 31 SC and 79 ST notified vacancies are completely filled and not a single SC/ST vacancy is carried forward due to reasons such as of non-availability of suitable/eligible candidates.

Reply of the Government

1.14 BSNL has been making all out efforts to complete pre-appointment formalities for newly recruited JE(TTA) in 2016 at the earliest. 19 Circles, under whose jurisdiction, the SRD for filling up of in Direct Recruitment TTA for the year 2012 was held on 21.02.2016 were addressed to furnish details of actual number of vacancies filled as on 30.06.2017. So far, 21 vacancies of SCs and 60 vacancies of STs have been filled up out of 31 SC and 79 ST vacancies and the unfilled vacancies of 10 SCs and 19 STs would be filled from the waiting list of qualified candidates belonging to the respective category and if required, by

holding another SRD by 31.03.2018. It is stated that all efforts will be made to ensure SC/ST vacancies are not carried forward on repeated occasions due to non-availability of suitable/eligible candidates.

Comments of the Committee

1.15 The Committee appreciate that BSNL has so far filled 21 vacancies of SCs and 60 vacancies of STs out of notified 31 SCs and 79 STs vacancies. It is also informed that the remaining unfilled vacancies of 10 SCs and 19 STs would be filled from the waiting list of qualified candidates belonging to respective category and also, if required by holding another Special Recruitment Drive by 31.03.2018. The Committee may be apprised of the status report of these 1 SCs and 19 STs vacancies which were to be filled from waiting list of qualified candidates belonging to respective category.

Recommendation (Sl. No. 6, Para No. 2.21)

1.16 The Committee are surprised to note that in 2016 pre-appointment formalities of Telecom Technical Assistance (JE) was underway in the Circles but at the same time it is stated that these are not the final figures. The Committee desire that after completion of pre-appointment formalities the details of SC/ST vacancies actually earmarked to be filled and finally filled may be furnished to the Committee.

Reply of the Government

1.17 BSNL had conducted Direct Recruitment Examination for recruitment of 2700 JEs (TTAs) during 25.09.2016 to 29.09.2016 in which 445 vacancies of SCs and 187 vacancies of STs were earmarked. The results of the examination was declared on 07.02.2017. The 2nd Merit list of candidates in the waiting list has been operated for filling up all the vacancies including the SC and ST category. All the vacancies will be filled up by operating waiting list of the qualified candidates in the Direct Recruitment JE Examination held on 25.09.16, if required, by 31.01.2018.

Comments of the Committee

1.18 The Committee appreciate the initiatives of the BSNL to fill up earmarked vacancies of 445 SCs and 187 STs in the posts of JE (TTAs) by going to the extent of operating the 2nd Merit list of candidates appearing in direct recruitment of JEs (TTAs) posts held during 25.09.2016 to 29.09.2016. The Committee may be apprised about the filling up of 445 vacancies of SCs and 187 vacancies of ST in JEs (TTAs).

Recommendation (Sl. No. 7, Para No. 2.26)

1.19 The Committee note that in the year 2016, out of 2097 vacancies notified for filling through LICE in the grade of JAO in Accounts cadre, 342 and 246 posts were earmarked for SC and ST quota respectively. After the declaration of results the process of pre-induction training of successful candidate who have qualified the exam as per the vacancy position is underway at NATFM, Hyderabad. The Committee would like to know whether all notified vacancies for SCs/STs have been filled and if not, reasons, therefor alongwith concrete steps being taken to fill all vacancies. The Committee may also be informed about the efforts made by Ministry/BSNL for getting Court order vacated so as to make further promotion on the basis of reservation.

Reply of the Government

1.20 It is submitted that all the vacancies against SC/ST quota in JAO LICE held in 2016 by BSNL have not been filled up as sufficient number of candidates could not get qualified in the exam. The details of the same areas under:

Vacancy		Filled		Unfilled	
SC	ST	SC	ST	SC	ST
342	246	152	35	190	211

1.21 BSNL is reviewing the results of failed SC/ST candidates in different grade in internal exams and necessary action is under process in the matter.

1.22 As regards defending of court cases related to reservation in promotion is concerned, the Ministry of Communications (Department of Telecommunications) has advised BSNL to take up the matter with ASG/SG vide letter No.25-9/2017-STG.II dated 06.04.2017.BSNL has deputed Senior Officers from Head Office at Chandigarh to brief the counsel before the crucial dates of hearing and a Sr. Advocate & an Advocate of Supreme Court were also deputed to Chandigarh for arguing the case before the Hon"ble CAT &Hon"ble High Court. All the orders of the Hon"ble CAT / Hon"ble High Court have been given against BSNL"s appeal to continue with DoP&T"s rules, based on the mandate of Hon"ble Supreme Court"s judgement in M. Nagaraj"s case on the extent of reservation in promotion. Further, BSNL"s plea that it fulfils the parameters of backwardness, inadequacy

of representation and overall administrative efficiency, as mandated by M. Nagaraj's judgement, were not accepted by the Hon'ble CAT / Hon'ble High Court. Since all the court cases are sub-judiced in the form of pending CP / SLP, the possibility of out of court settlement may not be feasible, at this stage.

Recommendation (Sl. No. 11, Para No. 2.45)

1.23 The Committee are surprised to observe that BSNL has been embroiled in many court cases related to implementation of reservation policies which have affected the promotional prospects of many SC/ST employees of the company in various cadres. The Committee are at loss to understand the reasons due to which matter reached the Courts in the first instance and what the BSNL Management was doing all these years when reservation principles are clearly mandated by the Constitution. In so far as reservation for SCs/STs are concerned there is a clear mandate of the Constitution prescribing 15% for SCs and 7.5% for STs in recruitment and promotions in all Government services/Government undertakings/Banks etc. Thus, BSNL had to only comply with these directions/orders of the Government and see that SCs/STs are properly represented as per the prescribed percentage. Clearly BSNL has failed to comply with these directions. The Committee find this callous approach and discriminatory attitude of the company to implement reservation policy in letter and spirit as unfortunate and despicable. The Committee further observe that when the matter was dragged into courts/tribunals, the administration should have whole heartedly associated itself with the cases and prepare to defend its own action of giving promotion to SCs/STs as per reservation policies. The Committee are of the view that when few disgruntled employees who were against reservations in promotion have gone to court/tribunals challenging the promotional exercise carried out on the basis of sound principles of reservation policy and laid own procedures of Recruitment Rules of the company, in the very first instance the DOPT which is the nodal Department for such issues should have been consulted for guidance and directions. Further, the best legal counsels/advocates should have been hired to properly represent and defend the cases to get the stay orders vacated.

Reply of the Government

1.24 Committee's observation only. However, BSNL has always acted to protect the constitutional privileges granted to the SC/ST employees and duly incorporated in the respective Recruitment Rules in BSNL. Further details of action taken in this regard are given under Recommendation No. 12.

Comments of the Committee for Recommendation Sl. No. 7 & 11

1.25 The Committee express its displeasure to see the data of unfilled 190 SC and 211 ST vacancies against SC/ST quota in JAO Limited Internal Competitive Examination (LICE) held in 2016. The Committee are also surprised to note that despite the plea of BSNL that all cases related to reservation in promotion fulfilled the parameters of backwardness, inadequacy of representation and overall administrative efficiency, as mandated by M. Nagaraj's judgement, including orders of Hon'ble CAT/Hon'ble High Court have been given against appeal of the BSNL to comply with DoPT rules they could not convince the court to get the desired results. The Committee, therefore, recommend that as already initiated by BSNL, results of failed SC/ST candidates in different grade in internal exams should be reviewed and utmost steps be taken to fill all unfilled vacancies of SC/ST quota in JAO LICE held in 2016 and the outcome of the exercise be accordingly informed to the Committee. The Committee also further recommend that in order to protect the interest of SCs and STs BSNL should steadfastly defend all reservation related cases pending in various Courts/Tribunals till reservation in promotion are accorded in the line of DoPT orders. The Committee also recommend that BSNL should consult DoPT/Ministry of Law to take efficacious remedy to protect the interest of SC and ST in the court of law.

Recommendation (Sl. No. 10, Para No. 2.36)

1.26 The Committee note that in the promotional exercise made for JTO(E) cadre in 2016, 9 SC and 8 ST vacancies could not be filled as the candidates could not secure minimum qualifying marks applicable for SCs and STs. Whereas, it has been also stated that the company has a policy of giving pre-examination trainings to SC/ST employees who are due for promotion but are found below par. The Committee find these contradictory replies of the BSNL as misleading and confusing. The Committee therefore recommend that for every promotion exercise based on limited internal departmental exam, pre-promotion training and proper guidance should be given to SC/ST candidates to enable them to clear promotional examination and to ensure that reserved vacancies of a particular year are completely filled by reserved candidates leaving no scope for carrying forward of the same.

Reply of the Government

1.27 It is submitted that BSNL has policy to impart pre-promotion training for SC/ST employees who are appearing for LICE. In the year 2016-17, 588 SC/ST candidates have been provided pre-exam training/guidance.

Comments of the Committee

1.28 The Committee would like to know the number of SC/ST candidates who have been selected for promotion after availing pre-exam training and guidance by BSNL in 2016-17.

Recommendation (Sl. No. 12, Para No. 2.46)

1.29 In view of the above, the Committee recommend that BSNL should immediately consult the DOPT on the matter and seek their guidance and if need be, best legal counsels/advocates should be hired by the company who are conversant with reservation policy and can effectively defend the cases pending in the Courts/Tribunals in the best interest of the SC/ST employees as well as the company. The legal counsels/advocates so hired be made compliant to attend all hearings of the cases so that hearings are not adjourned again and again because adjournment of cases due to absence of legal counsels will further delay settlement of the cases.

Reply of the Government

1.30 BSNL has been mandatorily following and enforcing the rules/regulations/instructions, regarding the statutory provisions in case of reservation of SCs/STs in employment/promotion, as issued by the DoP&T from time to time. The promotions of executive cadres are held up due to the Hon^{ble} CAT, Chandigarh direction not to apply reservation in promotion until the mandate given by Hon^{ble} Apex Court in M. Nagaraj judgement is complied with. In the said order, Hon^{ble} Court held that reservation in promotion can be made for SC/ST employees provided that the State has sufficient data to show that there is lack of adequate representation in promotional posts and that too after showing compelling reasons namely, backwardness, inadequacy of representation and overall administrative efficiency in respect of SC/ST candidates. BSNL had engaged Sh. R.D. Agrawala, Senior Advocate of Hon^{ble} Supreme Court along with Sh. Pradeep Kumar Mathur, AOR to argue against the CP in the CAT Chandigarh & the RA in the High Court of Punjab and Haryana.

1.31 The Ministry of Communications (Department of Telecommunications) has forwarded the issue to DoP&T for their advice in the matter vide letter No.25-9/2017-STG.II dated 28.08.2017.

Comments of the Committee

1.32 The Committee note that the Ministry of Communications (Department of Telecommunications) has forwarded the issue to DoPT for their advice in the matter vide letter No.25-9/2017-STG.II dated 28.08.2017. The Committee may be apprised of the advice tendered by DoPT in this regard.

Recommendation (Sl. No. 13, Para No. 2.47)

1.33 The Committee may also be apprised of the outcome of hearings which was to be held in the month of January this year on All India Eligibility lists of JTOs for promotion to SDE(T) by Hon^{ble} High Court of Kerala.

Reply of the Government

1.34 It is submitted that the hearing in the OP (CAT) Nos. 25/2015, 45/2015 and 126/2015 was held in the month of February 2017 in Hon^{ble} High Court of Kerala and not in Jan. 2017.

1.35 The WP OP CAT Nos. 25/2015, 45/2015 and 126/2015 are still pending before the Hon^{ble} High Court of Kerala. As a result, the promotion of JTOs to SDEs under seniority quota is dependent upon the vacation of interim status quo/its modification/final disposal of the said WP by the Hon^{ble} HC of Kerala. As long as the above exercise by the Hon^{ble} HC of Kerala is not complete, the promotion of JTOs to SDEs through seniority quota is not feasible. Since it has created a deadlock in going ahead with the promotion, BSNL has made every possible effort to get it listed early for final hearing. Accordingly, a senior advocate of the Supreme Court was engaged to defend the case in High Court of Kerala, Ernakulam in addition to the BSNL Counsel in the High Court of Kerala, Ernakulam. Several rounds of discussion between the Sr. Advocate and the BSNL counsel at Ernakulam were held. Resultantly, the matter was got listed on 15.02.2017 for final hearing. The Sr. Advocate, Supreme Court was deputed to High Court to argue the case on behalf of BSNL. The hearing continued for three consecutive days from 15.02.2017 to 17.02.2017. After hearing the final arguments from both the sides, the Hon^{ble} High Court of Kerala has reserved its judgment which is still awaited. BSNL has recently filed a Complaint Petition to the Chief Justice of High Court, Kerala for an expeditious award of the verdict.

Comments of the Committee

1.36 The Committee note that the reserved judgement of Hon'ble Kerala High Court is still awaited. The Committee, therefore, urge the BSNL to take concrete steps for expeditious disposal of the case from Hon'ble High Court of Kerala in the larger interest of SC/ST employees and accordingly inform the Committee.

Recommendation (Sl. No. 14, Para No. 2.48)

1.37 In the case of promotion to SDE(T) through the stream of limited departmental competition exam (LDCE) held on 21.06.2015 for the year 2010-11, the Committee note that the result previously declared was held up due to litigation on Hon'ble CAT Chandigarh. As per the direction of the Hon'ble CAT Chandigarh, BSNL has initiated the process of amendment of RR pertaining to inter-se-seniority of promotees under both seniority-cum-fitness and LDCE quota. The Committee recommend that amended RR of the company should be devoid of discrimination and should fully protect the interest of the SC/ST employees.

Reply of the Government

1.38 BSNL has already inbuilt the provisions of reservation into the existing RR and the proposed amendments to the RRs for SDE to protect the interest of the SC/ST employees. However, currently, the CAT Chandigarh's orders as upheld by the High Court of Punjab and Haryana are against the prevailing provision of reservation in promotion.

Comments of the Committee

1.39 The Committee note that High Court of Punjab and Haryana has upheld the CAT Chandigarh's orders which led to stoppage of provision of reservation in promotion. The Committee express their displeasure that BSNL did not take adequate steps in consultation with the Ministry of Law and DoPT to get stay orders of CAT Chandigarh.

Recommendation (Sl. No. 15, Para No. 2.49)

1.40 The Committee observe that promotions from SDE to AGM/DE(T) are also held up due to directions of Hon'ble CAT Chandigarh in O.A. No.060/00864/2015 dated 08.09.2016 filled by Shri Sukhwinder Singh. The directions made on the case emphasized on giving promotion to AGM/DE(T) cadre without applying the principle of reservation when the Government rules allow reservation in promotion upto the lowest rung of Group „A“ officers which the company has adhered to all these years without any problem. The Committee appreciate that BSNL has at least challenged this verdict of Hon'ble CAT Chandigarh in

Hon'ble High Court of Chandigarh on 13.12.2016. The Committee desire that all efforts should be made to get the stay orders vacated at the earliest and promote 90 SC and 59 ST Officers whose promotions have been delayed for no fault of theirs. The Committee may also be apprised about the final outcome of decision of Court cases.

Reply of the Government

1.41 It is submitted that in the court case of Shri Sukhwinder Singh regarding promotion from SDE to AGM through seniority cum fitness in Hon'ble CAT Chandigarh on the reservation issue, the OA was decided by CAT Chandigarh with the direction to respondents (i.e. BSNL) to consider the applicant and others within the zone of consideration for promotion from SDE (T) to the post of AGM (T)/ DE(T) without applying the principle of reservation in promotion. BSNL challenged said order of Hon'ble CAT Chandigarh by filing WP No. 26885/2016. Hon'ble High Court of Punjab and Haryana dismissed this WP and BSNL has filed SLP No. 14142 – 14143/ 2017 in Hon'ble Supreme Court of India against order dated 23.12.2016 in WP No. 26885/2017. The Hon'ble Supreme Court has granted leave in the SLP. Next date of hearing is yet to be fixed.

Comments of the Committee

1.42 The Committee desired that BSNL should approach the Hon'ble Supreme Court to expedite the next date of hearing of SLP filed by BSNL and also to inform the Committee of the outcome of the hearing in the matter. The Committee strongly desired that Government should appoint a senior most legal counsel committed to SCs and STs cause to protect their interest during the hearing of SLP in the Supreme Court.

Recommendation (Sl. No. 17, Para No. 2.54)

1.43 The Committee note that in the grade of SDE(C) backlog of 01 SC and 22 STs have remained unchanged since the year 2013. However, it has been stated that Recruitment Section vide letter dated August, 2016 has been requested to conduct the LDCE exam for 89 vacancies including the backlog vacancies of SC/ST category before 24.12.2016. The Committee are surprised to note that these backlog vacancies have remain unfilled for last four years. The Committee are of the view that whenever backlog vacancies get accumulated and remain unfilled due to certain reasons, it should be the bounden duty of the organisation concerned to fill it at the earliest because backlog cannot remain

indefinitely. The Committee, therefore, recommend that all efforts should be made to fill these 01 SC and 22 ST backlog vacancies in SDE(C) without any further delay and also inform the Committee of the outcome.

Reply of the Government

1.44 It is submitted that limited internal competitive exam for SDE(C) was scheduled for 05.03.2017 but could not be held due to stay order of CAT, Chandigarh. Efforts made to vacate the stay order in favour of reservation in promotion. However, in OA No 60/1130/2016, CAT Chandigarh has pronounced the judgement on 26.07.17 disallowing reservation in promotion. The BSNL is examining the case for further course of action.

Comments of the Committee

1.45 The Committee are disappointed to note that after having proposed to fill 01 SC and 22 ST backlog vacancies in SDE (C) grade through limited internal competitive exam on 05.03.2017 the same could not be held due to stay order of CAT, Chandigarh, which in its subsequent judgement on 26.07.2017 had disallowed reservation in promotion. The Committee, therefore, recommend that the BSNL should examine the judgement thoroughly and take appropriate steps to defend the case till the judgement of CAT, Chandigarh is overturned in favour of SCs/STs.

Recommendation (Sl. No. 18, Para No. 2.55)

1.46 The Committee also desired to know of the efforts that were made to fill 05 ST backlog vacancy in the grade of EE(C) SCF and outcome thereof.

Reply of the Government

1.47 It is submitted that the process of filling up of above vacancies in BSNL is held up due to Court case filed in the Hon^{ble} CAT Chandigarh. BSNL has made efforts to vacate the stay order in favour of reservation in promotion. However, the Hon^{ble} CAT Chandigarh in its judgement dated 31.07.2017 has disallowed reservation in promotion. BSNL is examining the judgement for further course of action.

1.48 05 vacancy of EE(C) shown as Backlog in 2015 are actually unfilled vacancy left after promotion process taken up in July 2014. The vacancy left unfilled at that time was due to degree diploma issue and due to which promotion of regular SDEs upto 06.08.1994 could only be considered for promotion. Thereafter promotion process was taken up for

total up-to-date vacancies and it was again held up on degree diploma issue and one court case on this issue is OA no.2905/2015 in CAT PB Delhi regarding Degree Diploma issue for promotion is still to be decided finally. Next Date of hearing is 04.09.17

Comments of the Committee

1.49 The reply of the BSNL pertaining to 05 ST backlog vacancy in the grade of EE (C) clearly reflects the inept handling of the case by the BSNL. Had the case been properly addressed by the Establishment/Personnel section of the BSNL, the matter would not have been compounded with another court case in CAT, PB Delhi. It is understandable that as an organisation BSNL might be having various kinds of problems pertaining to employees promotions, recruitment, posting & transfer, seniority etc. apart from implementation of reservation principles, but it is also a fact that there are issues/cases which are within the domain and power of the company which only required to be segregated and addressed on time to extend the desire result to its employees. The Committee, therefore, urge BSNL to be more serious and cautious while dealing with reservation matters so that lacunae/gimmick in interpretation and implementation of reservation principle is not seized by others for their advantage. The Committee therefore recommend that BSNL should implement reservation principle in true letter and spirit and try to give due representation to SCs/STs in all cadres and grades. The Committee may also be apprised in brief of the outcome of the court cases scheduled for hearing.

Recommendation (No. 20 Para No.3.10)

1.50 The Committee note that during the last four years only one ST employee has been sent on foreign training. The Committee recommend that to increase their exposure and efficiency at the time of nomination for foreign training due care should be taken to ensure that adequate number of ST employees are also nominated.

Reply of the Government

1.51 It is submitted that the recommendations and advices given to BSNL would be duly complied. BSNL has already issued necessary directives in this regard.

Comments of the Committee

1.52 The Committee would like to be informed of the details of the necessary directives issued to nominate adequate numbers of SC/ST employees for foreign training and also appraised the Committee about its compliance by BSNL.

Recommendation (No. 22 Para No. 3.19)

1.53 The Committee note that SC/ST Cells have been set up in the Head Office and Circle Offices to look after the welfare of SC/ST employees. One of the main functions of the SC/ST Cell is to monitor the implementation of reservation policy for SCs and STs in various recruitments and promotions and inspection of rosters maintained by various cadre controlling branches at Corporate, Circle and SSA levels. The Committee opine that since the SC/ST Cell are headed by the Chief Liaison Officers/ Deputy Liaison Officers at the Corporate and Circle levels who are looking after important issues related to SC/ST welfare, officers to be appointed as CLO/Deputy Liaison officers should be individuals of high integrity and impeccable service records. It is also observed that Management has often resorted to appointments of these Liaison Officers without keeping in mind the interests of SC/ST employees but rather keeping the interest of the company at large. The Committee, therefore, recommend that in order to have an effective Liaison Officers contributing for the company and also protecting the interests of SC/ST employees before appointment of Liaison Officers the SC/ST Association should be taken into confidence and consulted. The Committee further recommend that all SC/ST Cells in the various circles office should be provided with adequate staff to effectively man the Cell.

Reply of the Government

1.54 It is submitted that the BSNL has been appointing Chief Liaison Officers(CLO)/ Deputy Liaison Officers (Dy LO) as per the clause 24 of Presidential Directives on reservation for SC/ST. However, SC/ST Officers will be posted as CLO/Dy LO, wherever feasible. As far as posting of adequate staffs in all SC/ST Cells in various Circle Offices, posting of CLO/Dy LO etc. are concerned, the recommendation of the Committee has been forwarded to the BSNL and action is being taken in that direction within the provision of extant rules.

Comments of the Committee

1.55 The Committee took strong exception to the reply of the Committee that SC/ST officers will be posted as CLO/Dy. LO wherever feasible. The Committee opine that

in the interest of SC/ST employees as much as possible SC/ST officers be posted as CLO/Dy. LO. The Committee also would like to be appraised of the action taken by BSNL in this regard.

Recommendation (No. 23 Para No. 3.24)

1.56 The Committee are also of the view that to tackle and control the problem of people joining BSNL on production of false caste certificates, the recruitment branch should carry out thorough verification of caste certificates at the time of appointment and also refer it to the issuing authority for authentication and revalidation. The Committee also would like to stress that getting into a Government job at the expense of reserved vacancies on production of false caste certificate is a crime and grave injustice against reserved category people because it denies them gainful employment opportunity guaranteed by the constitution. The Committee, therefore, recommend that in view of the gravity of the situation and its consequences, a person getting appointment on false caste certificates prima facie should immediately be terminated from service rather than being allowed to go to courts for relief which will embroil the Management in a long legal tussle. The Committee also recommend that in view of the fact that many people easily obtain false caste certificates in connivance with the issuing authority, the officer/authority who issued the false certificate should also be held accountable and complaint be lodged against him for indulging in this nefarious activity. The Committee further recommend that existing pending cases should be expedited and disposed of by vigorously following up with the certificate issuing authorities within a specific time frame and its outcome informed to the Committee.

Reply of the Government

1.57 It is submitted that at the time of recruitment, the certificate of SC/ST candidates are not verified. However, during verification, if claim of the candidate regarding SC or ST category, as the case may be, is false, action is taken as per DoP&T guidelines in the matter. The SC/ST Certificates are sent to concerned district authorities/scrutiny committee of the state for verification. The Officer looking after the recruitment is well aware of rules relating to verification of SC/ST certificates. In all cases of false caste certificate, efforts are being made by BSNL to lodge FIR as per Government guidelines.

1.58 The BSNL has been vigorously pursuing such cases with all the concerned authorities for early disposal.

Comments of the Committee

1.59 The Committee are not satisfied with the reply of the Government that certificates of SC/ST candidates are not verified at the time of recruitment and that during verification if certificates are found to be false action is taken as per DoPT guidelines in the matter. The Committee are also skeptical about the reply of the Government that officer looking after the recruitment are well aware of rules relating to verification of SC/ST certificates because had such claim of BSNL been true, it would not be having instances of people with false caste certificates getting employment in the company. The Committee feel that it would be in the interest of SCs/STs and the company in particular if verification of caste certificates of reserved candidates is done before the selected candidates actually join the service because after a person joined a service it involve lots of procedural matter to remove him from service or even at times such person resorted to courts intervention and complicate the matter. The Committee, therefore, recommend that to check candidates with false caste certificate getting employment in the company the verification of caste certificates should be done at the initial stage of recruitment process. The Committee also further, reiterate their earlier recommendation that existing pending false caste certificates cases should be vigorously followed up with the certificate issuing authorities and dispose them within three months after the presentation of this report. The Committee also endorse their view with the Supreme Court recent judgement which says that all employees who have got their caste certificates verified by the Revenue Department/District Magistrate and found false should be terminated from the service. The Committee may be informed about the action taken by the BSNL in this regard with data.

Recommendation (No. 24 Para No. 4.5)

1.60 The Committee note that contract labourers such as Safai Karamcharies engaged by BSNL are outsourced through open market wherein reservation norms are not applicable. The Committee are of the view that there are thousands of eligible SCs/STs in the Country who are not able to get even the job as a daily wager, sweeper etc. The Committee, therefore, desire that possibilities should be explored to hire these contract labourers through those agencies who have maximum SCs/STs in its rolls so that majority of poor SCs/STs may get the benefits.

Reply of the Government

1.61 It is submitted that the BSNL awards jobs on contract basis to the contractors only. The contractors are employing the workers, the role of BSNL is to ensure statutory compliances in respect of workers engaged by the contractors against the work awarded as mandated under relevant statutes.

1.62 Regarding exploring the possibility to hire contract labourers through the agencies who have maximum SCs/STs in their rolls, it is stated that no such Government directive has been received so far, in this regard.

Comments of the Committee

1.63 The Committee are of the firm view that in order to achieve social justice as enshrined in the Constitution of India it is imperative as a responsible government organisation even for BSNL to make some endeavour on its own in furtherance of it by having control clause with contractors to facilitate SC/ST in their rolls so that oppressed section of society can be uplifted for overall development of the Country.

Recommendation (No. 25 Para No. 4.6)

1.64 The Committee further note that there are 3469 casual labourers engaged by BSNL since before the formation of the Committee who are paid daily wages as per court directions. The Committee would like to explore feasibility of regularising the services of these casual labourers on humanitarian grounds.

Reply of the Government

1.65 BSNL has explored the possibility of regularising the services of these casual labourers and had taken the opinion of Learned AG on the matter. The Learned AG had opined that these casual labourers cannot be regularised in view of Umadevi's judgement of Hon'ble Supreme Court of India. In view of above, regularization is not possible at this stage.

Comments of the Committee

1.66 The Committee would like to be apprised about contents of Umadevi's Judgement of Hon'ble Supreme Court of India which negates the regularisation of

3469 casual labourers engaged by BSNL. The Committee further desire that feeling of the Committee as given in para no. 1.63 about the contract labour/casual labour may be conveyed to learned AG in the matter.

Recommendation (No. 26 Para No. 4.11)

1.67 The Committee note that complaints/grievances of SC/ST employees received in the SCT Cell at Corporate office or Circle office are sent to the concerned authorities for examination and taking appropriate action to resolve the cases. In spite of this mechanism and claims the Committee still receives representations from individual SC/ST employees as well Association regarding delay in promotions, posting/transfer, harassment, discrimination, non-implementation of reservation policy etc. Moreover, the fact that there are 17 cases which are still under examination by the concerned branches and that efforts are still underway to dispose of these cases indicate that the grievance redressal mechanism of the organisation is not effective enough to tackle the grievances of SC/ST employees. It is also fact that due to failure of the departmental redressal mechanism to deliver justice to them, these aggrieved persons are forced to resort to other remedial measures outside of the administrative set up.

Reply of the Government

1.68 BSNL has adopted a mechanism for redressal of grievances of SC/ST employees. The SC/ST Employees Welfare Association of BSNL (SEWA BSNL) and also individual employees can meet directly to GM&Chief Liaison Officer(SCT) at Corporate Office level to resolve their grievances. As regard to 17 cases mentioned as undisposed, it is stated that these cases are relating to service matters and transfer/posting and all the cases have been disposed off except one case. Further, in regard to prompt redressal of grievances, at Head Office, BSNL is taking bi-monthly/quarterly meetings under the Chairmanship of the BSNL Board Member with the governing body members of SEWA BSNL. For Circle/SSA level, BSNL has issued instructions to all Heads of Circles/SSAs to take quarterly meetings with the office bearers of SEWA BSNL to resolve their grievances, complaints of harassment etc.

Comments of the Committee

1.69 The Committee appreciate BSNL for adoption of grievance redressal mechanism of SC/ST employees. The Committee would further like to urge the BSNL to dispose of the remaining cases on priority.

Recommendation (No. 28 Para No. 4.19)

1.70 The Committee note that apart from the Board of Directors of the Company there are other Boards such as Staff Welfare Board, Sports and Cultural Board etc. headed by Chairman and other officers. Leaders of SC/ST Association are not Members of such boards and they are only invited to attend such meetings whenever held. The Committee therefore recommend that apart from regular quarterly meetings with the Management, the Association leaders be made a Member of these Boards and made a party to important policy decision taken for the overall welfare of the employees including the SC/ST interest. The Committee also urge that all executive members of the Association should also be made accountable to their official duty as per their official position irrespective of holding important portfolio in the Association.

Reply of the Government

1.71 BSNL has been following the principle of inviting a representative of SC/ST Welfare Association as a special invitee member in the meetings of BSNL Staff Welfare Board and recently, the position has been changed to a full member.

1.72 As regards the accountability of SEWA Executive Members in their official duty, the BSNL has issued instructions in the matter.

Comments of the Committee

1.73 The Committee appreciate the inclusion of SC/ST employee welfare association from representative members to a full member in the meetings of BSNL Staff Welfare Board. The Committee also urge the Management to make the new member (SEWA BSNL) to feel at home and treat them at par with other members of the Board and also encourage them to speak out their minds without fear of being victimised.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 2, Para No. 2.10)

2.1 The Committee have been informed that at the time of recruitment process the marketing wing of BSNL gives wide publicity in all leading English, Hindi and Regional Newspapers of all the States besides informing the candidates to see the BSNL website for details as well the Central Government Employment portal in Ministry of Labour lauding the efforts made in this regard, the Committee desire that for wider publicity and reach especially to cover remote and rural areas advertisement/publicity for reserved vacancies and posts especially which do not require high technical qualification may also be advertised through All India Radio and Doordarshan.

Reply of the Government

2.2 As per the opinion of the Committee, the advertisement/publicity of the posts for employment in different cadres in BSNL which do not require high technical qualification, the vacancies will also be advertised through All India Radio and Doordarshan.

Recommendation (Sl. No. 3, Para No. 2.13)

2.4 The Committee note that other than telecom and account cadre, BSNL has stopped recruitment in non-core areas of the company such as architect, civil and electrical, to concentrate on its core area of telecom so as to stay in business. The Committee are given to understand that the last recruitment of JTO (C) and JTO(Elect.) were held in 2009. In this regard, the Committee would like to know the details of SCs/STs recruited in the last recruitment examination held for JTO(C) and JTO(Elect.) in 2009. The Committee may also be apprised of the total number of posts including SC/ST posts and backlogs abolished by the company consequent upon adoption of its new policy of stopping of recruitments in non-core areas viz. architect, civil, electrical cadre, etc. The Committee also would like to know whether due process of rules were followed before abolition of reserved vacancies/posts, if not, all the legitimate due of reserved category posts be filled up to the prescribed level.

Reply of the Government

2.5 The details of SCs/STs recruited by the BSNL in the last recruitment examination held in 2009 are as under:

JTO (C)		JTO (Elect.)	
SC	ST	SC	ST
09	03	09	Nil

As regards abolition of reserved vacancies/posts, it is intimated that no post, including SC/ST backlog has been abolished.

Recommendation (Sl. No. 8, Para No. 2.29)

2.6 The Committee are surprised to note that there are insufficient SC/ST candidates including general category candidates in the feeder cadre for promotion to JTO. It shows the faulty recruitment and promotion process of BSNL who could not properly prepare feeder cadre for promotion to JTO. The Committee take serious view of it and strongly recommend that BSNL should immediately come out with a concrete plan to ensure availability of sufficient candidates including SCs/STs in the feeder grades for promotion to JTO.

Reply of the Government

2.7 BSNL has taken following steps to ensure availability of sufficient candidates including SCs/STs in the feeder grades for promotion to JTO:

1. Augmentation of the strength of the feeder cadre to JTO by conducting Direct Recruitment of 2700 JEs (TTAs), the examination for which was conducted in September, 2016.
2. Reduction in the residency period (qualifying service) in the grade of JE(TTA), the feeder cadre of JTO to five years from ten years.
3. Reduction of minimum qualifying marks for review of results of failed SC/ST candidates in LICE to 20% and 15% in each paper.

Recommendation (Sl. No.9, Para No. 2.33)

2.8 The Committee note that Limited Internal Competitive Examination (LICE) was conducted on 22.05.2016 for affecting promotion to cadre of JTO against vacancies for the recruitment year 2013-14 wherein a total of 298 SC and 135 ST candidates have qualified the exam. The Committee further note that these selected candidates will be promoted after completion of induction and field training which is conducted in batches and likely to be completed by June, 2016. The Committee recommend that all selected candidates who are

presently undergoing induction and field training in different batches be promoted as per stipulated date and time and the Committee informed accordingly.

Reply of the Government

2.9 It is submitted that candidates qualified in the LICE (Limited Internal Competitive Examination) conducted on 22.05.2016 by BSNL for promotion to the post of JTO for vacancy year 2012-13 & 2013-14, have already completed JTO Phase-I training and Field Training and promoted to the post of JTO.

Recommendation (Sl. No.10, Para No. 2.36)

2.10 The Committee note that in the promotional exercise made for JTO(E) cadre in 2016, 9 SC and 8 ST vacancies could not be filled as the candidates could not secure minimum qualifying marks applicable for SCs and STs. Whereas, it has been also stated that the company has a policy of giving pre-examination trainings to SC/ST employees who are due for promotion but are found below par. The Committee find these contradictory replies of the BSNL as misleading and confusing. The Committee therefore recommend that for every promotion exercise based on limited internal departmental exam, pre-promotion training and proper guidance should be given to SC/ST candidates to enable them to clear promotional examination and to ensure that reserved vacancies of a particular year are completely filled by reserved candidates leaving no scope for carrying forward of the same.

Reply of the Government

2.11 It is submitted that BSNL has policy to impart pre-promotion training for SC/ST employees who are appearing for LICE. In the year 2016-17, 588 SC/ST candidates have been provided pre-exam training/guidance.

Comments of the Committee

2.12 Please see Para No. 1.28 of Chapter I.

Recommendation (Sl. No. 14, Para No. 2.48)

2.13 In the case of promotion to SDE (T) through the stream of limited departmental competition exam (LDCE) held on 21.06.2015 for the year 2010-11, the Committee note that the result previously declared was held up due to litigation in Hon^{ble} CAT Chandigarh. As per the direction of the Hon^{ble} CAT Chandigarh, BSNL has initiated the process of amendment of RR pertaining to inter-se seniority of promotees under both seniority-cum-fitness and LDCE quota. The Committee recommend that amended RR of the company

should be devoid of discrimination and should fully protect the interest of the SC/ST employees.

Reply of the Government

2.14 BSNL has already inbuilt the provisions of reservation into the existing RR and the proposed amendments to the RRs for SDE to protect the interest of the SC/ST employees. However, currently, the CAT Chandigarh's orders as upheld by the High Court of Punjab and Haryana are against the prevailing provision of reservation in promotion.

Comments of the Committee

2.15 Please see Para No. 1.39 of Chapter I.

Recommendation (Sl. No. 18, Para No. 2.55)

2.16 The Committee also desires to know of the efforts that were made to fill 05 ST backlog vacancy in the grade of EE (C) SCF and outcome thereof.

Reply of the Government

2.17 It is submitted that the process of filling up of above vacancies in BSNL is held up due to Court case filed in the Hon^{ble} CAT Chandigarh. BSNL has made efforts to vacate the stay order in favour of reservation in promotion. However, the Hon^{ble} CAT Chandigarh in its judgement dated 31.07.2017 has disallowed reservation in promotion. BSNL is examining the judgement for further course of action.

2.18 05 vacancy of EE(C) shown as Backlog in 2015 are actually unfilled vacancy left after promotion process taken up in July 2014. The vacancy left unfilled at that time was due to degree diploma issue and due to which promotion of regular SDEs upto 06.08.1994 could only be considered for promotion. Thereafter promotion process was taken up for total up-to-date vacancies and it was again held up on degree diploma issue and one court case on this issue is OA no.2905/2015 in CAT PB Delhi regarding Degree Diploma issue for promotion is still to be decided finally. Next Date of hearing is 04.09.17

Comments of the Committee

2.19 Please see Para No. 1.49 of Chapter I.

Recommendation (Sl. No. 19, Para No. 3.4)

2.20 The Committee note that 34 SC and 98 ST cases of compassionate grounds appointments are pending for appointment which is quite considerable. The Committee also learnt that grading system on compassionate appointments is being maintained by BSNL which may not be to the advantage of the SCs/STs. Even though, there is no socio-economic criteria fixed for appointment on compassionate grounds, but is understandable that SC/ST employees/families are usually from deprived section of the society and losing an earning member of the family would entail them to further deprivation. In view of the above, the Committee urge the Management to explore the feasibility of expediting and giving appointments to SCs/STs pending cases in the true meaning of the term compassionate grounds appointments.

Reply of the Government

2.21 BSNL has been following the guidelines issued by DoP&T for offering Compassionate Ground Appointment (CGA) to the dependent of deceased employees. Under these instructions, there is no provision of reservation for offering CGA to dependents of deceased SC/ST employees. On the recommendation of NCST in the meeting held on 20.11.2006, it was decided to formulate a policy by BSNL to offer CGA to bring uniformity in assessment of indigent condition of the family and accordingly weightage point system was introduced, which has been formulated keeping in view of standard guidelines issued by Government of India. Compassion in such cases is same whether it is a general category or SC/ST candidates. BSNL will make all efforts to clear all these pending cases.

Recommendation (Sl. No. 20, Para No. 3.10)

2.22 The Committee note that during the last four years only one ST employee has been sent on foreign training. The Committee recommend that to increase their exposure and efficiency at the time of nomination for foreign training due care should be taken to ensure that adequate number of ST employees are also nominated.

Reply of the Government

2.23 It is submitted that the recommendations and advices given to BSNL would be duly complied. BSNL has already issued necessary directives in this regard.

Comments of the Committee

2.24 Please see Para No. 1.52 of Chapter I.

Recommendation (Sl. No. 21, Para No. 3.14)

2.25 The Committee note that rosters have been maintained for each category of posts for direct recruitment and promotion. The Committee also appreciate that these rosters are prepared as per guidelines of DOPT and placed in portals of the Company w.e.f 03.08.2016. It is also observed that apart from the CLO and Liaison officers roster representatives from the Ministry of Communications (Department of Telecommunications) also inspect the rosters maintained at Head Office, Circle Offices and Districts/SSAs offices. The Committee need hardly emphasise that rosters are an important tool in implementation of reservation for SCs/STs and hence should be maintained properly by an officer who is well versed and trained in rosters preparation, maintenance and fixation of rosters points. It is often alleged that BSNL being a very large organisation having offices all over the Country have often neglected maintenance of rosters in Circles and SSA levels due to lack of awareness in rosters maintenance. The Committee therefore recommend that officers from Head office should carry out inspection of rosters at the Circle and SSA levels regularly and all miscalculation of rosters points should be rectified immediately. Further the Liaison officers of these offices should also be sent for rosters awareness trainings regularly.

Reply of the Government

2.26 BSNL has been regularly sending team from Head office to inspect the rosters maintained at Corporate Office level and Circles office & SSA level and has taken corrective measures in the rosters.

2.27 As regard to rosters awareness trainings to the Liaison officers, BSNL is having training modules at various training institutes namely BRBRAITT Jabalpur, ALTTC, Ghaziabad to provide training to Liaison Officers for rosters awareness.

Recommendation (Sl. No. 22, Para No. 3.19)

2.28 The Committee note that SC/ST Cells have been set up in the Head office and Circle Offices to look after the welfare of SC/ST employees. One of the main functions of the SC/ST Cell is to monitor the implementation of reservation policy for SCs and STs in various recruitments and promotions and inspection of rosters maintained by various cadre controlling branches at Corporate, Circles and SSA levels. The Committee opine that since the SC/ST Cell are headed by the Chief Liaison officers/Deputy Liaison officers at the Corporate and Circle levels who are looking after important issues related to SC/ST welfare, officers to be appointed as CLO/Deputy Liaison officers should be individuals of high

integrity and impeccable service records. It is also observed that Management has often resorted to appointments of these Liaison Officers without keeping in mind the interests of SC/ST employees but rather keeping the interest of the company at large. The Committee, therefore, recommend that in order to have an effective Liaison Officers contributing for the company and also protecting the interests of SC/ST employees before appointment of Liaison Officers the SC/ST Association should be taken into confidence and consulted. The Committee further recommend that all SC/ST Cells in the various circles office should be provided with adequate staff to effectively man the Cell.

Reply of the Government

2.29 It is submitted that the BSNL has been appointing Chief Liaison Officers(CLO)/ Deputy Liaison Officers (Dy LO) as per the clause 24 of Presidential Directives on reservation for SC/ST. However, SC/ST Officers will be posted as CLO/Dy LO, wherever feasible. As far as posting of adequate staffs in all SC/ST Cells in various Circle Offices, posting of CLO/Dy LO etc. are concerned, the recommendation of the Committee has been forwarded to the BSNL and action is being taken in that direction within the provision of extant rules.

Comments of the Committee

2.30 Please see Para No. 1.55 of Chapter I.

Recommendation (Sl. No. 25, Para No. 4.6)

2.31 The Committee further note that there are 3469 casual labourers engaged by BSNL since before the formation of the Committee who are paid daily wages as per court directions. The Committee would like to explore feasibility of regularising the services of these casual labourers on humanitarian grounds.

Reply of the Government

2.32 BSNL has explored the possibility of regularising the services of these casual labourers and had taken the opinion of Learned AG on the matter. The Learned AG had opined that these casual labourers cannot be regularised in view of Umadevi's judgement of Hon^{ble} Supreme Court of India. In view of above, regularization is not possible at this stage.

Comments of the Committee

2.33 Please see Para No. 1.66 of Chapter I.

Recommendation (Sl. No. 27, Para No. 4.18)

2.34 The Committee appreciate that on the intervention of the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, BSNL has now only one SC/ST Employees Association (SEWA) where all working/serving SC/ST employees are a member or an executive member of the Association. The Committee are also of the view that in such a large organisation like BSNL which has more than 2 lakhs employees to have a unified SC/ST Association working for the welfare of SC/ST employees has become an organisational necessity especially in resolving the conflict between SC/ST employees and the Management. It enables to maintain an ideal and healthy relationship between the Management and the Association for the overall interest the Company and growth of the company to which they belong. The Committee also feel that many grievances/complaints of SC/ST employees can be redressed through the Association who are readily available and easily approachable to many aggrieved employees. The Committee, therefore, recommend that all offices of the Association starting from the Head Office to the Circle and Districts/SSAs level should be provided necessary infrastructure such as check off facility, telephones with broadband facility, furniture, special casual leaves for attending meetings with the Management and other important Committees etc. The Committee also recommend that office bearers of the Association should also be avoided from frequent transfer and posting to places far away from their hometown.

Reply of the Government

2.35 BSNL has recognised a SC/ST Employees Welfare Association(SEWA BSNL). The members of this association have been provided office accommodation, telephone, broadband connection, furniture, special casual leave facilities at Head Office,Circle level.

In regards to transfer of office bearers of SEWA BSNL at CHQ, Circle and SSA level is concerned, the President, Secretary and Finance Secretary of the association at all three levels have been granted immunity from transfer for the full tenure period.

Recommendation (Sl. No. 28, Para No. 4.19)

2.36 The Committee note that apart from the Board of Directors of the Company there are other Boards such as Staff Welfare Board, Sports and Cultural Board etc. headed by Chairman and other officers. Leaders of SC/ST Association are not Members of such

boards and they are only invited to attend such meetings whenever held. The Committee therefore recommend that apart from regular quarterly meetings with the Management, the Association leaders be made a Member of these Boards and made a party to important policy decision taken for the overall welfare of the employees including the SC/ST interest. The Committee also urge that all executive members of the Association should also be made accountable to their official duty as per their official position irrespective of holding important portfolio in the Association.

Reply of the Government

2.37 BSNL has been following the principle of inviting a representative of SC/ST Welfare Association as a special invitee member in the meetings of BSNL Staff Welfare Board and recently, the position has been changed to a full member.

As regards the accountability of SEWA Executive Members in their official duty, the BSNL has issued instructions in the matter.

Comments of the Committee

2.38 Please see Para No. 1.73 of Chapter I.

CHAPTER III

RECOMMENDATIONS/OBSERVATION WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE GOVERNMENT

Recommendation (Sl. No. 4, Para No. 2.15)

3.1 The Committee recommend that 2 SC and 1 ST vacancies of JAO which could not be filled due to insufficient SC/ST candidates qualifying the recruitment exam held in 2015 and carried forward should be filled within three months by the scheduled Special Recruitment Drive at the earliest possible.

Reply of the Government

3.2 BSNL has informed that for the carried forward 2 SC and 1 ST vacancies of JAO and to fill up vacancies in the grade of JAO against Direct recruitment quota exam is scheduled to be held during 2017-18. BSNL is taking action accordingly.

Comments of the Committee

3.3 Please see Para No. 1.12 of Chapter I.

Recommendation (Sl. No. 5, Para No. 2.18)

3.4 The Committee note that pre-appointment formalities for newly recruited JE(TTA) in 2016 is likely to be completed by 30.06.2017 after due process. The Committee also note that notified vacancies for SCs/STs are likely to be fulfilled as waiting list is maintained by Recruitment Branch of the Corporate Office for allotting replacements in case of selected candidates not turning up or being found ineligible. The Committee desire that pre-appointment formalities should be completed expeditiously without further delay. Necessary steps should also be taken to ensure that all 31 SC and 79 ST notified vacancies are completely filled and not a single SC/ST vacancy is carried forward due to reasons such as of non-availability of suitable/eligible candidates.

Reply of the Government

3.5 BSNL has been making all out efforts to complete pre-appointment formalities for newly recruited JE(TTA) in 2016 at the earliest. 19 Circles, under whose jurisdiction, the SRD for filling up of in Direct Recruitment TTA for the year 2012 was held on 21.02.2016 were addressed to furnish details of actual number of vacancies filled as on 30.06.2017. So far, 21 vacancies of SCs and 60 vacancies of STs have been filled up out of 31 SC and 79

ST vacancies and the unfilled vacancies of 10 SCs and 19 STs would be filled from the waiting list of qualified candidates belonging to the respective category and if required, by holding another SRD by 31.03.2018. It is stated that all efforts will be made to ensure SC/ST vacancies are not carried forward on repeated occasions due to non-availability of suitable/eligible candidates.

Comments of the Committee

3.6 Please see Para No. 1.15 of Chapter I.

Recommendation (Sl. No. 6, Para No. 2.21)

3.7 The Committee are surprised to note that in 2016 pre-appointment formalities of Telecom Technical Assistance (JE) was underway in the Circles but at the same time it is stated that these are not the final figures. The Committee desire that after completion of pre-appointment formalities the details of SC/ST vacancies actually earmarked to be filled and finally filled may be furnished to the Committee.

Reply of the Government

3.8 BSNL had conducted Direct Recruitment Examination for recruitment of 2700 JEs (TTAs) during 25.09.2016 to 29.09.2016 in which 445 vacancies of SCs and 187 vacancies of STs were earmarked. The results of the examination was declared on 07.02.2017. The 2nd Merit list of candidates in the waiting list has been operated for filling up all the vacancies including the SC and ST category. All the vacancies will be filled up by operating waiting list of the qualified candidates in the Direct Recruitment JE Examination held on 25.09.16, if required, by 31.01.2018.

Comments of the Committee

3.9 Please see Para No. 1.18 of Chapter I.

Recommendation (Sl. No. 12, Para No. 2.46)

3.10 In view of the above, the Committee recommend that BSNL should immediately consult the DOPT on the matter and seek their guidance and if need be, best legal counsels/advocates should be hired by the company who are conversant with reservation policy and can effectively defend the cases pending in the Courts/Tribunals in the best interest of the SC/ST employees as well as the company. The legal counsels/advocates so hired be made compliant to attend all hearings of the cases so that hearings are not

adjourned again and again because adjournment of cases due to absence of legal counsels will further delay settlement of the cases.

Reply of the Government

3.11 BSNL has been mandatorily following and enforcing the rules/regulations/instructions, regarding the statutory provisions in case of reservation of SCs/STs in employment/promotion, as issued by the DoP&T from time to time. The promotions of executive cadres are held up due to the Hon^{ble} CAT, Chandigarh direction not to apply reservation in promotion until the mandate given by Hon^{ble} Apex Court in M. Nagaraj judgement is complied with. In the said order, Hon^{ble} Court held that reservation in promotion can be made for SC/ST employees provided that the State has sufficient data to show that there is lack of adequate representation in promotional posts and that too after showing compelling reasons namely, backwardness, inadequacy of representation and overall administrative efficiency in respect of SC/ST candidates. BSNL had engaged Sh. R.D. Agrawala, Senior Advocate of Hon^{ble} Supreme Court alongwith Sh. Pradeep Kumar Mathur, AOR to argue against the CP in the CAT Chandigarh & the RA in the High Court of Punjab and Haryana.

3.12 The Ministry of Communications (Department of Telecommunications) has forwarded the issue to DoP&T for their advice in the matter vide letter No.25-9/2017-STG.II dated 28.08.2017.

Comments of the Committee

3.13 Please see Para No. 1.32 of Chapter I.

Recommendation (Sl. No. 13, Para No. 2.47)

3.14 The Committee may also be apprised of the outcome of hearings which was to be held in the month of January this year on All India Eligibility lists of JTOs for promotion to SDE(T) by Hon^{ble} High Court of Kerala.

Reply of the Government

3.15 It is submitted that the hearing in the OP (CAT) Nos. 25/2015, 45/2015 and 126/2015 was held in the month of February 2017 in Hon^{ble} High Court of Kerala and not in Jan. 2017.

3.16 The WP OP CAT Nos. 25/2015, 45/2015 and 126/2015 are still pending before the Hon^{ble} High Court of Kerala. As a result, the promotion of JTOs to SDEs under seniority quota is dependent upon the vacation of interim status quo/its modification/final disposal of the said WP by the Hon^{ble} HC of Kerala. As long as the above exercise by the Hon^{ble} HC of Kerala is not complete, the promotion of JTOs to SDEs through seniority quota is not feasible. Since it has created a deadlock in going ahead with the promotion, BSNL has made every possible effort to get it listed early for final hearing. Accordingly, a senior advocate of the Supreme Court was engaged to defend the case in High Court of Kerala, Ernakulam in addition to the BSNL Counsel in the High Court of Kerala, Ernakulam. Several rounds of discussion between the Sr. Advocate and the BSNL counsel at Ernakulam were held. Resultantly, the matter was got listed on 15.02.2017 for final hearing. The Sr. Advocate, Supreme Court was deputed to High Court to argue the case on behalf of BSNL. The hearing continued for three consecutive days from 15.02.2017 to 17.02.2017. After hearing the final arguments from both the sides, the Hon^{ble} High Court of Kerala has reserved its judgment which is still awaited. BSNL has recently filed a Complaint Petition to the Chief Justice of High Court, Kerala for an expeditious award of the verdict.

Comments of the Committee

3.17 Please see Para No. 1.36 of Chapter I.

Recommendation (Sl. No. 15, Para No. 2.49)

3.18 The Committee observe that promotions from SDE to AGM/DE(T) are also held up due to directions of Hon^{ble} CAT Chandigarh in O.A. No.060/00864/2015 dated 08.09.2016 filled by Shri Sukhwinder Singh. The directions made on the case emphasized on giving promotion to AGM/DE(T) cadre without applying the principle of reservation when the Government rules allow reservation in promotion upto the lowest rung of Group „A“ officers which the company has adhered to all these years without any problem. The Committee appreciate that BSNL has at least challenged this verdict of Hon^{ble} CAT Chandigarh in Hon^{ble} High Court of Chandigarh on 13.12.2016. The Committee desire that all efforts should be made to get the stay orders vacated at the earliest and promote 90 SC and 59 ST Officers whose promotions have been delayed for no fault of theirs. The Committee may also be apprised about the final outcome of decision of Court cases.

Reply of the Government

3.19 It is submitted that in the court case of Shri Sukhwinder Singh regarding promotion from SDE to AGM through seniority cum fitness in Hon^{ble} CAT Chandigarh on the reservation issue, the OA was decided by CAT Chandigarh with the direction to respondents (i.e. BSNL) to consider the applicant and others within the zone of consideration for promotion from SDE (T) to the post of AGM (T)/ DE(T) without applying the principle of reservation in promotion. BSNL challenged said order of Hon^{ble} CAT Chandigarh by filing WP No. 26885/2016. Hon^{ble} High Court of Punjab and Haryana dismissed this WP and BSNL has filed SLP No. 14142 – 14143/ 2017 in Hon^{ble} Supreme Court of India against order dated 23.12.2016 in WP No. 26885/2017. The Hon^{ble} Supreme Court has granted leave in the SLP. Next date of hearing is yet to be fixed.

Comments of the Committee

3.20 Please see Para No. 1.42 of Chapter I.

Recommendation (Sl. No. 16, Para No. 2.53)

3.21 The Committee note that regarding backlog vacancies pertaining to SDE(T) examination for these backlog vacancies alongwith regular vacancies for the year 2010-11 to 2013-14 has been conducted and result declared but promotion could not be given due to the stay granted by CAT Chandigarh. As for DR-DGM posts, exam for backlog vacancies alongwith unfilled vacancies has been conducted but the result is still awaited. The Committee recommend that concrete efforts should be made by the Management to get the stay order of CAT Chandigarh vacated so as to safeguard the interest of SC/ST employees of BSNL. The Committee further recommend that result of exam conducted to fill backlog vacancies alongwith other unfilled vacancies in DR-DGM should be declared at the earliest and all SC/ST backlog vacancies be filled without any further delay.

Reply of the Government

3.22 It is submitted that Hon^{ble} CAT Chandigarh has granted stay on promotion to SDE(T) on the basis of LDCE in case of Sh. Swinderjit Singh, subsequently the case was decided by Hon^{ble} CAT Chandigarh vide its order dated 30.09.2016 against BSNL. BSNL had filed a WP no. 27283/2016 in Hon^{ble} High Court of Punjab and Haryana which was dismissed by Hon^{ble} High Court vide its orders dated 09.01.2017. After dismissal of

BSNL's appeal by Hon'ble High Court of Punjab and Haryana, BSNL has already filed SLP No. 15187/ 2017 in Hon'ble Supreme Court of India.

3.23 Regarding filling up of DR-DGM posts, it is submitted that there is no stay order from any of the CAT Benches on the recruitment process of DR-DGM. However, in one of the cases, only interim reliefs were granted to the applicants to appear provisionally in the examination.

3.24 After notification of the DR-DGM exam, total 16 court cases were filed by the aggrieved internal executives of BSNL before various CATs all over India. 15 cases have so far been dismissed in favour of BSNL, upholding the eligibility criteria as stipulated in the DR-DGM RR. Out of these 16 cases, 5 cases were dismissed at the admission stage. The rest 10 cases, wherein the interim relief to the applicants to appear provisionally in the DR-DGM exam was granted, also stand dismissed as of now. There is one court case which is still pending for final disposal i.e. OA No. 841/2013 filed by Hemant Bhaisare&Ors. before CAT Jabalpur. No interim relief/ stay has been granted to the applicants in this case even to provisionally appear in the exam. The case does not stand a chance; as identical cases have already been dismissed by other CATs. It is learnt that the case is not coming up for hearing due to non-constitution of regular bench at Jabalpur. However, Misc. Application for early disposal of the OA has already been filed.

3.25 The result of DR-DGM exam has been declared on 03.04.2017 and verification process of documents of the selected candidates is under process.

Recommendation (Sl. No. 24, Para No. 4.5)

3.26 The Committee note that contract labourers such as Safai Karamcharies engaged by BSNL are outsourced through open market wherein reservation norms are not applicable. The Committee are of the view that there are thousands of eligible SCs/STs in the Country who are not able to get even the job as a daily wager, sweeper etc. The Committee, therefore, desire that possibilities should be explored to hire these contract labourers through those agencies who have maximum SCs/STs in its rolls so that majority of poor SCs/STs may get the benefits.

Reply of the Government

3.27 It is submitted that the BSNL awards jobs on contract basis to the contractors only. The contractors are employing the workers, the role of BSNL is to ensure statutory compliances in respect of workers engaged by the contractors against the work awarded as mandated under relevant statutes.

3.28 Regarding exploring the possibility to hire contract labourers through the agencies who have maximum SCs/STs in their rolls, it is stated that no such Government directive has been received so far, in this regard.

Comments of the Committee

3.29 Please see Para No. 1.63 of Chapter I.

Recommendation (Sl. No. 26, Para No. 4.11)

3.30 The Committee note that complaints/grievances of SC/ST employees received in the SCT Cell at Corporate office or Circle office are sent to the concerned authorities for examination and taking appropriate action to resolve the cases. In spite of this mechanism and claims the Committee still receives representations from individual SC/ST employees as well Association regarding delay in promotions, posting/transfer, harassment, discrimination, non-implementation of reservation policy etc. Moreover, the fact that there are 17 cases which are still under examination by the concerned branches and that efforts are still underway to dispose of these cases indicate that the grievance redressal mechanism of the organisation is not effective enough to tackle the grievances of SC/ST employees. It is also fact that due to failure of the departmental redressal mechanism to deliver justice to them, these aggrieved persons are forced to resort to other remedial measures outside of the administrative set up.

Reply of the Government

3.31 BSNL has adopted a mechanism for redressal of grievances of SC/ST employees. The SC/ST Employees Welfare Association of BSNL (SEWA BSNL) and also individual employees can meet directly to GM&Chief Liaison Officer(SCT) at Corporate Office level to resolve their grievances. As regard to 17 cases mentioned as undisposed, it is stated that these cases are relating to service matters and transfer/posting and all the cases have been disposed off except one case. Further, in regard to prompt redressal of grievances, at Head Office, BSNL is taking bi-monthly/quarterly meetings under the Chairmanship of the BSNL Board Member with the governing body members of SEWA BSNL. For Circle/SSA level, BSNL has issued instructions to all Heads of Circles/SSAs to take quarterly meetings with the office bearers of SEWA BSNL to resolve their grievances, complaints of harassment etc.

Comments of the Committee

3.32 Please see Para No. 1.69 of Chapter I.

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE GOVERNMENT AND WHICH REQUIRE REITERATION

Recommendation (Sl. No. 1, Para No. 2.5)

4.1 The prescribed percentage of reservation for Scheduled Tribes on all India basis is 7.5% but BSNL has not been able to maintain it both in executive and non-executive posts. The main reason cited for shortfall in staff strength is attributed to various court cases and non-availability of eligible candidates. The reasons stated for the shortfall and nature of reply show the callous approach of the Management towards maintenance of prescribed percentage of reserved vacancies in general and ST in particular. The Committee are of the view that being a Government company, it is the bounden duty of the BSNL to follow the reservation policy and to maintain the prescribed percentage for Scheduled Tribes. The Committee, therefore, recommend that the BSNL should endeavour to resolve all court cases including possibility to settle them out of Court at the earliest and ensure that the prescribed percentage of 7.5 prescribed for ST is maintained by BSNL.

Action Taken Reply of the Government

4.2 It is submitted that BSNL is following all the rules/regulations of the DoP&T in case of reservation in recruitment and promotion. However due to court stay on the reservation in promotion of executive cadres, BSNL is finding difficulty to achieve prescribed % of reservation for STs.

4.3 There were six court cases filed in the Hon^{ble} CAT Chandigarh relating to the reservation in the promotion of JTO, JAO and SDE by way of Internal Department Competitive Examination (LICE) or by Seniority cum Fitness (SCF) and the Court directed BSNL to not to apply reservation in promotion by LDCE/LICE or SCF. In the case of promotion of JAO through LICE, the Hon^{ble} CAT had directed BSNL to depute JAO written qualified applicant belonging to General Category for pre-appointment/promotion training. BSNL had challenged four orders of the Hon^{ble} CAT in the Hon^{ble} Punjab & Haryana High Court. However, all the Writ Petitions were dismissed by the Hon^{ble} Court. In the other two cases, the judgement have recently pronounced and BSNL is examining the judgement for further course of action.

4.4 This Department has also advised BSNL to take legal advice in the matter from learned Additional Solicitor General of India /learned Solicitor General of India vide DoT letter No.25-9/2017-STG.II dated 06.04.2017. BSNL had filed SLPs in Hon"ble Supreme Court in all four cases and in two cases ,the Hon"ble Supreme Court granted leave without stay, in another case, Hon"ble Supreme Court granted leave with stay to the CP and while in case of JAO promotion, the SLP yet to be listed and as contempt petition was filed in the Hon"ble Punjab & Haryana High Court, BSNL had implemented Hon"ble CAT order relating to promotion to JAO. It is expected that these cases will soon be disposed of by the Hon"ble Supreme Court of India.

4.5 BSNL has taken all necessary action to defend the court cases relating to the reservation in promotion. A couple of officers from BSNL CO visited Chandigarh to brief the counsel before the crucial dates of hearing and also Sr. Advocate & an Advocate of Supreme Court were deputed to Chandigarh for arguing the case before the Hon"ble CAT & Hon"ble High Court. All the orders of CAT / High Court have been given against BSNL based on the mandate of Hon"ble Supreme Court"s judgement in M. Nagaraj"s case on the extent of reservation in promotion. BSNL"s plea that it fulfils the parameters of backwardness, inadequacy of representation and overall administrative efficiency, as mandated by M. Nagaraj"s judgement, were not accepted by CAT / High Court, resulting in orders against BSNL. Since all the court cases are sub-judiced in the form of pending CP / SLP, the possibility of out of court settlement may not be feasible at this junction.

Comments of the Committee

4.6 Please see Para No. 1.9 of Chapter I.

Recommendation (Sl. No. 7, Para No. 2.26)

4.7 The Committee note that in the year 2016, out of 2097 vacancies notified for filling through LICE in the grade of JAO in Accounts cadre, 342 and 246 posts were earmarked for SC and ST quota respectively. After the declaration of results the process of pre-induction training of successful candidate who have qualified the exam as per the vacancy position is underway at NATFM, Hyderabad. The Committee would like to know whether all notified vacancies for SCs/STs have been filled and if not, reasons, therefor alongwith concrete steps being taken to fill all vacancies. The Committee may also be informed about

the efforts made by Ministry/BSNL for getting Court order vacated so as to make further promotion on the basis of reservation.

Reply of the Government

4.8 It is submitted that all the vacancies against SC/ST quota in JAO LICE held in 2016 by BSNL have not been filled up as sufficient number of candidates could not get qualified in the exam. The details of the same areas under:

Vacancy		Filled		Unfilled	
SC	ST	SC	ST	SC	ST
342	246	152	35	190	211

4.9 BSNL is reviewing the results of failed SC/ST candidates in different grade in internal exams and necessary action is under process in the matter.

4.10 As regards defending of court cases related to reservation in promotion is concerned, the Ministry of Communications (Department of Telecommunications) has advised BSNL to take up the matter with ASG/SG vide letter No.25-9/2017-STG.II dated 06.04.2017. BSNL has deputed Senior Officers from Head Office at Chandigarh to brief the counsel before the crucial dates of hearing and a Sr. Advocate & an Advocate of Supreme Court were also deputed to Chandigarh for arguing the case before the Hon^{ble} CAT & Hon^{ble} High Court. All the orders of the Hon^{ble} CAT / Hon^{ble} High Court have been given against BSNL's appeal to continue with DoP&T's rules, based on the mandate of Hon^{ble} Supreme Court's judgement in M. Nagaraj's case on the extent of reservation in promotion. Further, BSNL's plea that it fulfils the parameters of backwardness, inadequacy of representation and overall administrative efficiency, as mandated by M. Nagaraj's judgement, were not accepted by the Hon^{ble} CAT / Hon^{ble} High Court. Since all the court cases are sub-judiced in the form of pending CP / SLP, the possibility of out of court settlement may not be feasible, at this stage.

Comments of the Committee

4.11 Please see Para No. 1.25 of Chapter I.

Recommendation (Sl. No. 11, Para No. 2.45)

4.12 The Committee are surprised to observe that BSNL has been embroiled in many court cases related to implementation of reservation policies which have affected the promotional prospects of many SC/ST employees of the company in various cadres. The

Committee are at loss to understand the reasons due to which matter reached the Courts in the first instance and what the BSNL Management was doing all these years when reservation principles are clearly mandated by the Constitution. In so far as reservation for SCs/STs are concerned there is a clear mandate of the Constitution prescribing 15% for SCs and 7.5% for STs in recruitment and promotions in all Government services/Government undertakings/Banks etc. Thus, BSNL had to only comply with these directions/orders of the Government and see that SCs/STs are properly represented as per the prescribed percentage. Clearly BSNL has failed to comply with these directions. The Committee find this callous approach and discriminatory attitude of the company to implement reservation policy in letter and spirit as unfortunate and despicable. The Committee further observe that when the matter was dragged into courts/tribunals, the administration should have whole heartedly associated itself with the cases and prepare to defend its own action of giving promotion to SCs/STs as per reservation policies. The Committee are of the view that when few disgruntled employees who were against reservations in promotion have gone to court/tribunals challenging the promotional exercise carried out on the basis of sound principles of reservation policy and laid own procedures of Recruitment Rules of the company, in the very first instance the DOPT which is the nodal Department for such issues should have been consulted for guidance and directions. Further, the best legal counsels/advocates should have been hired to properly represent and defend the cases to get the stay orders vacated.

Reply of the Government

4.13 Committee's observation only. However, BSNL has always acted to protect the constitutional privileges granted to the SC/ST employees and duly incorporated in the respective Recruitment Rules in BSNL. Further details of action taken in this regard are given under Recommendation No. 12.

Comments of the Committee

4.14 Please see Para No. 1.25 of Chapter I.

Recommendation (Sl. No. 17, Para No. 2.54)

4.15 The Committee note that in the grade of SDE(C) backlog of 01 SC and 22 STs have remained unchanged since the year 2013. However, it has been stated that Recruitment Section vide letter dated August, 2016 has been requested to conduct the LDCE exam for

89 vacancies including the backlog vacancies of SC/ST category before 24.12.2016. The Committee are surprised to note that these backlog vacancies have remain unfilled for last four years. The Committee are of the view that whenever backlog vacancies get accumulated and remain unfilled due to certain reasons, it should be the bounden duty of the organisation concerned to fill it at the earliest because backlog cannot remain indefinitely. The Committee, therefore, recommend that all efforts should be made to fill these 01 SC and 22 ST backlog vacancies in SDE(C) without any further delay and also inform the Committee of the outcome.

Reply of the Government

4.16 It is submitted that limited internal competitive exam for SDE(C) was scheduled for 05.03.2017 but could not be held due to stay order of CAT, Chandigarh. Efforts made to vacate the stay order in favour of reservation in promotion. However, in OA No 60/1130/2016, CAT Chandigarh has pronounced the judgement on 26.07.17 disallowing reservation in promotion. The BSNL is examining the case for further course of action.

Comments of the Committee

4.17 Please see Para No. 1.45 of Chapter I.

Recommendation (Sl. No. 23, Para No. 3.24)

4.18 The Committee are also of the view that to tackle and control the problem of people joining BSNL on production of false caste certificates, the recruitment branch should carry out thorough verification of caste certificates at the time of appointment and also refer it to the issuing authority for authentication and revalidation. The Committee also would like to stress that getting into a Government job at the expense of reserved vacancies on production of false caste certificate is a crime and grave injustice against reserved category people because it denies them gainful employment opportunity guaranteed by the constitution. The Committee, therefore, recommend that in view of the gravity of the situation and its consequences, a person getting appointment on false caste certificates prima facie should immediately be terminated from service rather than being allowed to go to courts for relief which will embroil the Management in a long legal tussle. The Committee also recommend that in view of the fact that many people easily obtain false caste certificates in connivance with the issuing authority, the officer/authority who issued the false certificate should also be held accountable and complaint be lodged against him for indulging in this nefarious activity. The Committee further recommend that existing pending

cases should be expedited and disposed of by vigorously following up with the certificate issuing authorities within a specific time frame and its outcome informed to the Committee.

Reply of the Government

4.19 It is submitted that at the time of recruitment, the certificate of SC/ST candidates are not verified. However, during verification, if claim of the candidate regarding SC or ST category, as the case may be, is false, action is taken as per DoP&T guidelines in the matter. The SC/ST Certificates are sent to concerned district authorities/scrutiny committee of the state for verification. The Officer looking after the recruitment is well aware of rules relating to verification of SC/ST certificates. In all cases of false caste certificate, efforts are being made by BSNL to lodge FIR as per Government guidelines.

4.20 The BSNL has been vigorously pursuing such cases with all the concerned authorities for early disposal.

Comments of the Committee

4.21 Please see Para No. 1.59 of Chapter I.

CHAPTER – V

**RECOMMENDATIONS/OBSERVATION IN RESPECT OF WHICH FINAL REPLIES OF
THE GOVERNMENT HAVE NOT BEEN RECEIVED.**

- N I L -

**New Delhi;
16th March, 2018
Phalguna, 1939(Saka)**

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

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

(2017-2018)

(SIXTEENTH LOK SABHA)

SEVENTEENTH SITTING

(14.03.2018)

MINUTES

The Committee sat from 1500 hrs. to 1645 hrs. in the Committee Room C, Ground Floor,
Parliament House Annexe, New Delhi

PRESENT

Dr. Kirit P. Solanki - Chairperson

MEMBERS - LOK SABHA

2. Shri Kanti Lal Bhuria
3. Shri P.K. Biju
4. Dr. (Smt.) Heena Vijaykumar Gavit
5. Smt. Pratima Mondal
6. Shri Ram Charitra Nishad
7. Shri Ravindra Babu Pandula
8. Shri Vishnu Dayal Ram
9. Shri Krupal Balaji Tumane
10. Shri Vikram Usendi
11. Shri Bhanu Pratap Singh Verma
12. Dr. Bhagirath Prasad

MEMBERS - RAJYA SABHA

13. Shri Shamsheer Singh Dullo
14. Shri D. Raja
15. Smt. Wansuk Syiem
16. Shri Ramkumar Verma

SECRETARIAT

1. Shri N.C. Gupta, Joint Secretary
2. Shri D. R. Shekhar, Director
3. Shri V.K. Shailon, Deputy Secretary
4. Shri Mukesh Kumar, Under Secretary

WITNESSES

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At the outset, the Chairperson welcomed the Members of the Committee. The Committee then considered the following draft reports:

(i) Action taken by the Government on the recommendations contained in the Seventh Report (Sixteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject "Reservation for and employment of Scheduled Castes and Scheduled Tribes in Central Board of Excise and Customs".

(ii) Action taken by the Government on the recommendations contained in the Tenth Report (Sixteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject "Status of implementation of reservation policy in those companies who have 50% Government and 50% private equity like PETRONET LNG Limited".

(iii) Action taken by the Government on the recommendations contained in the Eleventh Report (Sixteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject "Reservation for and employment of Scheduled Castes and Scheduled Tribes in Bharat Sanchar Nigam Limited (BSNL)".

2. After due consideration, the Committee adopted the above mentioned reports without any modification. The Committee also authorized the Chairperson to present these reports to both the Houses of Parliament in the current session of the Parliament.

3. **XXXXX** **XXXXX** **XXXXXX**

4. **XXXXX** **XXXXX** **XXXXXX**

5. The sitting of the Committee then adjourned.

APPENDIX III
(Vide Para 4 of Introduction)

ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE THIRTY FOURTH REPORT (FIFTEENTH LOK SABHA) OF THE COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES.

1. Total number of recommendations.....28
2. Recommendations/observations which have been accepted by the Government (*vide* Recommendations at Sl.Nos. 2,3,8,9,10,14,18,19,20,21,22,25,27& 28)

Total: 14
Percentage: 50.00%
3. Recommendations/Observations which the Committee do not desire to pursue in view of the replies of the Government (*vide* Recommendations at Sl. Nos. 4,5,6,12,13,15,16,24 & 26)

Total: 9
Percentage: 32.14%
4. Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (*vide* Recommendations at Sl. Nos. 1,7,11,17 & 23)

Total: 5
Percentage: 17.85 %
5. Recommendations/Observations in respect of which final replies of the Government have not been received (*Nil*)

Total: 00
Percentage: 0%