



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO(S). 12966-12967 OF 2026
(ARISING OUT OF S.L.P. (CIVIL) NO(S).24406-24407 OF 2023)**

**THE BHARAT SANCHAR NIGAM LIMITED
AND ANOTHER**

...APPELLANT(S)

VERSUS

G.N. MANI RAVINDER AND OTHERS ETC.

...RESPONDENT(S)

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. Leave granted.
2. The issue arising in these Appeals falls in a narrow compass. To put it pithily, we are required to dwell on the issue as to whether the case of the private respondents would be covered with the decision rendered by this Court in ***Medini C. and Others v. Bharat Sanchar Nigam Limited and Others***¹ (three Judges) or the private respondents' case would be more appropriately governed by the earlier judgment of this Court in ***CMD/Chairman, Bharat Sanchar Nigam Limited and Others v. Mishri Lal and Others***². The private respondents-writ petitioners are working on the post of Assistant Director (Official Language), renamed as 'Rajbhasha Adhikari', on ***officiating basis***. The learned Single Judge of the High Court allowed the writ petitions directing the appellants herein to

¹ (2022) 4 SCC 562

² (2011) 14 SCC 739

consider the cases of the private respondents-writ petitioners for promotion to the post of '*Rajbhasha Adhikari*' without reference to the test prescribed under the Rajbhasha Adhikari Recruitment Rules, 2005³ and on the basis of the rights that accrued to the private respondents-writ petitioners under the Rules that existed earlier thereto. The said order of the learned Single Judge has been affirmed by the Division Bench of the High Court under the common impugned judgments.

3. The Department of Telecommunications⁴ constituted a separate wing for promotion of Hindi language and, in furtherance thereof, posts of Hindi Translator Grade I, II and III were created. The next higher post was that of Hindi Officer. The private respondents-writ petitioners were appointed as Hindi Translators in different grades. Administrative orders were issued from time to time stipulating the guidelines for promotion to the next higher post and one such order was issued on 28.04.1994 providing that Hindi Translators Grade-I, II and III shall be entitled to be promoted automatically to the post of Hindi Officer on completion of 3, 5 and 8 years of service respectively. However, the private respondents-writ petitioners could not be afforded the benefit of promotion under the said administrative orders and, in the meanwhile, the DoT framed statutory rules, namely Assistant Director (Official Language) Recruitment Rules, 2002⁵. The post of Hindi Officer was re-designated as Assistant Director (Official Language). It was mentioned in the Rules that irrespective of the ratio between direct recruitment and promotion, all the existing 120 vacancies shall be filled by promoting the eligible Hindi Translators. However, again, none of the private respondents-writ petitioners were extended the benefit under these Rules. As a matter of fact, the

³ Hereinafter referred to as 'the 2005 Rules'

⁴ Hereinafter referred to as 'the DoT'

⁵ Hereinafter referred to as 'the 2002 Rules'

2002 Rules were never brought into operation. Thereafter, the new set of statutory rules i.e., the 2005 Rules, were enacted which renamed the post of Assistant Director (Official Language) as '*Rajbhasha Adhikari*' and prescribed a written test for evaluating eligibility for promotion with a further condition that if adequate number of candidates are not available for promotion, the corresponding vacancies shall be made available for direct recruitment. It is these rules which were challenged before the learned Single Judge of the High Court.

4. It was the contention of the DoT before the High Court that the writ petitioners have no right to be promoted under the earlier set of Rules which were never brought into force and that the writ petitioners have to attend the examination for being promoted to the next higher post of '*Rajbhasha Adhikari*'.

5. Since the learned Single Judge and the Division Bench of the High Court had taken a view that the private respondents-writ petitioners are entitled to be promoted under the Rules which were in existence immediately prior to 2005 Rules, now Bharat Sanchar Nigam Limited has preferred these Appeals.

6. Mr. Piyush Sharma, learned counsel appearing for the appellants and Ms. Archana Pathak Dave, learned ASG appearing for respondent no.5-DoT, would assail the common impugned judgments of the High Court on two counts. *Firstly*, the cases of the private respondents-writ petitioners are covered by the decision of this Court in ***Mishri Lal (supra)*** and, *secondly*, the High Court's view that the private respondents-writ petitioners are entitled to be considered for promotion as per the rules prevalent when the vacancies had arisen prior to 2005 Rules, is contrary to the law laid down by this Court in the matter of ***State of Himachal***

***Pradesh and Others v. Raj Kumar and Others*⁶.**

7. Per contra, Mr. G. Arudhra Rao, learned counsel appearing for the private respondents-writ petitioners would submit that the cases of the private respondents-writ petitioners are covered under the decision rendered by this Court in ***Medini C. (supra)*** which has clearly distinguished ***Mishri Lal (supra)*** inasmuch as private respondents having been promoted on ***officiating basis*** prior to the 2005 Rules, their case would be governed under the old Rules, and the High Court has taken a correct view in allowing the writ petitions.

ANALYSIS

8. Indisputably, as has been noted by the learned Single Judge of the High Court that all the writ petitioners were ***officiating*** against the post of Assistant Director (Official Language) or ‘*Rajbhasha Adhikari*’ which fact was also stated in paragraphs 6 and 9 of the counter affidavit filed by the appellants before the writ court. Thus, it is not in dispute that the private respondents-writ petitioners were never promoted either on regular basis or even on *ad hoc* basis to the post of ‘*Rajbhasha Adhikari*’. In the above undisputed factual background, we notice the observations made by this Court in ***Mishri Lal (supra)*** in paragraph 10 which is reproduced hereunder:

“10. It may be mentioned that the respondents herein were never regularly promoted as Hindi Officer at any point of time either under the 1984 Rules or the Recruitment Rules, 2002. They had never been appointed on the basis of the recommendation of the Departmental Promotion Committee duly approved by the Union Public Service Commission. In fact, they were appointed purely on a local officiating basis under the powers delegated to the heads of telecom circles on the basis of administrative instructions dated 28-4-1994. Thus, they were never regular appointees and hence had no vested rights for promotion to the post of Hindi Officer under the Recruitment Rules of 2002, which, in fact, were never in operation at any point of time. Besides this, when the revised Recruitment Rules, 2005 were

⁶ (2023) 3 SCC 773

formulated, 120 posts were classified as executive, and for the executive cadre posts, the mode of recruitment was changed and it was now to be filled up by a limited internal competitive examination. It cannot now be allowed to be filled up by promotion of persons working on officiating basis. In our opinion there was nothing illegal in this change of policy.”

9. In the subsequent decision of this Court in **Medini C. (supra)**, the affected candidates were promoted on **officiating** or **ad hoc basis**. In such a situation, this Court had an occasion to consider whether their cases would be governed by the earlier decision of this Court in **Mishri Lal (supra)** or they are distinguishable. This Court proceeded to observe thus in paragraphs 20, 21, 30 and 32 to 37:

“20. There can be no cavil that these appellants were appointed as Hindi Translators and Telecom Office Assistants. The appellant viz. C. Mridula was promoted to General Central Service Group as Assistant Director (OL) on officiating basis while the appellants viz. Medini C., B. Geetha Devi and Sobhana Kumari were promoted to the post of Assistant Director (OL) on ad hoc basis. This was prior to the enforcement of the 2002 Rules.

21. On 24-12-2002, the respondent(s) issued a Notification stating that the 2002 Rules would supersede all instructions on the subject including the instructions contained in DOT's Circular No. 372-1/94-STG-III dated 28-4-1994 regarding filling up of the posts of Hindi Officers [Assistant Director (OL)] in field units on local officiating basis. That wherever local officiating arrangements/ad hoc promotions were required, they were to be made in accordance with the provisions of the 2002 Rules. Further, local officiating arrangements/promotions on ad hoc basis having already been made were not to be disturbed until further orders.

30. The High Court vide its judgment dated 4-11-2011 [*BSNL v. Union of India*, 2011 SCC OnLine Ker 3786] held that in *Mishri Lal* [*BSNL v. Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] , this Court had made observations with regard to the implementation of the 2002 Rules vis-à-vis the facts of the said case and the said observations did not apply to the instant cases. The High Court held in favour of the appellants herein by observing that there were 120 vacancies of Assistant Director (OL) when the 2002 Rules were in force and the appointing authority had promoted in terms of the prevailing Rules and the 2005 Rules did not take away the vested right of the appellants herein as the 2005 Rules were prospective in operation. Citing the decision of this Court in *Y.V. Rangaiah v. J. Sreenivasa Rao* [*Y.V. Rangaiah v. J. Sreenivasa Rao*, (1983) 3 SCC 284 : 1983 SCC (L&S) 382 : AIR 1983 SC 852] , it was observed that the posts which fell vacant prior to the amended Rules would be governed by the old Rules and not by the new Rules. Consequently, all the original petitions and writ petition filed by the respondents herein were dismissed by the High Court vide judgment

dated 4-11-2011 [*BSNL v. Union of India*, 2011 SCC OnLine Ker 3786] .

32. We have in detail narrated the facts and events that have occurred in these cases and also referred to the Rules of 2002 and 2005 and we have succinctly noted the earlier order dated 4-11-2011 [*BSNL v. Union of India*, 2011 SCC OnLine Ker 3786] passed by the High Court which were in favour of the appellants herein. The reason as to why the earlier order of the High Court was reviewed and recalled by the impugned judgment is mainly on the basis of the judgment of this Court in *Mishri Lal* [*BSNL v. Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] in respect of which the High Court in the impugned judgment has stated that the 2002 Rules were not given effect to and hence the appellants had no right to be regularised subsequent to their ad hoc promotions.

33. Hence, we shall consider the judgment of this Court in *Mishri Lal* [*BSNL v. Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] . In *Mishri Lal* [*BSNL v. Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] Respondents 1 to 9 therein assailed the 2005 Rules by which the writ petitioners were told to appear in the limited internal competitive examination for promotion to the post of Rajbhasha Adhikari [AD (OL)]. The said Rules were quashed by the Allahabad High Court at the preliminary stage of admission, without service of notice to the respondent BSNL. In para 9 of *Mishri Lal* [*BSNL v. Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] , this Court noted that there were some objections to the Recruitment Rules of 2002 as “allegedly” these Rules were never in operation at any point of time. Thereafter, the revised 2005 Rules were formulated and issued on 5-8-2005 whereby 120 posts were classified as executive with the nomenclature of Rajbhasha Adhikari. While the educational qualifications remained the same as before, under the 2005 Rules, the entire cadre had to be filled by a limited internal competitive examination. These Rules had been struck down [*Mishri Lal v. Union of India*, 2005 SCC OnLine All 1342] by the Allahabad High Court.

34. In para 10 of *Mishri Lal* [*BSNL v. Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] , it is noted that the respondents therein were never regularly promoted as Hindi Officer at any point of time. They were appointed on the basis of administrative instructions dated 28-4-1994, purely on officiating basis under the powers delegated to the Heads of Telecom Circles. They were never regular appointees and hence no vested rights for promotion to the post of Hindi Officer under the 2002 Rules inhered in them. Further, this Court observed that when the 2005 Rules were formulated 120 posts were classified as executive and the power of recruitment was changed and such posts were to be filled up by internal competitive examination, the said posts could not be filled up by promotion by the persons working on officiating basis.

35. Thus, the aforesaid facts in *Mishri Lal* [*BSNL v. Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] and on a consideration of the reasoning of the judgment(s) of the High Court of Judicature at Allahabad, this Court held in favour of the respondents herein by setting aside the judgment of the Allahabad High Court.

36. In our view the judgment in *Mishri Lal* [BSNL v. *Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] cannot be applied to the present case as the facts that obtained in the said case are distinct. In *Mishri Lal* [BSNL v. *Mishri Lal*, (2011) 14 SCC 739 : (2014) 1 SCC (L&S) 387] it was noted that the respondents therein were never regularly promoted as Hindi Officers at any point of time either under the 1984 Rules nor under the 2002 Rules subsequently. They were appointed purely on the local officiating basis under the administrative instructions dated 28-4-1994. Therefore, this Court held that the respondents in the said case were never regular appointees and hence had no vested right for promotion to the post of Hindi Officer under the 2002 Rules which were not given effect to vis-à-vis the respondents therein.

37. But in the instant case the facts are totally distinct inasmuch as these appellants were provisionally promoted while in the Telecom Department as Assistant Director (OL) as early as on 15-5-1994 but they were not regularised and hence they approached the Tribunal seeking an order of regularisation. In fact, Rule 10(3) of the 2002 Rules categorically stated that as a “one-time measure” all the vacancies in the grade of Assistant Director (OL) in the first year of promotional quota or direct vacancies had to be filled by direct quota by following due procedure from amongst the officials who had been officiating as Assistant Director (OL) in the respondent BSNL subject to their fulfilling the basic qualifications and experience as prescribed. Despite promulgation of the 2002 Rules no order for regularisation of promotion was issued. Hence, the appellants herein approached the High Court for promotion. It is during the said period, the 2005 Rules were issued but by then the appellants herein had already enforced their vested rights regarding their regularisation in their respective posts as per the 2002 Rules on the basis of one-time measure that was envisaged under the said Rules. The Tribunal therefore granted relief to them and the High Court by order dated 4-11-2011 [BSNL v. *Union of India*, 2011 SCC OnLine Ker 3786] dismissed the writ petitions filed by the respondent BSNL was sustained by this Court in the special leave petitions as well as the review petitions filed by the respondent BSNL.”

10. The conspicuous discerning factors in *Mishri Lal (supra)* and *Medini C. (supra)* are that in *Mishri Lal (supra)* the writ petitioners were working as ‘Rajbhasha Adhikari’ on **officiating basis** like in the present case; whereas in the matter of *Medini C. (supra)*, the writ petitioners were provisionally promoted⁷. Thus, the cases of the private respondents-writ petitioners were covered under the judgment rendered by this Court in *Mishri Lal (supra)* wherein this Court denied the relief to the writ petitioners only on the ground that since they were working

⁷ See paragraphs 36 and 37 of *Medini C. (supra)*

on the next higher post only on **officiating basis**, there is no vested right in them to be considered for promotion under the old Rules. In the subsequent decision in the matter of **Medini C. (supra)**, the writ petitioners were provisionally promoted and, thus, this Court distinguished the earlier decision of this Court in the matter of **Mishri Lal (supra)**.

11. It is now settled by this Court in the matter of **Raj Kumar (supra)** while overturning the earlier decision in the matter of **Y.V. Rangaiah and Others v. J. Sreenivasa Rao and Others**⁸, that:

- (i)** There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose;
- (ii)** It is now settled proposition of law that a candidate has a right to be considered in the light of the existing rules and that such right occurs on the date of consideration of the eligible candidates under the rules existing at that point in time; and
- (iii)** The Government is entitled to take a conscious policy decision not to fill up the vacancies arising prior to the amendment of the rules. The employee does not acquire any vested right for being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government. There is no obligation for the Government to make appointments as per the old rules in the event of restructuring. The only requirement is that the policy decisions of the Government must be fair and reasonable and must be justified on the touchstone of Article 14 of the Constitution of India.

⁸ (1983) 3 SCC 284

12. Thus, applying the ratio laid down by this Court in ***Raj Kumar (supra)***, the High Court could not have directed consideration of the private respondents-writ petitioners' case for promotion on the basis of the Rules existing immediately prior to the enactment of the 2005 Rules. Thus, the common impugned judgments passed by the High Court deserve to be set aside and the same are hereby set aside.

13. The Appeals are accordingly allowed.

14. Pending applications stand disposed of accordingly.

.....**J.**
(PRASHANT KUMAR MISHRA)

.....**J.**
(UJJAL BHUYAN)

NEW DELHI;
SEPTEMBER 17, 2026.