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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2952 of 1997

New Delhi, dated the 26th MAY May, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

S/Shri

- 1.. Virender Singh,
S/o Shri Umed Singh
- 2.. Mahesh Chand Gupta,
S/o late Shri Ram Swarup Gupta
- 3.. Vijay Kumar,
S/o Shri Madhav Ram
- 4.. Devender Kumar,
S/o late Shri M.R. Vaish.
- 5.. Smt. Sudesh Kumari,
W/o Shri Anil Kumar Sharma. APPLICANTS

(By Advocate: Shri Sant Lal)

Versus

1. Union of India through
the Secretary,
Ministry of Communication,
Dept. of Telecom.,
Sanchar Bhawan,
New Delhi.
2. The Chief General Manager,
Mahanagar Telephone Nigam Ltd.,
Khurshild Lal Bhawan,
New Delhi-50.
3. The Chief General Manager,
(Maintenance)(NTR),
Kidwai Bhawan,
New Delhi-110050. RESPONDENTS

(By Advocate: Shri V.K. Rao)

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicants impugn respondents' order dated
12.11.97 (Ann. I) cancelling the exam. of Paper
IV of JAO Part I Exam. held on 15.9.97 and the
decision to hold a re-examination for that paper.

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2. We have heard applicant's counsel Shri Sant Lal and respondents' counsel Shri V.K. Rao. We have also perused the relevant records furnished to us by respondents resulting in the issue of the impugned order.

3. Admittedly the JAO Part I Exam. is a qualifying exam. which was to have been held that year in 57 centres over the country. Perusal of the relevant records discloses that at the Bhopal Centre the Centre Supervisor distributed the question Paper No. II on 14.9.96 at 10.00 a.m. After two minutes one candidate reported that he had received question Paper of Paper IV instead of Paper II. The Invigilator immediately collected the Question Paper from the candidate and delivered it to the Centre Supervisor. The Centre Supervisor later checked all the copies including copies distributed to the candidates and found yet another copy of Paper IV in the undistributed bundle of question papers. Respondents had the option of holding a re-examination of Paper IV in Bhopal Centre alone or at all the 57 centres. Respondents chose the later option, as a measure of abundant caution treating this exposure of Paper IV as a leakage.

4. There cannot be any doubt that the sanctity of these examination, even if they were merely qualifying examinations and not competitive exam. had to be preserved. In the present case the candidate at the Bhopal Centre who was given a

copy of Paper IV on 14.9.96 had an opportunity to read its contents a full 24 hours before the examination for that paper were to be held. There was every possibility of his passing on its contents to his colleagues in the Bhopal Centre, and the contents of that paper could quite easily have been transmitted by fax, telephone etc. to the other centres also. Under the circumstances if respondents as a measure of abundant caution decided to hold a fresh exam. for Paper IV at all the centres in the country, their decision cannot be faulted. It was a decision taken at the appropriate level by respondents on an objective assessment of the facts that were brought to their notice at the time, and it is not for this Tribunal to substitute its own assessment for them^{vs}.

5. Shri Sant Lal has cited the judgment dated 21.4.98 in O.A. No. 1614/97 Shri Sanjeev Kumar Vs. UOI & Ors. In that case, consequent to the theft of question papers of the Clerks' Grade Exam., 1996 which was also conducted on an all India basis at more than 1500 centres, respondents decided to cancel the exam. and hold reexamination at 6 centres. Applicant Sanjeev Kumar had impugned respondent's decision to hold reexamination in the 6 centres and inter alia had argued that if there was a leakage the logical course would have been to cancel the exam. in all

the centres. The Tribunal after hearing both parties dismissed that O.A. on merits. While doing so, it noted that respondents had the option either to cancel the exam. in all the centres or to statistically analyse and thereafter ascertain the extent of the leakage on the basis of such analysis. The action of respondents had to be tested on the balance of convenience of public interest vis-a-vis individual's interest with minimum disadvantage to the maximum number of people. The Tribunal noted that respondents had carried out a statistical analysis and satisfied itself that they had proceeded on a reasonably scientific basis with regard to the cancellation of the exam. at the aforementioned centres and there was therefore not adequate justification to cancel the exam. in all the centres.

6.. Shri Sant Lal has argued that the reasoning adopted in the judgment in Sanjeev Kumar's case (Supra) is equally applicable in the present case, and if in that case it was not found necessary to cancel the exam. in all the centres, in the present case also a similar finding should be recorded, particularly as respondents did not conduct any inquiry and conclude on the basis of that inquiry that knowledge of the contents of Paper IV had spread to others² in Bhopal Centre or to other centres. ~

7. We are not persuaded to accept this argument. No uniform course of action is applicable in such matters, which depends amongst other things on the perceived risk and likely extent of leakage. In Shri Sanjeev Kumar's case (Supra) respondents immediately carried out an inquiry and analysis and were satisfied that the damage was limited to 6 centres and hence it was not necessary to cancel the exam. in all the centres, a decision which the Tribunal found no good reason to interfere with. In the present case, precisely because no such inquiry/analysis was carried out to determine whether the damage was localised, and respondents had a reasonable apprehension that the contents of Paper IV could be leaked to other candidates in the Bhopal Centre as well as to other centres, as the exposure of that question Paper took place full 24 hours before the exam. in that paper was to be held, that respondents decided to cancel the exam. for that paper in all the centres and hold a fresh exam. in that paper.

8. Such a decision cannot be termed arbitrary, because in the facts and circumstances of the case, it is a decision which any reasonable person would have taken. It is not illegal, because no law or instruction prevents respondents from taking it. No malafides have been alleged - specifically against any one and there are

materials on record on the basis of which respondents took the decision. Further more the decision is not a selective one, but applies uniformly to all the candidates.

9. Under the circumstances, the O.A. warrants no interference. It is dismissed. No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
MEMBER (J)

S.R. Adige

(S.R. ADIGE)
VICE CHAIRMAN (A)

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