

- 7 -

Central Administrative Tribunal, Principal Bench

Original Application No.1874 of 2000

New Delhi, this the 14th day of March, 2001

Hon'ble Mr.V.K.Majotra, Member (Admnv)

Hon'ble Mr.Shanker Raju, Member(J)

In the matter of :-

Amongst 19 ordered for re-examination on 10.4.2000

1. Aadesh Jain, Junior Engineer (C), Office of Executive Engineer, TCD-II, A.G.Road, New Delhi.
2. Rajiv Shrivastava, JE(C), Office of Telecom, Civil Sub Division, Civil Inquiry, 17-1-19, Chammery Qtrs. Atul Graove Road, New Delhi.
3. Santer Pal, JE(C), Office of the EE(Civil), Telecom Civil Division, ALTTC Campus, Ghaziabad(UP).
4. Ramesh Kumar, JEC) Office of SE(C), Telecom Civil Circle, Curzon Road Barracks, New Delhi.
5. Rahul Bawa, J.E.(C), Office of the Executive Engineer (CM), 1st Floor, Philatilic Hall, Eastern Court Complex, ND-50.
6. Rajinder Singh, JE(C), Office of the Executive Engineer, (DCS), 30-31A, Jeevan Vikas Building, Asaf Ali Road, Delhi.
7. Balkeshwar Sharma, JE(C), O/O EE(C)-II, T.E. Bldg, MTNL, Bhikaji Cama Place, New Delhi.
8. Ram Kishan JE(C), O/O EE(C)-I, Mahanagar Doorsanchar Sadan, M.T.N.L., C.G.O. Complex, New Delhi.

Appeared only on 21.10.99(not ordered for re-examination)

9. Ratan Singh, JE(C), Civil Enquiry Luxmi Nagar Telephone Exchange, Luxmi Nagar, Delhi.
10. R.K. Gupta O/O SSW(C) Department of Telecom Service, 1st Floor, ARA Centre, Jhandewalan Extn. New Delhi.
11. Rashmi Mishra, JE(C), Office of SSW(C), Department of Telecom Services, 1st Floor, ARA Centre, Jhandewalan, New Delhi.
12. Sanjay Kumar, JE(C), office of the EE(DCS), Jeevan Vikas Building, Asaf Ali Road, Delhi.
13. Shambhu Kr. Mishra, JE(C), Office of the Director BS (Civil), ALTTC, Ghaziabad (U.P.) - Applicants

(By Advocate Shri M.K.Bhardwaj through proxy counsel  
Shri A.K.Bhardwaj)

Versus

1. Union of India through the Secretary, Government of India, Ministry of Communications, Department of Telecom Services, Sanchar Bhawan, Sansad Marg, New Delhi-110001

2. The Director(BW), DTS Sanchar Bhawan, New Delhi.
3. The Dy.Director General (Training), Department of Telecom Service, 5th Floor, Dak Bhawan, New Delhi-110001.
4. The Sr.D.D.G.(B.W.), Department of Telecom, 6th Floor, Sanchar Bhawan, New Delhi.
5. The Director(DE&VP)Department of Telecommunication Dak Bhawan, New Delhi. - Respondents

(By Advocate Shri Rajinder Nischal)

**O R D E R**

By V.K.Majotra, Member(Admnv) -

Applicants 13 in number are Junior Engineer (Civil) (for short 'JE(C)') in Delhi Circle of Department of Telecom Services. They are aggrieved that all of them were declared unsuccessful in Limited Departmental Competitive Examination (for short 'LDCE') for promotion as Assistant Engineer (Civil) (for short 'AE(C)'), 1999(50% quota). They have further stated that whereas IS Codes are allowed to be used in all academic/competitive examinations of all Universities/Departments, and were also allowed to be used in LDCEs for promotion to the cadre of AE(C) in the years 1995, 1996 and 1997, the respondents prohibited use of the same in the LDCE held in the year 1999 on 21.10.1999.

2. There were two papers in the LDCE, 1999 - Paper-I Engineering Design & Construction Practices, and Paper-II General Engineering. According to applicants in Paper-I there are always some design questions which cannot be solved without reference to engineering data from IS Code. Thus, usage and practice to use IS Code in Paper-I is imperative. It is stated that 19 candidates out of 57 at Delhi Centre were allowed to use IS Codes on their own risk and responsibility. Such candidates made a representation on 21.12.1999 and a separate examination for them was held on 10.4.2000.

:: 3 ::

However, when the combined result of all 57 candidates of Delhi Centre was declared all of them were failed. The applicants have claimed that in the previous examinations 100% candidates from Delhi Centre had never failed. Their representation dated 27.7.2000 (Annexure-A-11) to the Dy.DG (Training) remained unrepplied. The applicants have sought quashing and setting aside the result of the LDCE held on 21.10.1999 for promotion of JEs to AEs (Civil) 50% quota declared vide letter dated 30.6.2000 as also order dated 4.7.2000 (Annexure-A-2) whereby appointments were made of successful candidates as AE (Civil). They have also sought direction to the respondents to hold a fresh examination for promotion from JE to AE under 50% competitive examination quota or to direct the respondents to re-evaluate the answer-sheets of candidates who appeared in the LDCE held on 21.10.1999 and 10.4.2000 by some neutral agency.

3. At the outset learned counsel of applicants stated that now applicants insist on one relief only i.e. re-evaluation of their answer-sheets by a neutral agency.

4. Respondents have denied that IS Code was allowed to be used in any examination held since 1995. According to them rules do not permit taking any books to examination hall. Use of IS code in the examination hall is an unfair means. According to respondents, they had taken a lenient view of the use of IS Code by 19 candidates at Delhi Centre and decided to reconduct the examination for them. Respondents have contended that answer-sheets were assessed honestly and properly; result of successful candidates was declared strictly on merit; and that there is no provision in the rules for re-evaluation of answer-sheets.

:: 4 ::

5. Applicants have filed a rejoinder as well.
6. We have heard learned counsel of both sides and perused the pleadings and material on record.
7. Learned counsel of applicants contended that in all examinations including UPSC examination IS Code is allowed to be used in examination hall. He also contended that in LDCE for promotion to the cadre of AE(C) held before 1999 examination, IS Code was allowed to be used in examination hall. Just because 19 candidates at Delhi Centre had used IS Code at their own risk in examination hall and authorities had conducted a fresh examination for them, the authorities failed all candidates who appeared at Delhi Centre in order to <sup>due to hb</sup> avoid any complications in future ~~due to~~ conduct of 19 candidates. The learned counsel also contended that whereas applicants scored 80% marks in Paper-II, they could score 40% marks only in Paper-I because IS Code was not allowed to be used in examination hall.
8. Learned counsel of respondents contended that comparison of the examination in question with examination held by the UPSC is misplaced. Although IS Code is allowed to be used in the UPSC Engineering Services Examination, use of books including IS Code was prohibited in the LDCE in question. He drew our attention particularly to Department of Telecommunications and Department of Posts AEs (Civil/Electrical) LDCE Regulations, 1993 issued vide Notification dated 10.11.1993 (Annexure-R-1). In the appendix attached to these regulations it is specifically provided that candidates should not be permitted to take any book to the examination hall. Showing the IS Code, learned counsel of respondents stated that IS Code is also nothing but a book. It was clarified vide circular dated 16.11.2000 that no

candidate is allowed to use reference books/ Code books or any other books. The learned counsel drew our specific attention to Annexure-R-2 which is Paper-I of LDCE, 1999 in which question 2 of Part 'D' reads as follows:-

"Calculate the moment of resistance of a beam 250 mm wide, the depth to the centre of the steel reinforcement being 500 mm. The reinforcement consists of four 12 mm diameter bars. The maximum allowable stress in the steel is 125 N/mm<sup>2</sup> and the stress in the concrete at the extreme compression edge is 4.2 N/mm<sup>2</sup>. Take modular ratio m=15".

According to him modular ratio m=15 has been given in the question itself. Thus there is no need of use of IS Code as the measure has already been provided in the examination paper itself. According to him, wherever in a question there is a need for use of IS Code, the specific measure or information is provided in the question.

9. One of the applicants, who was present in the court, when asked to point out a question in the question paper of LDCE, 1999 where necessary information has not been provided and use of IS Code would be necessary, the candidate was unable to do so. In our considered view non-provision of IS Codes in the examination hall would not make any difference when requisite information is provided in the question paper itself. Thus demand for use of IS Codes in the examination hall is unjustified when such information is already included in the question paper as is the case in the instant case.

10. Just because no candidate of Delhi Centre was declared successful in the examination, it cannot be said that there is any good ground for re-evaluation of answer-sheets of applicants/all candidates of Delhi Centre unless it is proved that the respondents had any

:: 6 ::

prejudice against present applicants. No such prejudice has been proved. As a matter of fact respondents had displayed an unwarranted generosity in reconducting examination for 19 candidates including some of the applicants. Moreover, no provision for re-evaluation of answer sheets in the relevant rules could be indicated. Respondents also pointed out that no objection to prohibition of use of IS Codes in the examination hall was raised in any other Centre in the country.

11. Having regard to above reasons, we do not find any merit in present OA which is dismissed accordingly. No costs.

S. Raju

(Shanker Raju)  
Member (J)

V.K. Majotra

(V.K. Majotra)  
Member (Admnv)

rkv