

Open Court

Central Administrative Tribunal,  
Allahabad Bench, Allahabad.

Allahabad: this the 09 day of September 2002.

Original Application No.75 of 2002.

Hon'ble Maj Gen K.K. Srivastava, A.M.

Hon'ble Mr. A.K. Bhatnagar, J.M.

1. Udaiveer Singh a/a 50 years, Son of Late Atar Singh, Posted as Senior T.O.A (SS) Accounts Branch. In the office of Telecom District Manager, Etah.
2. Ram Prakash a/a 44 years, Son of Late Sunder Lal Posted as Sr. T.O.A. Operation Section C/O Telecom District Manager, Etah.
3. Om Prakash Sharma a/a 43 years, Son of Sri Ram Gulam Sharma, Posted as Sr. T.O.A. In the Office of S.D.E. Telecom Ganjdundwara, Etah.
4. Bishram Singh Yadav a/a 42 years, Son of Sri Nathoo Ram Yadav, Posted as D.T.D. Etah.
5. Durgpal Singh a/a 40 years, Son of Sri Dhara Singh Posted as S.D.E. (HRD) Office of Telecom District Manager, Etah.
6. Anil Kumar Jain a/a 38 years, Son of Sri Budh Sen Jain Posted as Senior T.O.A.(Gen) T.R.A. Unit, Office of Telecom District Manager, Etah.

.....Applicants.

Counsel for the applicants: Sri Sudhir Agrawal,  
Sri S.K. Mishra.

Versus.

1. Union of India through the Secretary Department of Telecom, Sanchar Bhawan, New Delhi.
2. Bharat Sanchar Nigam Limited, Dam Bhawan, Sansad Marg, New Delhi through its Chairman.
3. The Joint Dy. Director General (DE & VP) Bharat Sanchar Nigam Limited, Sansad Marg, New Delhi.
4. The Chief General Manager Telecom U.P. West Circle, Dehradun.

.....Respondents.

Counsel for the respondents: Sri A. Sthalekar.

O R D E R (Oral)

Hon'ble Maj Gen KK Srivastava, AM.

By this OA, filed under section 19 of the A.T. Act, 1985, the applicants, 6 in number, have challenged order dated

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14.12.2001 (Ann A1) ordering that the Departmental Competative Examination for promotion to Junior Telecom Officer (in short JTO) under 15% quota held on 17/18.2.2002 is to be held afresh and to be held on 20th and 21st April 2002.

2. The facts in brief, as per applicants, giving rise to this OA are that a notification was issued in May 2000 for written test to be held on 16/17.9.2002 to fill the post of JTO under 15% promotion quota. The written test scheduled to be held on 16/17.10.2000 were postponed and held on 17/18.2.2001. The result of the test was not declared for quite some time and the applicants filed representation on 19.12.2001 individually and also through their association. Vide impugned order dated 14.12.2001, the examination held on 17/18.2.2000 has been cancelled and the same examination is to be held afresh, in pursuance of order of respondent no. 2 dated 19.11.2001. Aggrieved by the same applicants filed this OA which has been contested by the respondents.

3. Sri S Agarwal, learned counsel for the applicant has submitted that in para 6 of the CA, the respondents have taken plea that the examination could not be held on 16/17.9.2000 because certain candidates created problems, as reported to respondent no. 2 by the Chief General Manager Telecom (in short CGMT) West Circle Dehradun. The examination was held on 17/18.2.2001. Learned counsel for the applicant has invited our attention to para 18 of the OA, in which it has been averred that there was some vigilance inquiry in respect of the

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examination held on 17/18.2.2001 and the Vigilance Department of Telecom did not find any substantial material. Therefore, the action of the respondents holding the written examination afresh is illegal and unjustified. Not only this, learned counsel for the applicant argued that there has been no complaint by any of the candidates and, therefore, since no prejudice has been caused to the applicants who appeared in the examination held on 17/18.2.2001, the question of holding the same examination afresh is not correct.

4. Shri S Agarwal, further submitted that the respondents have taken a plea that the examination is to be held only in one paper i.e. of Physics on the ground that there were certain questions ~~out of~~ of syllabus. It would have been correct on the part of the respondents to have taken such a decision provided the candidates who appeared in the said examination made any complaint which as per record does not seem to be so. In this regard the factual averment has been made by the applicants in para 17 of the O.A. Though in the counter affidavit this averment has been denied, but no material to substantiate the same has been either said or any document placed on record.

5. Resisting the claim of the applicant Sri A Sthalekar submitted that the decision to hold the examination afresh in Physics has been taken by the highest body i.e. BSNL, Headquarters by letter dated 4.4.2002.

6. We have heard learned counsel for the parties and perused record.

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7. We do not find any material on record to support the action of the respondents. In our opinion the action of the respondents in not declaring the result of the examination held on 17/18.2.2001 is not correct. The very fact that there has been no complaint by any of the candidates who appeared in the examination and also nothing has been placed on record by the respondents to support their action. We are of the opinion that the action of the respondents suffers from error of law and the orders dated 14.12.2001, 29.11.2001 and 4.4.2002 are liable to be quashed. The result of the examination held on 17/18.2.2001 should be declared without any delay.

8. In view of the aforesaid, the OA is allowed. The orders dated 14.12.2001, 29.11.2001 & 4.4.2002 are quashed. Respondent no. 4 i.e. CGMT, West Circle, Dehradun is directed to declare the result of the examination held on 17/18.2.2001 within a period of 2 weeks from the date of communication of this order.

9. There shall be no order as to costs.

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Member (J)

Member (A)

/pc/