

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No.457 of 2010

Wednesday, this the 17th day of August, 2011

CORAM:

Hon'ble Dr. K.B.S Rajan, Judicial Member
Hon'ble Ms.K Noorjehan, Administrative Member

1. Smt.N.K Jaya, aged 44 years, W/o Late Unichekkan K.P Senior TOA(G), Accounts Section, O/o the PGMT BSNL, Thrissur, residing at 'Narattil' House, Pullur P.O Irinjalakkuda, Thrissur, Pin – 680 683
2. Smt.P.K Thankamony, aged 54 years, W/o N.K Subramanian Senior TOA, Accounts Section, O/o the PGMT BSNL, Thrissur, residing at Nedumpilli House Janatha Road, Chelakkottukara, Kuriachira Thrissur, Pin 680 006
3. Smt.P.A Radhabai, Aged 45 years, W/o P.K Sadanandan Senior ToA, O/o the AGM Mobile, BSNL Centre, Thrissur Residing at 'Pachambilli' House, Railway Station Road Amala Nagar, Thrissur, Pin – 680 004
4. Smt.P Leela, aged 48 years, W/o Late K.K Kumaran Senior TOA (TG), CSC, BSNL Centre, Thrissur, residing at 'TC/47/1182, Krishnakripa, Opposite Mother Hospital, Olarikkara, Pullazhi P.O, Thrissur, Pin 680 012
5. Smt.M Ramani, aged 39 years, W/o K.R Rajendran, Senior TOA, O/o the SDOT, Kalpetta, Wayanad, Pin 673 121, residing at 'Kolickal' House, P.O Poomadi, Wayanad, Pin 673 592
6. Shri K.R Rajendran, aged 44 years, S/o Late K Raghavan, Senior TOA, O/o the SDOT, Kalpetta, Wayanad, PIN 673 121, residing at 'Kolickal House, P.O Poomadi, Wayanad, Pin 673 592
7. Shri K Lokesha Naik, aged 41 years, S/o Late Ramanna Naik Senior TOA, O/o the DE, BSNL Uppala, Kasargod, 671332, residing at 'Sheni Kodangekana' House, Post Ukkinadka Banputhadka (Via) Perla, Kasargod, Pin 671 552
8. Shri M.G Sivan, aged 49 years, S/o K.K Gopalan, Senior TOA, O/o SDE (Admn), BSNL Bhavan, Ernakulam, Kochi – 16, residing at C-17 BSNL Staff Quarters, Panampilly Nagar, Kochi, Pin 682 036.

Applicants

(By Advocate – M/s.Shafik M.A & R Sreeraj)



V e r s u s

1. Union of India, represented by
the Secretary Department of Telecommunications
Ministry of Communications, Sanchar Bhavan, New Delhi
2. The Chairman cum Managing Director
Bharat Sanchar Nigam Limited
Sanchar Bhavan, New Delhi
3. The Chief General Manager, Telecom
BSNL, Kerala Circle, Trivandrum Respondents

(Bt advocate – Mr. George Kuruvilla for R 2-3)

This Original Application having been heard on 19.07.2011, the Tribunal on 17.8.2011 day delivered the following :

O R D E R

By Hon'ble Dr.K.B.S Rajan, Judicial Member -

1. The synopsis to the OA gives a thumb nail sketch of the entire facts of the case and the same is as under:-

The applicants are presently working as Senior Telecom Office Assistants under the respondents. On being successful in the JAO Part I examination, all of them took part in the JAO Part II internal Competitive Examination held on 4-6 Jan 2010, but none could make it to the select list. Apart from the discrepancies in the question papers and impropriety in the answer keys supplied, what vitiates the examination as far as the applicants who all belong to SC Community is concerned, is the lack of proper pre examination training with appropriate study material which is a mandatory requirement as per the Government of India instructions on the subject. As per the Government of India, Ministry of Personnel, Department of Training Instructions on the subject, All Reserved class employees are to be given a Training for a month preceding any examination for promotion or otherwise and a questioner and Study Material is to be supplied after a intensive coaching class for one month, relating to the subjects in the examination. What the respondents did was to take just three days class without providing any study materials, and it was just an eyewash done only for the sake of compliance of the instructions of the Government of India, mechanically without serving any purpose and defeating the intention of the Government.

2. Aggrieved, the applicants are constrained to approach this Hon'ble Tribunal for redressal of their grievances and seeking justice.



3. Respondents have contested the OA and their contention in particular, regarding the imparting of training is as under:-

In order to fill up the 172 vacancies in the cadre of JAO (OC-112, SC-40 & ST 20), the Kerala Circle has notified JAO Part II Exam. Those who have passed the JAO Part-I Screening Test and qualified in the JAO Part-I Exam are eligible to appear for the JAO Part II Exam and 529 such candidates have appeared for the exam. 57 candidates were declared as successful. Due to the applicants poor performance in the examination, their names did not find a place in the select list. The marks secured by the Candidates are communicated to them based on their request. The representation regarding allegations against the question and key of the exam received from various candidates are forwarded to the BSNL Corporate Office, New Delhi. All the other Southern Circles have conducted the training only for 3 days except Karnataka, which conducted the same for 6 days; In this regard it is to be noted that, no specific instructions are issued from the BSNL Corporate Office, New Delhi regarding the number of days of such training. Further if the Applicants had any grievance that the training was not proper, they could have complained the same then and there or at least before the conduct of the examination. The present O.A is only an after thought having failed in the exam. After having attended the training and written the examination, the Applicants present plea is barred by the doctrine of estoppel.

4. Earlier, in O.A No.348/10 and 603/10 which again centered around the conducting of the examination, this Tribunal ultimately held as under:-



" 23. The OAs are thus disposed with the direction to the respondents as under:-

- (a) The respondents shall take out a few sample answer sheets in Paper V to ascertain whether the answers based on Works Manual were properly evaluated and if so, the applicants be accordingly informed.
- (b) In case evaluation was not proper in that answers as per the CPWD Manual have been preferred to Works Manual, then, the respondents shall segregate those cases wherein the candidates had failed only in paper V.
- (c) These papers be got evaluated by some other examiners and the results compiled and those who have qualified in all the papers be arranged on merit basis and accommodated against the balance of the vacancies out of 172 initial vacancies. The results of already qualified candidates shall not be disturbed.
- (d) The results be declared to all the candidates as per the normal practice of declaration of results.

24. Time calendared for compliance with the above order is four months.

No cost. "

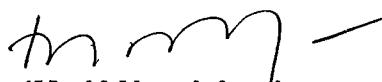
5. The only difference between this case and the other OAs is that the applicants have claimed that they ought to have been imparted due training. This part has been duly answered by the respondents in their counter and we are in agreement with their contention. Non imparting of the training is a matter prior to participation in the examination and as such, waiting for the result and filing the OA after the applicants were declared unsuccessful is to be branded as an afterthought only.

6. In respect of other issues, there cannot be a different yardstick in respect of this case and thus, the decision in the above OAs hold good in respect of this case as well.



7. Hence this OA is disposed of with the direction to the respondents that the order in OA Nos.348/10 and 603/10 as extracted above would govern the case of the applicants in this OA as well. The benefits available ^{to b} in the applicants in the other OA be extended to the applicants in this OA as well regarding revaluation of a particular paper.

(Dated this the 12th day of Aug, 2011)


(Ms.K Noorjehan)
Administrative Member


(Dr.K.B.S Rajan)
Judicial Member

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