

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 552 of 2010

Monday, this the 17th day of January, 2011

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Sumesh.T,
Junior Telecom Officer,
Purnami House,
Makkada P.O., Kakkodi,
Kozhikode

... Applicant.

(By Advocate Mr. R. Sunil Kumar)

v e r s u s

1. Bharat Sanchar Nigam Limited,
Through its Chairman-cum-Managing Director,
Bharat Sanchar Bhawan,
Harish Chandra Mathur Lane,
New Delhi : 110 001

2. Assistant General Manager (Admin),
C/o. PGMT, BSNL,
Kozhikode SSA.

3. Assistant General Manager,
Bharat Sanchar Nigam Limited,
Corporate Office – Departmental Examination
Branch, Room No. 222, IInd Floor,
Eastern Court Buildings,
Janpath, New Delhi : 110 001

... Respondents.

(By Advocate Mr. T.C. Krishna)

This application having been heard on 17.01.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. K GEORGE JOSEPH, ADMINISTRATIVE MEMBER

In this O.A., the applicant challenges the decision of the respondents in not issuing him a hall ticket for writing the Limited Departmental Competitive



Examination (LDCE) for promotion to the grade of Sub Divisional Engineer (Telecom) under 33% quota which was scheduled to be held on 04.07.2010. The applicant seeks a declaration that he is entitled to write the said examination and to issue him a hall ticket for the same.

2. The applicant joined as Junior Telecom Officer (JTO) on 09.10.2006 and completed the requisite training programme for 14 weeks. He is presently working as JTO at Kozhikode SSA. His next promotional post is Sub Divisional Engineer (SDE) for which he has to write a LDCE. As per the Recruitment Rules, for applying for the post of SDE, one has to complete a term of 3 years in the cadre of JTO. The 3rd respondent has issued an examination notice dated 18.03.2010 for the above examination on 04.07.2010. In pursuance to the above notification, the applicant has applied for the said examination but he has not been issued hall ticket since he has not completed 3 years service as JTO.

3. The applicant contends that he is entitled to get the benefit of Note 5 of column 12 of the Recruitment Rules which states "Where juniors who had completed their qualifying eligibility service are being considered for promotion, their seniors would also be considered provided they are not short for requisite qualifying service by more than one year." Many persons who are junior to the applicant due to the circle change are given hall tickets for the above examination. As the applicant's service is not short of one year as on 1st June, 2009, he is entitled to write the examination as per the Note 5, column 12 of the Recruitment Rules.

4. The respondents contested the O.A. It was submitted on their behalf that the examination scheduled to be held on 04.07.2010 is postponed until further orders. As per the Recruitment Rules, method of recruitment in the cadre of



SDE (Telecom) is 67% by promotion from JTOs (Telecom) with 3 years of service in the grade and 33% by LDCE from amongst JTO (Telecom) who have rendered not less than 3 years of service in the grade on 1st July of the year of the examination. The crucial date for determining the eligibility for appearing the examination is 1st July of the vacancy year. The notification for conducting the LDCE for promotion to the cadre of SDE (Telecom) under 33% quota was issued to fill up the vacancies for the years 2006-07, 2007-08, 2008-09 and 2009-10. The applicant cannot be permitted for appearing in the examination for the vacancy year 2009-10 for the reason that he had not completed 3 years eligibility service in the cadre of JTO as per Annexure R-2(A) Recruitment Rules. The benefit of Note 5, Column 12 of the Recruitment Rules is applicable only for promotion and not for appearing for the departmental examination. This has been clarified vide Annexure R-2(C) order dated 03.12.2009. The applicant has not pinpointed any of his juniors in Kerala Circle who has written the examination without eligibility service. The respondents have permitted only those candidates to appear for the LDCE who have completed their requisite period of service in the grade of JTO. In other words, the candidates who had joined the BSNL in the JTO cadre on or before 01.07.06 are only included in the eligibility test. The respondents relied on the order dated 05.10.2009 of C.A.T, Hyderabad Bench, in O.A. No. 644/2009 and the judgement dated 03.09.2007 of Hon'ble High Court of Andhra Pradesh in W.P. No. 6357/2006 to buttress their arguments.

5. Heard learned counsel for the parties and perused the records.

6. The applicant does not challenge the eligibility criterion of 3 years of regular service in the cadre of JTO nor does he claim that he has 3 years of such service. He relies on Note 5, Column 12 of the Recruitment Rules which states "*Where juniors who had completed their qualifying eligibility service are*



being considered for promotion, their seniors would also be considered provided they are not short for requisite qualifying service by more than one year." This benefit is applicable only for promotion as rightly put forth by the respondents. The order dated 03.12.2009 at Annexure R-2(C) clarifies the position. The applicant has not pinpointed any of his juniors in Kerala Circle who has written the examination without the eligibility service. Only candidates who had joined the BSNL in the JTO cadre on or before 01.07.06 are only included in the eligibility test. It is not the case of the applicant that his juniors in Kerala Circle, not having 3 years service have been issued hall tickets for the aforesaid examination. Annexure R-2(E) dated 30th July, 2010 clarifies that the candidates with 3 years regular service as on the crucial date as can be admitted to the LDCE. The C.A.T., Hyderabad Bench, in O.A. No. 644/2009 held that *"The law is well settled that the Courts/Tribunals cannot interfere in matters prescribing qualification/standards for appointment/promotion to any particular post"*. The Hon'ble High Court of Andhra Pradesh also reiterated the same law in Writ Petition No. 6357/06 that *"At any rate no individual has a fundamental or legal right to insist that the standards of a given test must be of a particular level, much less compel the authority to relax the standards stipulated by it."*

7. In this O.A, none of the grounds advanced by the applicant is sustainable. The applicant is not entitled to any relief as prayed for. Devoid of merit, the O.A. is dismissed with no order as to costs.

(Dated, the 17th January, 2011)


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER