

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 59 OF 2010

Thursday, this the 7th day of April, 2011

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

1. BSNL Personal Staff Association, Represented by its
Ernakulam Area Secretary, Shri C.N. Udayakumar,
Working as Steno to Assistant General Manager(Administration),
O/o. Principal General Manager Telecom, BSNL,
Kalathiparambu Road, Ernakulam, Kochi-16.
Residing at Anoop Bhavan,
Vadayar P.O., Thalayolaparambu, Kottayam.
2. Shri K. Ramachandran,
Steno to Divisional Engineer Phones Kochi,
Telephone Exchange, Mattancherry, Kochi-2,
Residing at C-3 Telephone Exchange,
Mattancherry.
3. Smt. Vijayalakshmi D Pai,
Steno to CAO (FC), O/o Principal General Manager Telecom,
BSNL, Ernakulam, Kochi-682 016.
Residing at Thycoottathil House
Mundakkal lane, Tripunithura.
4. Shri S. Venkitesan,
Steno to Divisional General Manager (Vigilance),
O/o Chief General Manager Telecom,
BSNL, Trivandrum-695 033.
Residing at T.C.28/1245, Sree Chithra Gardens
Sreekanteswaram, Fort, Trivandrum.
5. Shri M. Venugopalan,
Steno to Divisional Engineer Transmission Project,
BSNL, M/W Building, Telephone Bhavan Compound, Vellayil,
Calicut - 673 032, n
Residing at D-1, 1/4166, Officers Telecom
Quarters, East Hill, Calicut.
6. Smt. Daisy Thomas,
Steno to Divisional Engineer (Vigilance),
O/o. Principal General Manager Telecom,
BSNL, Kottayam-686001.
Residing at Kurizinkal Vadakethil,
Amayannoor P.O., Kottayam.

7. Shri K. Ramdas,
Steno to Assistant General Manager (Mobile Services),
O/o. Principal General Manager Telecom,
BSNL, Trichur.
Residing at Kelangath House, Arattupuzha P.O.,
Trichur-680 562.
8. Shri K. Anilkumar,
Steno to Assistant General Manager (Admn.),
O/o. General Manager, Telecom, BSNL, Malappuram.
Residing at Kazhumgodath House,
Anthimanakalankavu, Chelakkara P.O.,
Trichur Dist.

... Applicants

(By Advocate – Mr. G.D. Panicker)

Versus

1. Bharat Sanchar Nigam Limited, Corporate Office,
Sanchar Bhavan, Harish Chandra Mathur Lane,
Janpath, New Delhi-110 001 represented by the Chairman &
Managing Director, Bharat Sanchar Nigam Limited,
Corporate Office, Sanchar Bhavan, Harish Chandra Mathur
Lane, Janpath, New Delhi-110 001.
2. The Chief General Manager Telecom,
Bharat Sanchar Nigam Limited,
Kerala Telecom Circle,
PMG Junction, Kerala Circle,
Trivandrum-695 033.

.. Respondents

(By Advocate – Mr. George Kuruvilla)

The application having been heard on 07.04.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicants are Stenographers working under the respondents which is declared as a dying cadre. The next promotional cadre for them is Personal Assistant. Appointment to the cadre of Personal Assistant is made through a competitive examination. As per Annexure A-5, a syllabus has been prescribed for a Limited Internal Competitive Examination for the stenos to become Personal Assistants. As per the Scheme 200 marks for written examination and 300 marks for

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skilled test are to be awarded. Though there is a minimum mark fixed for written examination, no such minimum marks is prescribed for skilled test. The maximum mark is 300 for skilled test. However, it is mentioned in the syllabus that there will be no relaxation in the standard for the skilled test. The applicants were all successful in the written examination and appeared for the skilled test. But respondents took the stand that none had passed in the skilled test. According to them, only one among the candidates who appeared for the skilled test qualified and was promoted subsequently. The applicants approached this Tribunal earlier by filing OA 411/09 seeking a direction to set aside the stipulation in Annexure A-13 produced therein to conduct the special test for short hand and transcription and declare only those candidates who commit 5% or less errors as qualified, as the stipulation is against the instructions contained in the scheme and syllabus of LICE published in the case. There were other prayers also. In view of the pending appeal, this Tribunal did not go into the merits of the case. Subsequently, the said representation was disposed of by Annexure A-20 dated 23.11.2009 by which the department held that the standard fixed for skill test of LICE conducted by the Kerala Circle is in accordance with the standards prescribed by the Government for departmental candidates appearing for the skilled test. However to avoid any ambiguity, instructions as regards permissibility of percentage of mistakes / awarding of marks in skilled test have been issued separately on 06.10.2009 for skilled tests already held and to be held in future. The order dated 06.10.2009 is produced as Annexure A-19. The aforesaid stand is challenged in the present OA. It is contended by the learned counsel that Annexure A-19 by which the mark to be deducted is stipulated but it is further provided that Annexure A-19 will not apply to all such

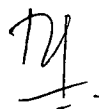


examinations in other Circles where results have already been declared. In Kerala circle a decision was taken to deduct one mark for one mistake. As a result for 5% of the mistakes, which is permissible, 25 marks have to be deducted and the minimum marks required for pass was fixed as 275. If Annexure A-19 is to be applied, the minimum marks will be 100 since 8 marks per mistake has to be deducted. In the light of the direction given by this Tribunal, it is contended that Annexure A-19 has to be applied to the applicants as well. The first respondent circulated Annexure A-19 on 06.10.2009, while the speaking order in compliance with the direction of this Tribunal in OA 411/09 was issued on 23.11.1009. Annexure A-19 was the said circular should have been extended to Kerala Circle as well.

2. The respondents on the other hand would contend that in Annexure A-19 there was a lacuna. In Annexure A-5 Scheme in so far as recruitment rules to the post of Personal Assistants are concerned, though it stipulates no relaxation will be granted in the standard for the skilled test, there is no provision to deduct marks for the mistakes, without which it is impossible to award mark for all candidate unless they do not commit any mistake. Therefore, it is possible either to cancel the examination or issue a fresh notification to remove the lacuna or issue a circular clarifying the manner as to how marks should be deducted. Kerala circle has taken a decision that one mark should be deducted for one mistake and the maximum percentage is only 5% and they have to get 275 marks for a pass. Therefore no prejudice as such is caused.



3. We have heard Mr.G.D.Panicker, the learned counsel for the Applicant and Mr.George Kuruvilla, the learned counsel for respondents and perused the documents. Though different circles are conducting the examination, the syllabus is common. Clarification issued vide Annexure A-19 is uniformly applied to all Circles. At any rate, the Corporate Office thought it fit to have a uniform standard to govern the Recruitment Rules for Personal Assistants. In the earlier circular there was no provision for deducting marks for mistakes committed in the skilled test. This was an omission in this regard in the scheme formulated for promotion of Stenographers to Personal Assistants. However, this omission was supplied by issuing Annexure A-19 clarification. Annexure A-19 was admittedly issued on 06.10.2009 whereas the OA filed earlier was disposed of on 22.06.2009. Since it was specifically directed by this Tribunal to consider the representation and dispose of the same with a speaking order, the matter could be taken as having become final only when the representation is disposed of in accordance with the order passed by this Tribunal. Admittedly, the proposal to deduct one mark for one mistake as taken up by Kerala Circle was not based on any circular or any order issued by the Corporate Office. An internal decision was taken to meet the lacuna. Further, previous sanction from the corporates Office is not seen to be taken. In the factual situation, it would be more appropriate if Annexure A-19 is made the basis to rework the marks allotted for the skilled test by deducting 8 marks for each mistake. The minimum marks required for pass is 100 as per Annexure A-19. We do not find any justifiable reason to exclude the application of Annexure A-19 to Kerala Circle in so far as there was no other previous circular issued by the Corporate Office/ Kerala Circle, with the previous approval of the Corporate office. The only material on record issued by way of clarification is the manner in which the marks are to be deducted for mistakes committed and thus curing the defect, is Annexure A-19. We, therefore, direct the



respondents to award marks to the candidates for the skilled test in accordance with Annexure A-19 guidelines/clarifications and to publish result at the earliest, at any rate not exceeding six weeks. OA is disposed of as above. No costs.

Dated, the 7th April, 2011.



K.NOORJEHAN
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

vs.