

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.257/10

Monday this the 29th day of March 2010

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

George Johns Parapura,
S/o.P.J.George,
Sub Divisional Engineer,
(OMPP), Mobile Service, BSNL,
Telephone Exchange Building, Kottayam.

...Applicant

(By Advocate Mr.Johnson Manayani)

V e r s u s

1. Secretary, Ministry of Personnel,
Public Grievance and Pensions,
(Department of Personnel and Training),
North Block, New Delhi.
2. Union of India represented by its Secretary,
Communication, Central Secretariat, New Delhi.
3. The Bharat Sanchar Nigam Ltd.,
Corporate Office at 102-B,
Statesman House, 148,
Barakhama Road, New Delhi – 1
represented by its Managing Director.
4. Managing Director,
BSNL, Corporate Office,
At Statesman House,
Barakhama Road, New Delhi – 1.
5. Chief General Manager,
Telecom, BSNL, Kerala Circle,
Trivandrum.
6. Assistant General Manager (Pers.)
BSNL, Statesman House, New Delhi – 1. ...Respondents

(By Advocate Mr.Varghese P Thomas,ACGSC [R1-2]
& Mr.Pradeep Krishna [R3-6])

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This application having been heard on 29th March 2010 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The question involved in this OA is that being a Scheduled Tribe candidate, the relaxation given by the department in competitive examination or the reduced standard given for pass is enough or in violation of any of the provisions of the Constitution of India or Annexure A-1 and Annexure A-2 notifications issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training. The brief facts of the case are as follows :-

2. The applicant applied for the post of Sub Divisional Engineer in pursuance of Annexure A-4 notification dated 7.2.2007. As per the written examination, the applicant obtained 55 and 42 marks respectively for papers 1 and 2. But as per the rules for selection, a candidate should get 50 marks for unreserved candidates and 45 marks each for SC & ST candidates for a pass. As the applicant has not obtained 45 marks, the minimum reduced standard for the paper 2, he was not selected. Hence the applicant filed this OA.

3. We have heard counsel appearing for the applicant Shri.Johnson Manayani and counsel appearing for the respondents Shri.Varghese P Thomas for R1-2 and Shri.Pradeep Krishna for R3-6. We have also perused all the documents produced before this Tribunal. The main case

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of the applicant is that since he belongs to Scheduled Tribe community, after the amendment of the Constitution of India during 2000 and thereupon the orders being passed by the DoPT regarding relaxed standard in competitive examination for SC & ST, he requires more relaxation. Further case of the applicant is that the stand taken in Annexure A-4 regarding fixation of minimum marks for SC & ST as 45 for each papers is in violation of the Constitutional mandate especially Article 16 (4B) of the Constitution of India and also against Annexure A-1 and Annexure A-2 orders issued by the Government of India. Further case of the applicant is that only because of the reason that separate minimum marks for papers have been fixed as 45, the applicant could not succeed in the examination. Hence it is only proper for this Tribunal to entertain this application and direct the respondents to give more relaxation or reduced standard in the competitive examination so as to enable the applicant to be successful in the competitive examination.

4. The question to be considered is that whether Annexure A-4 notification by which the fixation of standard of minimum marks of 45% in each subject or each paper is ultra-vires to the Constitution of India especially Article 16 (4B) of the Constitution or against Annexure A-1 and Annexure A-2 orders passed by the Government of India. In Annexure A-4 it is clearly stated that candidate belongs to unreserved community have to get minimum marks of 50% for each paper whereas SC & ST candidates have to get only 45% for each paper. This according to us is the reduced standard allowed to the candidates belongs to SC & ST communities and



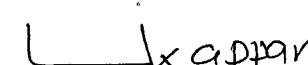
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the provisions of the Constitution of India has not been violated. Annexure A-1 and Annexure A-2 orders passed by the Government of India only contemplates a position that amendments brought out to the Constitution of India during 2000 (81st Amendment) shall be given effect. In the light of Annexure A-1 and Annexure A-2 and also in the light of Article 16(4B) we have to hold that Annexure A-4 has been given all the benefits of the amendments brought out to the Constitution of India and the candidates belongs to SC & ST have been given a reduced standard in the competitive examination. If so, the OA is devoid of any merits.

5. In the above circumstances, the OA stands dismissed as merit-less. There shall be no order as to costs.


(Dated this the 29th day of March 2010)

K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE K.THANKAPPAN
JUDICIAL MEMBER

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