

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Reserved on 04.08.2014.

Pronounced on 09.09.2014.

Original Application No.244/2010

Hon'ble Mr. Navneet Kumar, Member (J)

Hon'ble Ms. Jayati Chandra, Member (A)

Krishna Kumar aged about 35 years son of Sri Mahadev Prasad resident of L-II/34, Sector 'G', L.D.A. Colony, Kanpur Road, Lucknow presently posted at B.S.N.L., Civil Sub Division III, R.T.T.C., Lucknow.

-Applicant.

By Advocate: Sri Prashant Kumar Singh.

Versus.

1. Bharat Sanchar Nigam Ltd. through its Chairman-cum-Managing Director, Sanchar Bhawan, 4th Floor, New Delhi-110001.
2. General Manager, (Departmental Examination), Bharat Sanchar Nigam Limited, 222, Eastern Court, Janpath, New Delhi-110001.
3. Assistant General Manager (Departmental Examination) Bharat Sanchar Nigam Limited, 222, Eastern Court, Janpath, New Delhi-110001.
4. Director (Human Resources Development) Bharat Sanchar Nigam Limited, Corporate office HQ. 4th Floor, New Delhi-110001.
5. Director (Building Works) Bharat Sanchar Nigam Limited, 222, Eastern Court, Janpath, New Delhi-110001.
6. Chief General Manager, U.P. Eastern Circle, Bharat Sanchar Nigam Limited, C.P.M.G. Compound, Lucknow.
7. Chief Engineer (Civil), Bharat Sanchar Nigam Limited U.P. East, Civil Zone, Lucknow.

J. Chandra

-Respondents.

By Advocate: Sri G.S. Sikarwar.

ORDER

By Ms. Jayati Chandra, Member (A)

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, seeking the following relief(s):-

- “(A) The Hon’ble Tribunal may kindly be pleased to set aside the result of Limited Departmental Competitive Examination for promotion on the post of Sub Divisional Engineer (Civil) declared vide order dated 08.07.2009 (Annexure No.1) further modified vide corrigendum dated 10.07.2009 (Annexure No.2).
- (B). The Hon’ble Tribunal may kindly be please to issue direction to the opposite parties No.2 and 3 to reevaluate the answer sheet and give full marks for question attempted by the applicant in first and second papers and also give the full marks of the question which needs steel table for solving the second paper of the Limited Departmental Competitive Examination held on 10.08.2008 and accordingly prepare the results for promotion on the post of Sub Divisional Engineer (Civil).
- (C). The Hon’ble Tribunal may also graciously be pleased to issue appropriate directions to the opposite parties No.2 and 3 to exclude the candidature of candidates from the State of Jammu & Kashmir for the purpose of preparing the combined merit list of all the candidates as separate examinations on different date were held for the candidates of State of Jammu & Kashmir for promotion on the post of Sub Divisional Engineer (Civil) on the basis of Limited Departmental Competitive Examination held on 10.08.2008.
- (D). Any such other order or direction which this Hon’ble Tribunal may deem just and proper in the circumstances of the case.
- (E). Allow this Original Application with cost.”

2. Before going to the facts of the case and merits of the case, it is seen that the applicant has prayed for quashing of the order dated 08.07.2009 and Corrigendum dated 10.07.2009 by which 61+1 persons

have been declared as successful in the Limited Departmental Competitive Examination some of whom in the absence of any interim order may have been promoted to the cadre of SDE (Civil). The applicant has not arrayed them as respondents in this O.A. The Hon'ble Supreme Court in the case **Vijay Kumar Kaul and others Vs. Union of India and others [Civil Appeal No. 4986-4989 of 2007]** held as follows:-

"29. In Public Service Commission, Uttaranchal v. Mamta Bisht & Ors.[9] this Court while dealing with the concept of necessary parties and the effect of non-impleadment of such a party in the matter when the selection process is assailed observed thus: - "7. In Udit Narain Singh Malpaharia v. Additional Member, Board of Revenue, Bihar & Anr., AIR 1963 SC 786, wherein the Court has explained the distinction between necessary party, proper party and proforma party and further held that if a person who is likely to suffer from the order of the Court and has not been impleaded as a party has a right to ignore the said order as it has been passed in violation of the principles of natural justice. More so, proviso to Order I, Rule IX of Code of Civil Procedure, 1908 (hereinafter called CPC) provide that non-joinder of necessary party be fatal. Undoubtedly, provisions of CPC are not applicable in writ jurisdiction by virtue of the provision of Section 141, CPC but the principles enshrined therein are applicable. (Vide Gulabchand Chhotalal Parikh v. State of Gujarat; AIR 1965 SC 1153; Babubhai Muljibhai Patel v. Nandlal, Khodidas Barat & Ors., AIR 1974 SC 2105; and Sarguja Transport Service v. State Transport Appellate Tribunal, Gwalior & Ors. AIR 1987 SC 88). 8. In Prabodh Verma & Ors. v. State of U.P. & Ors. AIR 1985 SC 167; and Tridip Kumar Dingal & Ors. v. State of West Bengal & Ors. (2009) 1 SCC 768 : (AIR 2008 SC (Supp) 824), **it has been held that if a person challenges the selection process, successful candidates or at least some of them are necessary parties.**"

30. From the aforesaid enunciation of law there cannot be any trace of doubt that an affected party has to be impleaded so that the doctrine of audi alteram partem is not put into any hazard.

31. Analysed on the aforesaid premised reasons, we do not see any merit in these appeals and, accordingly, they are dismissed with no order as to costs."

3. In view of the above, the O.A. is dismissed on the ground of non-joinder of necessary parties. However, the applicant is given liberty to agitate the matter afresh, if so advised. No order as to costs.

J. Chandra
(Ms. Jayati Chandra)
Member-A

VR. Agrawal
(Navneet Kumar)
Member-J

Amit/-