

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

Dated of order: 06.08.2003

OA No.190/2003

Manish Kumar Jain s/o Shri Jag Mohan Jain, aged about 28 years, r/o Bharatpur House, 23, Vinoka Nagar, Sector-11, Malviya Nagar, Jaipur.

... Applicant

Versus

1. Bharat Sanchar Nigam Limited through Chief Managing Director, Statesman Building, Barakhamba Road, Cannought Place, New Delhi.
2. The Chief General Manager, Telecommunication, Bharat Sanchar Nigam Limited, Rajasthan Circle, Sardar Patel Marg, 'C' Scheme, Jaipur.

.. Respondents

Mr. Ankur Pastogi, counsel for the applicant.

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

HON'BLE MR. A.E.BHANDARI, MEMBER (ADMINISTRATIVE)

O R D E R (ORAL)

Per Hon'ble Mr. M.L.Chauhan

The only question which requires our consideration in this case is as to whether this Tribunal has jurisdiction, power and authority to decide the dispute with regard to recruitment or/and appointment of a person pertaining to Bharat Sanchar Nigam Limited (hereinafter referred to as BSNL).

2. The relevant facts of the case are that the applicant appeared in the competitive examination held on 4.3.2000 for direct recruitment to the post of JTO. The

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applicant was provisionally selected as per the communication dated 11.4.02 (Ann.A3) and he was required to appear before the Medical Board. Consequently, he appeared before the Medical Board. The applicant was informed vide order dated 17.7.02 that he has been found unfit by the Medical Board. Copy of this letter has been placed on record as Ann.A1. Being aggrieved by this decision, the applicant has made representation dated 20.1.03 which was rejected vide order dated 4.2.03 thereby intimating that his application was considered by the competent authority and his request for re-medical examination cannot be considered as he has been declared unfit by the Medical Board of S.M.S.Hospital, Jaipur. Copy of this letter has been placed as Ann.A2. It is these orders at Ann.A1 and A2 which are under challenge in this OA and the applicant has prayed that appropriate order or direction be issued thereby quashing and setting aside the impugned order dated 17.7.02 and 4.2.02 (Ann.A1 and A2) and also direction be issued to the respondents to appoint the applicant on the post of JTO with consequential benefits of seniority, salary from the date his junior persons have been appointed.

3. We have heard the learned counsel for the applicant and perused the material placed on record.

3.1 The learned counsel for the applicant could not satisfy this Tribunal regarding jurisdiction, power and authority of this Tribunal to entertain this application. It is not disputed that the BSNL is a limited company incorporated under the Companies Act, 1956 having distinct jurisdiction which has come to being by an agreement between the Union of India and the BSNL and the impugned

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orders Ann.A1 and A2 were also issued by the BSNL. The Administrative Tribunal was created under the Administrative Tribunals Act, 1985 in view of the powers conferred under Article 323-A of the Constitution of India for adjudication of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local authority within the territory of India or under the control of Govt. of India or of any corporation or society owned or controlled by the Govt. of India, as can be seen from the preamble of the Act. Section 19 of the Administrative Tribunals Act mandates that subject to other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal can make an application to the Tribunal for redressal of his grievance. Section 14 of the Act confers upon the Central Administrative Tribunal jurisdiction, powers and authority in respect of the recruitment and matters concerning recruitment and also service matters pertaining to recruitment and condition of service of a person appointed to public service and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Govt. of India or of any corporation or society owned or controlled by the Government and all matters connected with or incidental thereto. In the instant case, we are concerned with sub-section 2 and 3 of Section 14 of the Act which runs as follows:-

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(2) The Central Government may, by notification,

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apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations (or societies) owned or controlled by Government, not being a local or other authority or corporation (or society) controlled or owned by a State Government.

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations (or societies).

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation (or society), all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court in relation to-

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation (or society); and

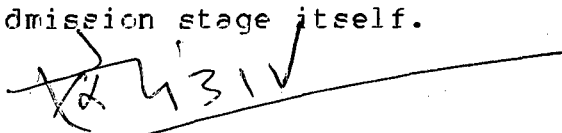
(b) all service matters concerning a person (other than a person referred to in clause (a) or


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clause (b) of sub-section (1) appointed to any service or post in connection with the affairs of such local or other authority or corporation (or society) and pertaining to the service of such person in connection with such affairs."

3.2 Admittedly, no notification under Section 14(2) of the Administrative Tribunals Act, 1985 has been issued by the Central Government thereby specifying the date on and from which the provisions of sub-section (3) of Section 14 of the Act shall apply to the BSNL, which is admittedly a company incorporated under the Companies Act, 1956. Thus, this Tribunal has no jurisdiction to entertain matters relating to recruitment and appointment to any service and post in connection with the affairs of the BSNL. As can be seen from the prayer clause, the grievance of the applicant that cancellation of his appointment/rejection of his candidature to the post of JTO is by the BSNL. Thus, it is a matter concerning appointment of the applicant to the post of JTO in BSNL and in the absence of notification under sub-section (2) of Section 14 of the AT Act thereby specifying the date on and from which provision of sub-section (3) of Section 14 of the Act shall apply to the BSNL, this Tribunal has no jurisdiction, power or authority to entertain and adjudicate the dispute with regard to this matter. Therefore, grievance of the applicant is not within the jurisdiction of this Tribunal and as such the present application is not maintainable.

4. In view of what has been stated above, the present OA is dismissed as not maintainable at the admission stage itself.


(A.F. BHANDARI)
Member (Administrative)


(M.L. CHAUHAN)
Member (Judicial)