

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**ORDER SHEET**

**ORDERS OF THE TRIBUNAL**

**22.09.2009**

TA No.34/2009 (CWP 7387/2006)

None present for applicant  
Mr. Siya Ram, proxy counsel for  
Mr. T.P.Sharma, counsel for respondents

Heard the learned proxy counsel for the respondents. For the reasons dictated separately, the TA stands disposed of.

(B.L.KHATRI)  
Admv. Member

  
(M.L.CHAUHAN)  
Judl.Member

R/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

JAIPUR, this the 22<sup>nd</sup> day of September, 2009

**TA No. 34/2009  
(C.W.P. 7387/2006)**

**CORAM:**

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

Ashok Kumar Meena  
s/o Shri G.P.Meena,  
r/o Village Parly, Tehsil Sikrai,  
District Dausa Rajasthan.

... Applicant

(By Advocate: None present)

**Versus**

1. University of Rajasthan, JLN Marg, Jaipur thorough Registrar.
2. The Chief General Manager, B.S.N.L., Telecom Circle, Rajasthan, Jaipur
3. The Joint Deputy Director General (DE), B.S.N.L. Dak Bhawan, Sansad Marg, New Delhi.
4. The Assistant General Manager, (Adm.). B.S.N.L., Telecom Circle, Rajasthan, Jaipur

... Respondents

(By Advocate: Shri Siya Ram, proxy counsel for Shri Tej Prakash Sharma)

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## ORDER (ORAL)

This matter has been transferred by the Hon'ble High Court vide order dated 1.12.2008 pursuant to conferment of jurisdiction to this Tribunal.

2. The grievance of the applicant in this case is regarding his selection to the post of Graduate Engineer Junior Telecom Officer pursuant to advertisement No. 1-1/2005. The case of the applicant is that he has qualified the said examination and respondent No.4 vide letter dated 23.6.2006 directed the applicant to submit the original documents regarding qualification. The applicant appeared before respondent No.4 on 29.6.2006 and submitted his original documents for verification but appointment to the applicant has been denied on the ground that he was declared pass in the result of re-evaluation which was pronounced on 13.1.2006 whereas the applicant was to be eligible on the crucial date i.e. 3.10.2005. It is this order which is under challenge before this Tribunal.

3. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, the respondents have categorically stated that on cut-off date the applicant was not qualified, as such, he was not eligible to appear in the aforesaid examination. It is further stated that the applicant was declared pass subsequently, as such, it cannot be said that the applicant was eligible on 3.10.2005.

*lw*

4. In this case none has appeared on behalf of the applicant despite the fact that matter was listed on 19.08.2009 on which date it was made clear that in case second set of paper book is not filed, the matter will be dismissed for non-prosecution. It may be stated here that opportunity was granted to the applicant to file second set of paper book on the last date of hearing when the matter was listed on 13.7.2009. Thus, instead of dismissing this case for non-prosecution, we have proceeded to decide the same on merit in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

5. We have heard the learned counsel for the respondents and gone through the material placed on record. We are of the view that the applicant has not made out a case for grant of relief. Admittedly, on 3.10.2005 i.e. the cut off date, the applicant was not qualified as he was declared pass subsequently by the University when his paper was reevaluated. The Apex Court has repeatedly held that eligibility has to be seen on the cut off date. In case the applicant has obtained requisite qualification subsequently, that cannot form basis for his selection. At this stage, we wish to notice decision of the Apex Court in the case of Rajasthan Public Service Commission vs. Kaila Kumar Paliwal and Another, (2008) a SCC (L&S) 492, where the Apex Court held that recruitment to a post must be made strictly in terms of the Rules operating in the field. Essential qualification must be possessed by a person on the date of issuance of the notification or as specified in the Rules and only in absence thereof, the qualification acquired till last date of filing of

the application would be relevant date. Simply, because the applicant was permitted to appear in the selection also does not afford any right in favour of the applicant in view of the law laid down by the Apex Court. in the case of T.Jayakumar vs. A.Gopu and Another, (2008) 2 SCC (L&S) 919 wherein it has been held that a candidate can be excluded from consideration at interview stage also on account of defect in his application, which decision supports the conclusion which we have drawn.

6. In view of what has been stated above, the OA is bereft of merit, which is accordingly dismissed with no order as to costs.

  
(B.L.KHATRI)

Admv. Member

R/

  
(M.L.CHAUHAN)

Judl. Member