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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00347/2014

Date of Decision : 1.10.2014

Reserved on: 26.09.2014

CORAM: HON'BLE MR. SANJEEV KAUSHIK, JUDICIAL MEMBER
HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER

Surjit Rai, HRMS No.200200106, aged 38 years, S/o Sh. Chaman Lal, working as Telecom Technical Assistant, O/o Sub Divisional Engineer (Mobile), BSNL Main Telephone Exchange, Bakilan Bazar, Hoshiarpur.

Applicant

Versus

1. Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, 4th Floor, Harish Chander Mathur Lane, Janpath, New Delhi-110001 through its Chairman-cum-Managing Director.
2. Chief General Manager 'Telecom', Bharat Sanchar Nigam Limited, Sector 34, Chandigarh.

Respondents

Present: Mr. N.P.Mittal, counsel for the applicants
Mr. G.C. Babbar, counsel for the respondents

ORDER
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (ii) Respondents be directed to review result of the applicant belonging to SC category of Limited Internal Competitive Examination for promotion to the cadre of JTO (T) held on 02.06.2013 and result declared on 01.02.2014 (Annexure A-2)



and further direct to declare the result of the applicant and consider his case under the relaxed standards as per orders at Annexure A-6, A-8 and A-11 respectively read with judgments at Annexure A-3, A-9 and A-10 respectively and on review of the result, the applicant be declared successful being SC candidate against unfilled vacancies of SC category as detailed in Annexure A-5 against the LICE Examination with further directions that on declaring successful on reviewing the result of the applicant, he be granted all consequential benefits, to which he may be found entitled to under the rules and law, in the interest of justice.

- (iii) Respondents be directed to consider case of the applicant for declaring him successful as per relaxed parameters, (Annexure A-6, A-8) and judgments (Annexure A-3, A-9 and A-10) as he has secured much more than 20% marks in aggregate by securing 35.75 marks out of 133 marks accordingly, as per orders (Annexure A-6, A-8 and A-11) respectively, the applicant is entitled to be considered for review against 25 unfilled vacancies meant for SC category and further direct the respondents to grant consequential benefits."

2. The background of the matter is that the applicant on his selection and appointment in the cadre of Telecom Technical Assistant (TTA) joined his duties w.e.f. 27.05.2002 and at present he is working in the office of SDE (Mobile), BSNL Main Telephone Exchange, Hoshiarpur. The respondent BSNL had issued a circular dated 14.01.2013 regarding holding of Limited Internal Competitive Examination (LICE) for promotion to the grade of JTO (T) under 35% and 15% quota for vacancies upto 31.03.2012. The applicant appeared in this examination, but he did not qualify the same.

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3. In the grounds for relief, it has been stated that as per the record (Annexure A-5) there were 50 vacancies reserved for SC category under 35% quota during the period from 2002 to 2012 and only 25 SC candidates were declared successful as per order at Annexure A-2, meaning thereby that 25 vacancies remained unfilled. The applicant secured 16.5 marks in Part 'A' and 19.25 marks in Part 'B' and thus got aggregate 35.75 marks out of total 133 as per Annexure II annexed as A-2. Since the applicant had secured more than 26% marks and it is also on the record that 25 vacancies meant for SC category were lying unfilled, hence, in view of the Government of India's orders dated 30.11.1992 (Annexure A-6) and order passed by the DOPT through OM dated 03.10.2000 (Annexure A-8), the result of the applicant should be reviewed. It is averred that this relaxed parameters had been adopted by the respondent BSNL against the unfilled vacancies during the years 1999 and 2000 and qualifying standards were relaxed through order dated 10.03.2003 (Annexure A-11). Besides, the case of the applicant was covered as per judgment passed by this Tribunal in similarly circumstances in the case of the colleague of the applicant in OA No.1090/PB/2002, decided on 11.02.2002 and also judgments of the Apex Court in Comptroller and Auditor General of India and Another Vs. K.S. Jagannathan and Another, 1986(2)SCC 679 (Annexure A-9) and in Chief General Manager, Telecom, Kerala Circle, Trivendrum and Another Vs. G. Renuka and Another, 1996

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(Sup9) SCR 436 (Annexure A-10). The non review of the case of the applicant and deputing of his colleagues for RTTC training as per copy of order at Annexure A-1 was adequate cause of action in favour of the applicant.

4. In the written statement filed on behalf of the respondents, it has been stated that through LICE 2013, recruitment of JTOs had been done for the recruitment years 2001 onwards as per the Recruitment Rules of 2001. Through these Rules, the BSNL had introduced revised Scheme of Syllabus for the LICE for filling the posts of cadre of JTO's under 35% and 15% quota. In these Rules, minimum qualifying marks in the examination for the SC candidates with lesser percentage had already been prescribed. The SC candidate is required to obtain 23% marks in each paper and 30% in aggregate (Annexure A-2). In the present case, the applicant could not secure 23% marks in each part and aggregate marks of 30% and hence was declared failed in the examination and he could not be sent on training. Regarding the GOI's instructions dated 30.11.1992 (Annexure A-6) and DOPT order dated 03.10.2000 (Annexure A-8), it is stated that these are not applicable in the present case as LICE had been held under the revised Scheme and Recruitment Rules of 2001 where there is no provision for review of the result of the candidates like the applicant except as per the relaxed standards already prescribed under

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the Scheme. The applicant did not obtain the required qualifying marks even as per the relaxed standard. Hence there was no merit in the OA.

5. Arguments advanced by the learned counsel for the parties were heard. Learned counsel reiterated the facts and grounds taken in the OA and pressed that the circular of 1992 continued to apply as BSNL was a successor of organization to DOT to which the 1992 instructions were applicable. Learned counsel also referred to Apex Court decision in "Rohtas Bhankhar & Ors. Vs. UOI & Anr." in Civil Appeal No.6046-6047/2004, decided on 15.07.2014 to buttress his arguments that the applicant was entitled to review of his result as per the instructions of 1992. He also referred to order dated 06.09.2012 in OA No.594 of 2010 of the C.A.T. Madras Bench of this Tribunal which was allowed for relaxation of standards in favour of candidate belonging to SC / ST.

6. Learned counsel for the respondents stated that the BSNL had formulated its own Rules for selection of JTOs and in this regard circular dated 14.01.2013 (Annexure R-1) was issued regarding the LICE held in 2013. It had been stated therein as follows:-

"As per BSNL Order No.5-11/2009-Pers.IV, dated 01.11.2011, the minimum qualifying marks will be as detailed below:-

"The minimum qualifying marks in the Examination will be 30% in each part and 37% in aggregate for OC category candidates and 23% in each part and 30% in aggregate for SC/ST candidates. There would be



negative marking for each wrong answer. 25% of the mark of that question would be deducted.””

7. Learned counsel stated that since the minimum qualifying marks for SC/ST candidates were lower than for the OC candidates further relaxation could not be allowed in this regard and in order to pass the examination each candidate had to qualify as per the prescribed minimum marks.

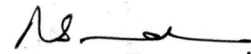
8. We have given our thoughtful consideration to the matter. From the material on record, it is evident that the BSNL had formulated its own guidelines regarding the minimum qualifying marks for the LICE examination for filling the posts in the cadre of JTO (Telecom) under the 35% and 15% quota and these guidelines were circulated vide letter No.5-11/2009-Pers.IV, dated 01.11.2011. When the schedule of examination for LICE 2013 was notified and applications invited, this provision regarding minimum qualifying marks was included in the circular as indicated above. Obviously when SC candidates were being assessed as per relaxed standard as per the Rules, further review that would result in further reducing the bench mark for qualifying the examination does not appear to be feasible. The BSNL is a Public Section Undertaking run on commercial lines and has the autonomy to formulate its own policies regarding recruitment and related service matters. Since a clear policy has been prescribed regarding the minimum qualifying marks for the JTO (T) Limited

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Internal Competitive Examination wherein the marks prescribed for SC / ST candidates are lower than for OC candidates, there is no ground to interfere in the same, as the policy applies equally well to all similarly placed SC candidates and there can be no allegation of discrimination in this regard.

9. Hence, there is no merit in this OA and the same is rejected.

No costs.



(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.



(SANJEEV KAUSHIK)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 1.10.2014

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