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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00017/2017

Friday, this the 18th day of January, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

Vaishakh V.V.,
Aged 29 years,
S/o V.V.Rajan,
Valiyaveetil House,
Eripuram, Near Sub Registrar Office,
Ezham, Payangadi PO,
Kannur – 670 303.Applicant

(By Advocate Mr.U.Balagangadharan)

V e r s u s

1. The Assistant General Manager (RECTT),
O/o CGMT, Kerala Telecom,
BSNL, Thiruvananthapuram-33.
2. The Chief General Manager,
Kerala Telecom, BSNL,
Thirvananthapuram – 33.
3. The Bharat Sanchar Nigam Limited,
Corporate Office Represented by
General Manager (RECTT),
RECTT Branch,
2nd floor, Room No.223,
Janapath, New Delhi – 110 001.Respondents

(By Mr.T.C.Krishna, Sr.PCGC for Respondents)

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This application having been heard on 16th January, 2019 the Tribunal on 18th January, 2019 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

OA No.17/2017 is filed by Shri Vaishakh V V, an aspirant to the post of Junior Engineer in BSNL, who is aggrieved by the alleged incorporation of wrong answers and consequential award of negative marks resulting in disqualification of his candidature. The reliefs sought in the OA are as follows:

1. Call for the records leading to Annexure A2 and set aside the same as legally unsustainable.
2. Direct the 3rd respondent to refer answers to 9 question at serial No.44, 84, 106, 143, 168 170, 30 171 and 169 to an expert for ascertaining correctness of the answers given in final answer key.
3. Direct the 3rd respondent to re-evaluate the marks given to all candidates who appeared for online examination for Jr. Engineer on 26.9.2016 (15th batch) on the basis of expert opinion in respect of aforesaid 9 questions and publish results thereafter.
4. Declare that the applicant is entitled to be included in the bail we are of declaration that he has successfully passed the online examination and for a declare that answers given by him in respect of that 9 questions are correct.
5. Grant such other relief that the Hon'ble Court may feel fit in the facts and circumstances of the case.

2. In response to the notification issued by the BSNL, the applicant had applied for the post of Junior Engineer and was invited to participate in the online examination to be conducted on 26.09.2016. After participating in the examination which was over a period of 5 days, the applicant was reasonably confident of being short listed for interview. Immediately after the online

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examination the respondents had published provisional answer keys to the questions. While verifying the same, the applicant found out that the answers to certain questions were apparently wrong. Being only the provisional answer key, the applicant waited for the publication of final answer key which he expected would address the mistakes contained in the provisional answer keys.

3. The result of the online examination dated 21.11.2016 is produced and marked as Annexure A2 and the true copy of the final answer key published by the respondents is at Annexure A3. The applicant found himself excluded from the final list. Being an OBC candidate, the applicant noticed the last incumbent who had qualified against the said category had scored 118.75 marks, whereas his own marks according to the official website is 116.75 marks. He has produced a true copy of the result showing the marks he had secured (Annexure A4) as well as his own answer scripts (Annexure A5). On perusing Annexure A5, applicant came to see that he had been awarded negative marks for 9 questions. He contends that the final answer keys in respect of the 9 questions were wrong and he ought to have been given credit for these questions which according to him, he had answered correctly. The applicant submitted a detailed representation to the first respondent stating the entire issue, a copy of the representation being at Annexure A6.

4. The applicant seeks re-evaluation of his answer keys which have to be

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further corrected. In the event of his being given credit for the answers in the manner he has pointed out, he would qualify as his difference with the last selected candidate under OBC category was only 2 marks. He seeks for constitution of a second committee in respect of the 9 questions on the ground that the final answer key is wrong and the evaluation has been done incorrectly. The respondents have not considered his representation and is continuing to keep long and culpable silence on the issue he had raised.

5. By way of reply, the respondents have filed counter statement, wherein the contentions of the applicant have been strongly disputed. It is admitted that an all India level direct recruitment selection for Junior Engineer was conducted by BSNL between 25.09.2016 and 29.09.2016. There were 5 lakhs candidates who appeared for the examination. The provisional answer key was published on 17.10.2016 and discrepancies, if any, were called for from the candidates upto 28.10.2016. Thereafter, an expert committee was constituted to examine the representations/discrepancies received from the candidates in respect of the provisional answer keys. The same were examined by the expert committee and Final Answer Keys were prepared by the said committee and the result published on 21.11.2016. Finally after some delay on account of discrepancies noticed in the reservation quota, the final result was published on 01.02.2017

6. The applicant who had chosen to remain silent when the provisional

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answer key was published and representations called for, is now seeking a reevaluation of the answer paper, which is inadmissible. Individual objections received in this fashion after declaration of result cannot be considered, as this will lead to a never ending process. The same issue raised by the applicant has been considered by the Principal Bench of this Tribunal in OA No.223/2017 which had been dismissed by order dated 09.03.2017. A copy of the said order is at Annexure R2.

7. Heard Shri U.Balagangadharan, learned Counsel for the applicant and Shri T.C.Krishna, learned Sr.PCGC for BSNL. All pleadings and documents were examined.

9. The Principal Bench of this Tribunal dealing with the very same issue in OA No.223/2017 had ordered as follows:

“We have heard both sides and have perused the material placed on record. We find that the discrepancies pointed out by the applicants in the examination conducted by BSNL can be grouped into two categories. The first category pertains to mistakes in the questions and the evaluation process. The second category pertains to wrong classification of candidates in different categories, such as, reserved or unreserved. As far as the first category of discrepancies were concerned, we find that the respondents first published the model answer key on 17.10.2016. They invited objections by the candidates till 28.10.2016. They constituted an Expert Committee to examine the objections received and prepare the final answer key. Evaluation has been done on the basis of final answer key prepared after taking into account the report of the Expert Committee. Thus, the respondents have correctly followed the process and have maintained transparency. The applicants have asserted that even in the final answer key prepared, there were several mistakes and, therefore, evaluation based on this has lead to wrong result. In our opinion, the difference of opinion between Experts as regards to which was correct answer to question persists. This process cannot go on indefinitely. The respondents on their part have followed the correct process by giving one opportunity to the candidates to raise objections on the model

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answer key. Their objections thereafter have been examined by the Expert Body. It was not necessary for them to give any further opportunity to candidates to file objections to the final answer key. If this is allowed, no result can ever be finalised.

Thus, as far as procedure is concerned, we do not find any infirmity in the action of the respondents. Courts are also not equipped to sit in judgment over report of Expert Committees. Therefore, evaluation based on the answer key prepared by the Expert needs to be accepted as final. This disposes of the objections mentioned in para-3, 3(i), 3(iii), 3(iv) & 3(vii).”

9. The grievance of the applicant is identical to the one raised in the OA before the Principal Bench of this Tribunal. The selection in question is one and the same, i.e., direct recruitment for Junior Engineers in the organisation. After the online examination concluded, the provisional answer keys were published in the website of the organisation and adequate time was given to the candidates to point out discrepancies, if any. The same were examined closely by the expert committee constituted and answer sheets were evaluated, then only the final selection list was announced along with the marks scored by each candidate. The applicant did not point out the discrepancy in respect of 9 questions which he now alleges. If he had genuine grievance about the same he ought to have pointed out these facts by responding to the provisional answer key. Having participated in the examination and having remained silent when he had access to the provisional answer key, now he cannot turn around and assail the selection.

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10. Facts being so, we conclude that the OA has no merit and is liable to be dismissed and we proceed to do so. No costs.

(Dated this the 18th day of January, 2019).

**(ASHISH KALIA)
JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures in O.A. No.180/00017/2017

1. **Annexure A1** – True copy of the provision answer key (relevant pages) issued by the 3rd respondent
2. **Annexure A2** – True of the result dated 21.11.2016 issued by the 3rd respondent.
3. **Annexure A3** – True copy of the final answer keys issued by the 3rd respondent (relevant pages)
4. **Annexure A4** – True copy of the examination result of the applicant issued by the 3rd respondent.
5. **Annexure A5** – True copy of the answer scripts of the applicant downloaded from the official website of the BSNL.
6. **Annexure A6** – True copy of the letter submitted by the applicant to the 1st respondent dated 25.11.2016.
7. **Annexure A7** – True copy of extracts of authorities in support of claims of the applicant.
8. **Annexure R1** – True copy of the revised notification dated 24/06/2016 for the post of Junior Engineer.
9. **Annexure R2** – True copy of the order of the Honourable Principal Bench of the Central Administrative Tribunal in OA No.100/223/2017.
