

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00072/2014

Jodhpur, this the 27th August, 2019

Reserved on 01.08.2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

Aswani Vajpai S/o Sh. Gori Shankar Vajpai, b/c Brahmin, aged about 37 years, R/o B-13, Khaturia Colony, Bikaner (Raj) at present posted at T.T.A O.F.C. (Maintenance) BSNL, Bikaner in the office of Divisional Engineer (NTR) Bikaner.

.....Applicant

By Advocate : Mr. Baltej Singh proxy for Mr. H.S. Sidhu.

Versus

- (1) Bharat Sanchar Nigam Ltd. (Govt. of India Enterprises) through its Chief General Manager, Rajasthan, Telecom Circle, Institutional Area, Jahlan Dungari, Jaipur, Rajasthan-302004.
- (2) The Chief General Manager, Telecommunication, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur-302008.
- (3) Assistant General Manager (Rectt), BSNL, Rajasthan Circle, Jhalana Dungari, Jaipur.

.....Respondents

By Advocate : Mr. Dharendra Pandey proxy for Mr. Kamal Dave.

ORDER

Per Smt. Archana Nigam, Member (A)

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

“(i) That the respondents may kindly be directed to award the appropriate marks to the applicant for question No.15 and 21 part A of the examination by treating it the correct answer supplied by the applicant.

(ii) That the respondents be directed to consider the petition for the post of JTO (T) for promotion and provide him promotion from the date when the other persons were provided promotion, with all consequential benefits.

(iii) Any other order/relief/direction which this Hon’ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

(iv) That the cost of this application may be awarded to the applicant.”

2. Brief facts of the case as stated by the applicant are that the applicant is holding the post of TTA in BSNL office, Bikaner. The respondents vide advertisement dated 14.02.2013 invited applications for the post of JTO (T) to fill up the post on promotion. The applicant was eligible, as he is had the qualification and required experience to appear in the written examination. He therefore applied for the same. Thereafter, the applicant appeared in the written examination on 02.06.2013 and he was allotted roll no.3243701014. However, he was declared failed. It is submitted that the examination was conducted in two parts A and B. It is the submitted by the applicant that in part A as per the OMR sheet of the applicant the questions No.15 and 21 were not correctly evaluated by the respondent and simply on the ground that the applicant erased the column against the concerned question and thereafter made a filing on the correct answer resulted the computer did not

evaluate it. Therefore the marks were not awarded to him, although the applicant filled the correct answer of both these questions. Aggrieved by that, the applicant has also filed a representation on 29.10.2013, but no heed was paid by the respondents. Therefore, he has filed the present OA.

3. The respondents in their reply stated that it is very specifically provided in the instruction/provision of OMR Sheet that any correction, overwriting could render the answer incorrect in view of the computerized assessment of the OMR sheet. It is further submitted that the instructions with regard to OMR sheet are very clear and now the applicant is trying to seek permission for evaluation of his answer-sheet by a separate method whereas the procedure and requirement for such examination were already known to him. The questions No.15 and 21 clearly reflect that they were corrected which admittedly goes against the applicant as per the instructions applied equally for all the candidates who appeared in the selection. Therefore, the respondents submit that the applicant is not entitled for any relief and the OA deserves to be dismissed.

4. Heard learned counsel for the applicant as well as learned counsel for the respondents and perused the material available on record.

5. Learned counsels for both sides have argued their case as per the pleadings made in the OA as well as in their reply.

7. It is the admitted position that that the applicant had filed this application seeking intervention of the Court to direct respondents to award appropriate marks to the applicant for question Nos.15 and 21 Part A of the

examination after re-evaluation in view of the correct answer given by the applicant to those questions. Consequent to this, the applicant also request that respondents be directed to consider the applicant for the post of JTO (T) for promotion and consequential benefits.

8. From the facts submitted in the pleadings and during submissions, it is very clear that applicant who had appeared in the written examination was declared failed. It is the case of the applicant that in part A of the answer sheet the evaluation of the answer given in the OMR sheet was improper as in fact the applicant had filled the correct answer to the questions for which he has also made a representation on 29.10.2013. It is his case that no heed was paid by the respondents to his representation.

9. Per contra, at the time of final hearing learned counsel for the respondents categorically stated that in the instructions for the examination the manner the filling of the answer in the OMR sheet have been very clearly mentioned. It is categorically mentioned that any correction/over writing could render the answer incorrect in view of the computerised assessment of the OMR sheet. The submission of respondents was that answer to questions No.15 and 21 have been correctly evaluated and therefore applicant is not entitled to any relief as prayed for.

10. Attention was also drawn to the detailed reply given by the respondent department with reference to the representation of the applicant.

Para 2 of reply to representation at Annexure-R/1 is as under:-

"I am directed to say that the evaluation of OMR Answer Sheet for above said exam was carried out by machine scanning and accordingly result was declared.

It is also mentioned that Shri Ashwani Bajpai also requested for retotalling/ reverification of marks and the marks awarded to him were also found correct in retotalling which has already been communicated.”

It cannot therefore be said that there is any malafide or that fair procedure has not been followed.

11. Before parting it is pertinent to note that if allowed, in the exercise of judicial discretion, departments will have to review very large number of results and Courts can get flooded with such cases. It would, in our opinion, lead to unnecessary litigations.

12. We have also perused OMR sheet of the applicant at Annexure-A/1 and it is clear that the applicant has erased one column against the questions No.15 & 21, and thereafter re-filled the correct answer in another column and due to which the computer did not evaluate and award any marks for the same. It is also seen that the instruction regarding the procedure for assessment and evaluation of marks were clearly mentioned in the OMR sheet and it is specifically provided therein that any correction/ overwriting could render the answer incorrect in view of the computerized assessment of the OMR sheet. The representation of the applicant has also been replied by the respondents vide letter dated 17.02.2014.

13. In view of the discussions made herein above, we find no merit in the present OA and accordingly the same is dismissed. No order as to costs.

[Archana Nigam]
Administrative Member

[Hina P. Shah]
Judicial Member