

BHARAT SANCHAR NIGAM LIMITED  
DE SECTION  
Room No.222, Eastern Court,  
Janpath, New Delhi.

F.No.63-~~3~~/2012-DE

Dated 5<sup>th</sup> May, 2012

To

All Chief General Managers Telecom Circles, BSNL.  
Chief General Manager Kolkata Telephones/Chennai Telephones.  
Chief General Manager(Mtce), NTR, BSNL, New Delhi

**Subject: LICE in BSNL- reg. Alleged discrepancies in framing of questions,  
answer Key & evaluation of answer sheets etc.**

Sir,

I am directed to forward herewith a copy of the judgment dated 13.03.2012 of Hon'ble CAT, Madras Bench in OA No.851/2010 filed by Mrs.Kumari Vasantharaj regarding discrepancy in framing of questions, answer Key & awarding of marks for each answer of JAO Part-II against 40% quota examination held on 4,5, & 6 January, 2010.

2. It is requested that wherever required this judgment may also be quoted in the para-wise comments being prepared to defend the cases. The judgment may also be brought to the notice of the concerned courts in respect of ongoing Court cases, if any, involving the similar issues.

Encl: As above

Yours faithfully,



(R.S.MALIK)

AGM(DE)

Ph:23710284.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH

Tuesday the 13<sup>th</sup> day of March Two Thousand Twelve

P R E S E N T

The Hon'ble Mr.B.Venkateswara ao, Judicial Member  
AND  
The Hon'ble Mrs.O.P.Sosamma, Administrative Member

Original Application No.851/2010

Mrs.Kumari Vasantharaj  
C/o CAO(HQ)  
No.1, NSC Bose Road  
Chennai 1.

Applicant

Vs.

1.The Union of India rep. by  
its Chairman and Managing Director  
Bharat Sanchar Nigam Limited  
(BSNL) 7h Floor, Bharath Sanchar Bhavan  
No.170, Janpath Road  
New Delhi 1.

2.The Chief General Manager  
Bharat Sanchar Nigam Limited  
Chennai Telephones  
No.78, Purasaiwalkam High Road  
Chennai 10.

3.The Deputy General Manager  
Human Resources (A)  
Bharat Sanchar Nigam Limited  
Chennai Telephones  
No.89, Millers Road  
Chennai 600 010,

4.The Sub divisional Engineer  
RECTT, Bharat Sanchar Nigam Limited  
Chennai Telephones  
Chennai.

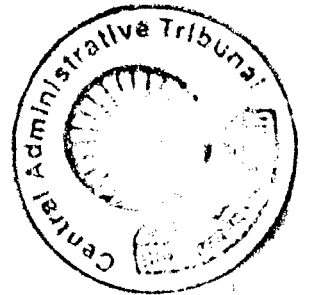
Respondents

Counsel for the applicant

M/s.K.Moorthy

Counsel for the respondents

Mr.A.S.Chakravarthy



*[Handwritten signature]*

(Order pronounced by Hon'ble Mrs.O.P.Sosamma,  
Administrative Member)

The applicant is working as a Senior Telephone Office Assistant in the Bharat Sanchar Nigam Limited Chennai Telephone District is aggrieved by her non selection to the post of Junior Accounts Officer on the basis of the competitive examination conducted in January, 2010 by the third respondent.

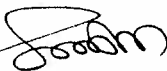
2. The selection to the post of Junior Accounts Officer was initiated by Notification No.4-29/2003/SEA dated 12.10.2004. As per this Notification, the selection consists of Part-I and Part-II examinations. The candidates who qualify in the Part-I examination alone are eligible to participate in the Part-II examination. The applicant passed Part-I examination and appeared in the Part-II examination which was held in January, 2010. But she was not selected.

3. The respondents point out that minimum requirement for passing the examination is 40% marks in each subject and 45% in aggregate provided a minimum 40% is also secured separately in the practical papers. The marks obtained by the applicant in the examination is as indicated below:

|           |    |
|-----------|----|
| paper-I   | 31 |
| paper-II  | 59 |
| paper-III | 46 |
| paper-IV  | 64 |
| paper-V   | 38 |

The applicant was declared to have failed because she has not secured the prescribed minimum marks in Paper-I and Paper-V.

4. The applicant has challenged the non-selection on the ground that she failed in paper-V, only on account of the various discrepancies



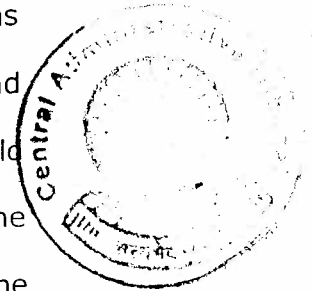
*[Handwritten signature]*

and anomalies in 'framing of questions' and key answers and the manner in which the marks have been awarded for each answer. She has therefore filed this O.A. seeking the following relief:

"To call for the records relating to (i) Junior Accounts Officers , Part-II Internal Competitive Examination in all the 5 papers are concerned, (ii) ART/100-3/JAO/Part-II/CM/2009-2010/47 dated 15.3.2010 passed by the fourth respondent in all the Part-II Internal competitive Examination in all the 5 papers are concerned, (iii) ART/100-3/JAO/Part-II/2009/27 dated 17.5.2010 passed by the third respondent and (iv)ART/100-3/JAO-Part-II/2009/19 dated 9.3.2010 passed by the third respondent and to compare the answer sheets of the selected candidates with that of the applicant's answer sheet and to the limited extent of non-inclusion of the name of the applicant herein and quash the same and to issue consequential directions to the respondents to cancel all the papers and allow the applicant herein to appear in a fresh examination or to dispense with all the 5 papers as such or the said examinations in the alternative to award suitable marks to the applicant herein in all the 5 papers to all answers in which the discrepancies and anomalies have arisen and consequentially declare that the applicant is qualified and eligible for the post of Junior Accounts Officer and promote her as such"

5. The learned counsel for the applicant argued that in this case ordering of a revaluation of answer is necessary on the ground that the candidate is subjected to serious prejudice on account of improper questions/improper framing of key answers and non awarding of the appropriate marks in viva voce examination.. She also points out that Part-V is not very relevant considering the role and responsibility of the post of Junior Accounts Officer.

6. The respondents in their reply point out that the applicant was aware of the syllabus before appearing for the Part-I examination and if she had any objection to the syllabus of the examination she should have represented against the same before appearing in the examination and since she has accepted the syllabus of the examination and took part in the examination she cannot now question





question the relevancy of the Part-V. This contention of the respondents is reasonable and has to be accepted.

7. The respondents also point out that the said examination was conducted in 26 Circles (out of total 27 recruiting circles) of BSNL, using same set of question papers and total 1275 candidates have been declared qualified in the Examination against 2638 vacancies by these circles. In Chennai Telephones, 51 candidates have been declared qualified in the examination with the same set of question papers and as such, the allegations made by the applicant that she has failed due to faulty key answers have no basis. They further state that the keys had been prepared by the paper-setters who were experts in the subjects. Moreover, the alleged discrepancy in question paper-V and its key was rectified and corrective measures were taken by the competent authority before evaluation of the paper vide letters No.10-2/2009-DE dated 20.1.2010 and 29.1.2010.

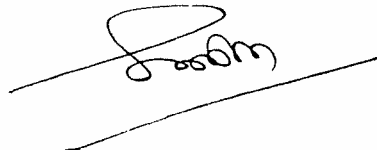
8. The respondents cited the judgement of the Hon'ble High Court of Andhra Pradesh in W.P.No.26059 of 2007 dated 18.3.2008 wherein the court has held as follows:

"When no such facility is provided for under the relevant rules, this court cannot compel the respondents to undertake the revaluation"

It is also stated in the said court order dated 18.3.2008 that,

"Time and again, the Hon'ble Supreme Court held that revaluation of an answer script in an examination can be undertaken, only when there is a provision for the same".

9. The respondents further submitted that as per Rule 15 of Part-I of Appendix 37 (Rules Relating to Departmental Examination) of P&T



Manual Volume.IV, revaluation of answer papers is not permissible.

The Rule is quoted below:

Rule 15 Part-I of Appendix 37 of P&T Manual Volume IV

"Revaluation of answer scripts is not permissible in any case or under any circumstances."

10. The same issue was raised before this Tribunal in O.A.Nos 920 & 1289 of 2010. The applicants in that case was also challenging the order No.ART/100-3/JAO-Part II/2009/19 dated 9.3.2010 issued by the third respondent raising the ground that there were anomalies in the questions and key answers.

This Tribunal in its order dated 14.9.2011 held

' At the cost of repetition, we would like to reiterate that quality and contents of the answers will determine the quantum of marks to be awarded to a particular answer. It is well within the comprehension of the expert examiner to decide the mark. In the absence of any mala fide or violation of any statutory provision in conduct of the examination, it cannot be said that there is any issue of adjudicative disposition. In such view of the matter, we refrain from granting the relief claimed by the applicants.'

11.The facts of the present case are the same as in the above O.A. and hence the same finding is applicable to the present case also.

12.The O.A. is accordingly dismissed.

"Free Copy U/R 22 of  
CAT (Procedure) Rules"

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*S. S. S.*  
DEPUTY REGISTRAR

2/3/12

