



A Government of India Enterprise

Recruitment Section-II
Eastern Court, 2nd Floor, Room No.223,
Janpath, New Delhi-110001

No. 7- 3 /2011-Rectt- II

Dated : 23rd November, 2011

To

The CGM Mtce., BSNL,
Northern Telecom. Region,
Kidwai Bhawan, Janpath
New Delhi-110 001.

Sub: W.P. No.7364/2011 filed by Shri Abhishek Pratap Ajay Vs. BSNL & others in in the Hon'ble High Court , New Delhi relating to JTO Exam 2008 held on 21-6-2009

Sir,

I am directed to forward herewith Judgement Order No. 25902/DHC/WRITS/D-9/2011 dated 19-10-2011, received from the Registrar General, Hon'ble High Court Delhi, in original, alongwith its enclosure, addressed to Principal Registrar, CAT, PB Delhi and the respondent CMD on the subject mentioned above for information & necessary action.

Yours faithfully,

(Bindu Roy)

Asstt. General Manager (R-II)

Encl: As above

pc

BSNL/0207/21-1-11/Rectt/3

13/1/11 to 15/1/11

GM (Rectt)

684-cc
14/1/11

Decided

No. 25903 /DHC/WRITS/D-9/2011

Dated 19-10-11

AEBC 00027255
Rs 15.00
P670863

Final Draft

Principal Registrar,
Central Administrative Tribunal,
Cornelius Marg, New Delhi.

15/1/11
GM (Rectt)
15/1/11

128-cc/DMC/RJ
17/1/11

The Principal Registrar, Central Administrative Tribunal, Principal Bench,
Cornelius Marg, New Delhi.
Bharat Sanchar Nigam Ltd., through its Chief Managing Director, Corporate Office,
Bharat Sanchar Bhawan, Janpath, New Delhi.
Petition against order dated 9.5.11 in O.A. No. 66/2010

WRIT PETITION (CIVIL) NO. 7364/2011

612/2011
16/1/11

Shri. Vishesh Prasad Nay & ors.

... Petitioner/s

vs.
Bharat Sanchar Nigam Ltd. & ors.

... Respondent/s

Sir,

I am directed to forward herewith for information and immediate compliance/necessary action a copy of order dated 5.10.2011 passed by Hon'ble Division Bench of this Court in the above noted case alongwith a copy of Memo of Parties.

Please acknowledge receipt.

Yours faithfully

[Signature]
Administrative Officer Judicial (Writs)
for Registrar General

16/1/11
DCM/RJ

AGM (Rectt)

AB/14.10.11

128-cc/DCM/rectt
16/1/11

DM (Rectt)

16/1/2011

AM (RJ)

17/1/11

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CIVIL ORIGINAL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2011

IN THE MATTER OF:

ABHISHEK PRATAP AJAY & ORS.

...PETITIONER(S)

VERSUS

BHARAT SANCHAR NIGAM LIMITED AND ORS.

...RESPONDENT(S)

MEMO OF PARTIES

1. Abhishek Pratap Ajay son of Shri Rajendra Prasad Resident of B-1, House No.1 Normal Colony GGIC Complex, Civil Line Faizabad (UP) ...Petitioner No.1
2. Sneh Lata daughter of Shri Surinder Singh A-22, Palam Extension, New Delhi ...Petitioner No.2
3. Rajiv Singh son of Shri Jai Pal Singh Resident of House No. 302, Gali no.16/B, Kaushik Enclave, Burari, Delhi ...Petitioner No.3
4. Gaurav Saini son of Shri Ramesh Chand Saini, Saini Basti, Near IOC, VPO Bijwasan, New Delhi ...Petitioner No.4
5. Mohd. Ahmed son of Shri Abdul Razzaq, resident of House No. 88/117-A, Prem Nagar, Kanpur ...Petitioner No.5

Versus

1. Bharat Sanchar Nigam Limited, through its Chief Managing Director, Corporate Office, 4th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi.
2. General Manager Personnel, Bharat Sanchar Nigam Limited, Corporate Office, 4th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi.

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3. Assistant General Manager (R & E),
O/o The Chief General Manager,
Northern Telecom Region, 266, Kidwai
Bhawan, New Delhi

.... Contesting
Respondents

4. Kewal Anand son of Shri Ramesh
Kumar Anand Resident of House No.
2541, Sector 38-C, Chandigarh

5. Bhagat Singh son of Shri Hans Raj
Singhtia, Village Ramgarh Tehsil
Nohar District
Hanumangarh, Rajasthan

6. Vikash Kumar son of Shri Amarnath
Jaiswal Resident of Dalhatta
Marufganj, Patna City

.... Proforma
Respondents

FILED BY:



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FILED ON: 29.09.2011
PLACE : NEW DELHI

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ WRIT PETITION (CIVIL) NO.7364 of 2011

Date of Decision: 05.10.2011

Abhishek Pratap Ajay & Ors. Petitioners
Through Mr. Neeraj Kumar Jain, Sr.
Advocate with Mr. Aditya Kumar
Chaudhary & Mr. Sanjay Singh,
Advocates

versus

Bharat Sanchar Nigam Limited & Ors. Respondents
Through

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

SANJIV KHANNA, J. (ORAL)

1. The petitioner has filed the present writ petition impugning the order dated 9.5.2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('tribunal' for short) dismissing the O.A. No. 66/2011.

2. Learned counsel has submitted that the answer to question No. 14 given by the petitioner was correct but was marked

as incorrect and because of negative marking, the petitioner has been denied appointment. He submits that if the petitioner's answer to question No. 14 is treated as correct, the petitioner qualifies. He further submits that the petitioner had correctly answered question No. 16 and in fact the respondents had changed the key subsequently, as a result of which, the petitioner has been eliminated.

3. With regard to the second aspect, the tribunal has recorded as under:

"5. Notice of this application was given to the respondents and the respondents have filed their reply. Facts, as stated above, have not been disputed. The respondents have stated that after declaration of the result of BSNL 2008 Exam, some RTI queries were received from few candidates. On verification of such queries, it came to notice that there was a discrepancy in scores of some candidates. On investigation, it was found that there was wrong entry of the key to the answers of a particular question No. 16 in Section III of Telecom Paper during machine evaluation of the answer sheets. The respondents have also reproduced the question No. 16 in Code C Section III in the additional affidavit dated 4.3.2011, which is to the following effect:-

"TC: Telecom, Code C, Section-III, Q. No.16:
The appropriate missing word in the blank space in the sentence "I prefer coffee _____ tea." Is
(A) Than (B) over (C) for (D) to"

6. According to the respondents, correct answer to the above question was 'D'. Though the candidate answered a wrong choice, i.e., 'B' but he was awarded full marks in question 16, Section-III (Set C) initially and same has been

rectified subsequently. It was found that 53 candidates, including the applicant, who were declared successful earlier in fact, could not have been declared successful. It is further stated that 86 new candidates were found qualified. Thus, according to the respondents, no infirmity can be found in the action of the respondents whereby vide the impugned letter dated 15.1.2010, the letter dated 12.11.2009 was treated as null and void and withdrawn as the applicant was wrongly conveyed as provisionally successful candidate."

4. With regard to question No. 14, the tribunal has elucidated and examined and rejected the said contention recording as under:

"10. Question No. 14 of Section III is to the following effect:

"14. The opposite of miserly is
(A) spendthrift (B) generous
(C) liberal (D) charitable"

11. As per answer key, the correct answer was "generous" whereas the applicant has answered as "spendthrift". According to the applicant, the opposite of "miserly" can be both "spendthrift" and "generous", as such where two answers are possible, the benefit of such type of answer should have been given to the applicant. Thus, it was not permissible for the respondents to give negative marking qua this question. According to the applicant, if he is awarded one mark qua this question, then he would have obtained minimum qualifying marks in Section III, i.e., 7 out of 20, as such the applicant would have qualified the selection test and he could not have been held ineligible for selection.

12. According to the respondents, correct opposite of "miserly" is "generous", which has a positive connotation unlike "spendthrift" and has

a negative connotation. Thus, according to the respondents, the aforesaid two questions have a single certain answer as such the applicant could not have been awarded marks qua these two questions."

5. Tribunal has accepted the reasoning and stand of the respondent. We agree with the findings of the tribunal in the impugned decision. The respondents in the examination paper were evaluating and examining the understanding of the candidates in English language and had expected the candidates to answer the questions not on the basis of their general understanding but on the basis of grammar and textbook English. It is not for the Court to determine and set the standards and question the nature of the questions and answers which were expected. This is entire^{ly} in the domain of the respondents. They have to determine and decide, keeping in view their needs and requirement. The question paper and key answers are set by experts in consultation with others in the relevant field and as per the job requirements. Needless to state, we do not find any absurdity in the answers which have been treated as correct answers for the two questions. The respondents were obviously looking at certain amount of precision and exactness in the answers and not vagueness, as per the keys that have been treated as the correct answers. Moreover, any interference will upset the entire selection process itself.

6. We see no grounds to interfere with the order of the tribunal in exercise of discretionary jurisdiction under Article 226 and 227 of the Constitution of India.

7. Accordingly, the writ petition is dismissed in limine.

CM APPL. NO. 16694/2011

8. In view of the orders passed in the main petition, this application does not survive and the same is dismissed as such.

Sd/-
SANJIV KHANNA, J.

Sd/-
SUDERSHAN KUMAR MISRA, J.

OCTOBER 5, 2011

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