

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17888 of 2015

DATE OF DECISION: AUGUST 27, 2015

DUSHYANT KUMAR

...PETITIONER

VERSUS

BHARAT SANCHAR NIGAM LIMITED & OTHERS ...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes/No

PRESENT: MR. N.P.MITTAL, ADVOCATE FOR THE PETITIONER.

M. JEYAPPAUL, J.

1. Aggrieved by the dismissal of original application praying for quashing the order dated 7.1.2014 passed by respondent No.3 and for directing the respondents No.1, 2 and 4 to consider his prayer for correction of the discrepancies pointed out by him, the applicant before the Central Administrative Tribunal, Chandigarh Bench (for short 'Tribunal') has preferred the present writ petition.

2. The writ petitioner was serving as TTA in the office of SDE (NIB), Chhota Shimla, Telephone Exchange, Shimla and was absorbed in the respondent-BSNL on 1.10.2000. The writ petitioner appeared in the examination for the post of JTO held on 2.6.2013, but was not successful in the examination as he scored only 23 marks in Paper B while the pass mark to be scored was 30.

3. It is alleged by the writ petitioner that there were many

discrepancies in the paper set for the examination. He moved a detailed representation on 25.6.2013. As his representation was not considered, he filed Original Application No.1486/HP/2013 before the learned Tribunal, which disposed it of on 1.11.2013 directing the competent Authority to take into consideration the order dated 21.5.2013 passed in Pradip Kumar Das & Others Vs. BSNL and others. The case of the writ petitioner was not submitted before the competent Authority, namely, respondents No.1 and 2. It is contended that respondent No.3, who was incompetent to decide the representation of the writ petitioner, has passed the order.

4. We heard the submissions made learned counsel appearing for the writ petitioner.

5. It is the submission by learned counsel appearing for the writ petitioner that the representation made by the writ petitioner was not properly examined as directed by the learned Tribunal. Respondent No.3 who has no authority to pass an order on the representation made by the writ petitioner has chosen to deal therewith.

6. The representation pointing out certain discrepancies in the examination paper set for the post of JTO and wrong answer keys pointed out by the writ petitioner have been thoroughly examined by a High Level Expert Committee constituted in the aftermath of the direction flowed from the Tribunal. The High Level Expert Committee evaluated the answer sheet of the writ petitioner only after considering the representation made by the writ petitioner that some questions had been asked out of syllabus and that the answer key had to be rectified. Thereafter, respondent No.3, namely,

Chief General Manager, Telecommunication, BSNL, Shimla has passed the impugned order clarifying the entire position in detail.

7. As rightly pointed out by learned Tribunal, no policy decision was taken by the highest Authorities in the Department. It is only the representation made by the writ petitioner that had to be disposed of. As per the directions of the Tribunal, High Level Expert Committee had been formed and the objections raised by way of representation made by the writ petitioner had been completely considered and given due weight by the High Level Expert Committee. In our considered view, there is nothing wrong in disposing of the representation made by the writ petitioner by respondent No.3.

8. In view of the above, we find that there is no merit in the writ petition and therefore, it stands dismissed.

(M. JEYAPPAUL)
JUDGE

August 27, 2015
Gulati

(DARSHAN SINGH)
JUDGE