



## BHARAT SANCHAR NIGAM LIMITED

(A Govt. of India Enterprise)

Corporate Office : Departmental Examination Branch  
222, 2nd Floor, Eastern Court Building, Janpath, New Delh-110 001

**No.63-14/2011-DE**

**Dated 04 - 07 -2011**

To

- All the Chief General Managers of Telecom Circles, BSNL
- Chief General Manager Kolkota Telephones/ Chennai Telephones, BSNL
- Chief General Manager Mtce. NTR, BSNL, New Delhi

**Subject: LICE in BSNL-Revaluation of answer sheets - Judgements - reg**

Sir,

I am directed to forward herewith a copy of the judgement dated 4-5-2011 of the Hon'ble CAT, Chennai Bench in OA NO.634 to 651/2010 & 76/2011 filed by Smt. T Bhanumathy & 18 others in connection with revaluation of answer sheets. The OAs have been dismissed by the Hon'ble CAT, Chennai.

2. It is requested that wherever required this judgement may also be quoted in the para-wise comments being prepared to defend the similar cases. The judgement 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 )

ASSTT. GENL. MANAGER (DE)

Tel.:011-23734373



**CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH: :CHENNAI**

**ORIGINAL APPLICATION NO. 634 TO 651/2010 &  
76/2011**

**Wednesday, this the 04<sup>th</sup> day of May, 2011**

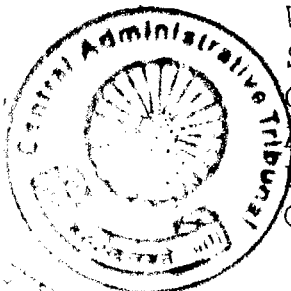
**Present: Hon'ble Shri K. Elango. Member (J)  
Hon'ble Shri R. Satapathy Member (A)**

T. Bhanumathy,  
W/o N. Thangaivel,  
Chief Section Supervisor,  
O/o Deputy General Manager (South West),  
Bharat Sanchar Nigam Limited (BSNL),  
Chennai Telephones,  
Guindy, Chennai-32. Applicant in OA 634/10.

A. Banumathi,  
W/o S. Ilanthamizhan,  
Senior Telecom Office Assistant (General),  
Office of General Manager, NWOS,  
Bharat Sanchar Nigam Limited (BSNL),  
Chennai Telephones,  
Guindy, Chennai-32. Applicant in OA 635/2010

R. Sargunan,  
S/o V. Ramalingam,  
Telecom mechanic,  
O/o The Principal Rajiv Gandhi  
Memorial Telecom Training Centre,  
Bharat Sanchar Nigam Limited (BSNL),  
Meenambakkam,  
Chennai-27 Applicant in OA 636/2010

S. Meenakshi,  
W/o N.S. Rengarajan,  
Senior Telecom Office Assistant (Phones)  
O/o Deputy General Manager South West,  
Accounts Officer Telecom Accounts-IV,  
Bharat Sanchar Nigam Limited (BSNL),  
Chennai Telephones,



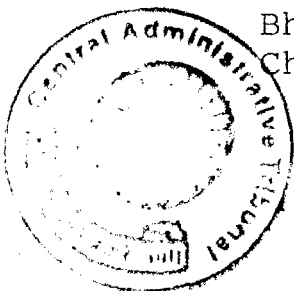
Guindy, Chennai-32. Applicant in OA 637/2010  
 G. Sivaramakrishnan,  
 S/o S. Gurumurthy,  
 Senior Section Supervisor (Operative)  
 North T Nagar RSU, KENCES Towers,  
 Bharat Sanchar Nigam Limited (BSNL),  
 Chennai Telephones,  
 No.1, R.K. Street,  
 Chennai-17. Applicant in OA 638/2010

A. Nagarajan,  
 S/o late G. Anjanadri,  
 Senior Telecom Office Assistant (General),  
 O/o Deputy General manager TR& Computer,  
 Bharat Sanchar Nigam Limited (BSNL),  
 Chennai Telephones,  
 K.K. Nagar Telephone Exchange,  
 4<sup>th</sup> Floor, Chennai-78. Applicant in OA 639/10

R. Jayakumar,  
 S/o N. Ramakrishnan,  
 Telecom Technical Assistant,  
 O/o Sub Divisional Engineer,  
 Optic Fibre Cable maintenance,  
 Bharat Sanchar Nigam Limited (BSNL),  
 Tambaram Exchange,  
 Adhi Nagar, East Tambaram,  
 Chennai-59. Applicant in OA 640/2010

R. Bhuvana,  
 W/o C. Ravindran,  
 Senior Telecom Office Assistant (General),  
 O/o Deputy General Manager FA(P&MM),  
 Bharat Sanchar Nigam Limited BSNL,  
 Chennai Telephones,  
 Chennai-34. Applicant in OA 641/2010

Gayathri Umapathy,  
 W/o V. Umapathy,  
 Senior Telecom Office Assistant (General),  
 O/o Customer Relation Office (South West),  
 Bharat Sanchar Nigam Limited (BSNL),  
 Chennai Telephones,



*[Handwritten signature]*

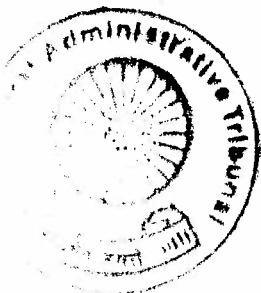
Guindy, Chennai-32. Applicant in OA 642/2010  
M. Hariharan,  
S/o M.R. Munusamy,  
Telecom Mechanic  
O/o Divisional Engineer Multiplex,  
Bharat Sanchar Nigam Limited (BSNL),  
Digital Transmission Centre,  
Flower Bazaar Telephone Exchange,  
5<sup>th</sup> Floor, Chennai-1 Applicant in OA 643/2010

S. Udayakumar,  
S/o V. Sankaran,  
Senior Section Supervisor,  
O/o Accounts Officer,  
Deputy General Manager (Maintenance),  
Southern Telecom Sub Region,  
Bharat Sanchar Nigam Limited (BSNL),  
Flower Bazaar Telephone Exchange  
Building, Chennai-1 Applicant in OA 644/2010

S. Thandavamoorthy,  
S/o B.R. Sivalingam,  
Senior Telecom Office Assistant (General),  
O/o Customer Relation Officer South West,  
Bharat Sanchar Nigam Limited (BSNL),  
Chennai Telephones,  
Guindy, Chennai-32 Applicant in OA 645/2010

K. Shankar,  
S/o A.S. Kuppuswamy,  
Senior Telecom Office Assistant (General),  
O/o Customer Relation South West,  
Bharat Sanchar Nigam Limited (BSNL),  
Chennai Telephones,  
Guindy, Chennai-32 Applicant in OA 646/2010

C.J. Muralikrishnan,  
S/o C.D. Jayaraman,  
Section Supervisor,  
O/o Chief General Manager,  
Southern Telecom Region,  
Bharat Sanchar Nigam Limited (BSNL),  
Guindy, Chennai-32. Applicant in OA 647/2010



A. Subramanyam,  
 S/o A. Natarajan,  
 Senior Telecom Office Assistant (Telegraphs),  
 Bharat Sanchar Nigam Limited (BSNL),  
 Telecom Customer Service Centre,  
 High Court Buildings,  
 Chennai-104. Applicant in OA 648/2010

S. Arumugam,  
 S/o K. Sabapathy,  
 Section Supervisor (Operative),  
 O/o The General Manager NMS,  
 Southern Telecom Region,  
 Bharat Sanchar Nigam Limited (BSNL),  
 Chennai-39. Applicant in OA 649/2010

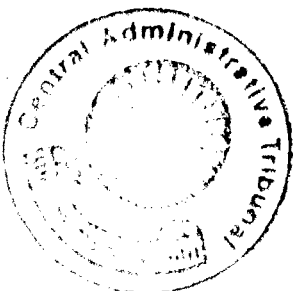
D. Rama, W/o G. Dhandapani,  
 Section Supervisor,  
 O/o Chief General Manager,  
 Southern Telecom Region,  
 Bharat Sanchar Nigam Limited (BSNL),  
 Guindy, Chennai-32. Applicant in OA 650/2010

Lalitha Ravesharma,  
 W/o S. RaveSharma,  
 Senior Telecom Office Assistant (Phones),  
 Sub Divisional Engineer,  
 Selaiyur RSU Exchange,  
 Bharat Sanchar Nigam Limited (BSNL),  
 Chennai-73. Applicant in OA 651/2010

R.R. Ganapathi,  
 S/o A.K. Ramamoorthy (late),  
 Senior Section Supervisor,  
 STR/Vyasarpadi/Digital Microwave Station,  
 Bharat Sanchar Nigam Limited (BSNL),  
 Chennai Telephones,  
 Chennai-39 Applicant in OA 76/2011

By Advocate M/s. M. Ravi

Versus



1. The Union of India rep by  
its Chairman & Managing Director,  
Bharat Sanchar Nigam Limited (BSNL),  
7<sup>th</sup> Floor, Bharat Sanchar Bhavan,  
No. 170 Janpath Road,  
New Delhi-1.
2. The Chief General Manager,  
Bharat Sanchar Nigam Limited (BSNL),  
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-10.
4. The Sub Divisional Engineer,  
RECTT, Bharat Sanchar Nigam Limited,  
Chennai Telephones,  
Chennai. .. Respondents

By Advocate Shri Narendramurthy in OA 634 to  
642/2010 & 76/11, Shri Vivekanandan in OA 643  
to 651/2010

**Order pronounced by**  
**Hon'ble Shri R. Satapathy. Member (A)**

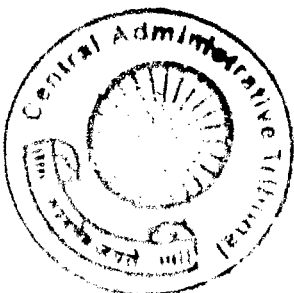
Since the issue involved and  
the respondents in all these OAs are similar,  
we have decided to pass a common order. For  
the sake of convenience we narrate the facts



of OA 634/2010.

2. The applicants in all these OAs have prayed for the following relief:

"It is therefore prayed that this Hon'ble Tribunal may be pleased to call for the entire records relating to (i) Junior Accounts Officer, Part II Internal Competitive Examination in so far as to Civil Works Accounts Rules & Procedure (with Books) Paper-V (CWARP-P-V) is concerned, (ii) ART/100-3-JAO/Part-II/2009-2010/ dated 15.3.2010 passed by the Fourth respondent in so far as the (CWARP-P-V) is concerned, (iii) ART/100-3/JAO/Part-II/CM/2009/27 dated 17.5.2010 passed by the third respondent and (iv) ART/100-3/JAO-Part-II/2009/19 dated 09.3.2010 passed by the third respondent to the limited extent of non-inclusion of the name of the petitioner herein and quash the same and to issue consequential directions to the respondents to cancel the Civil Work Accounts Rules & Procedures Exam and allow the applicant herein to appear in a fresh examination or to dispense with the Civil Work Accounts Rules & Procedures exam as such or the said examination in the alternative to award suitable marks to the applicant herein in Civil Work Accounts Rules and Procedures Paper (with books) 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 him as such and pass such further or



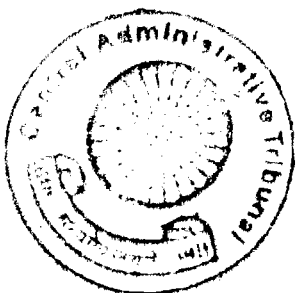


other orders, as this Tribunal may deem fit and proper under the circumstances arising out of this case and thus render justice."

3. Shri M. Ravi has appeared for the applicants and Shri Narendramurthy and Shri M. Vivekanandan have appeared for the respondents.

4. It is submitted by the applicants that they have appeared for the JAO Part-II examination in the year 2010. It is alleged that the respondents have not awarded suitable marks in Civil Work Accounts Rules and Procedures Paper for the correct answers written by them. Whereas in other circles like Maharashtra circles marks have been liberally awarded. This has resulted in applicants having failed in the said examination. Therefore, they have prayed for the above relief and prayed that these OAs should be allowed.

5. After notice, the respondents have entered appearance and filed reply

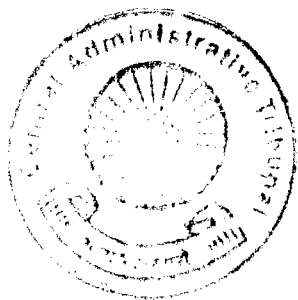


statement. In the reply statement, the respondents have stated that there is no provision in the relevant rules for revaluation of the answer sheets. Particularly Rule 15 ibid prohibits revaluation of the answers sheets.

6. Moreover, all the examiners have been given separate instructions before valuation of the answer sheets started. Therefore, the allegation of the applicants that the examiner has not valued the answer sheets properly and awarded suitable marks to the answers cannot be accepted.

7. We have heard the arguments of both side and also perused the documents available on record as well as the citations produced by both the parties.

8. Learned counsel for the applicants Shri M. Ravi has convassed his points mainly on the following grounds. (1) The examiner in Tamilnadu Circle has not followed the key to the answer and



instructions to the examiner. (2) Similar answer sheets have been awarded marks in a particular manner so far as Maharashtra Circle is concerned, whereas the method of marking has not been followed in Tamilnadu Circle. (3) The applicants may be awarded suitable marks to enable them to pass JAO Part-II examination held in January, 2010 and direct the respondents to promote the applicants from the lower to the higher post.

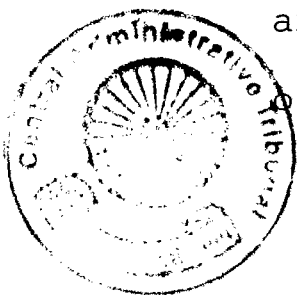
9. From the perusal of the records we find that the examinations are conducted by the respondents as per the notified rules and procedure. The applicants have not shown any occasion, wherein any rule has been violated or statutory provisions have not been followed in conducting the exam. In the absence of any violation of statutory provisions, we are unable to find any reason to interfere with the results declared. To a specific question put by the Bench, the leaned counsel for the applicants has stated



that there is no malafidie or bias but the examiner has not awarded the intended marks to the questions which, should be corrected by this Tribunal. To pursue his point the learned counsel for the applicants has laid emphasis on the foot note portion of Annexure A-3 at page 32 of the OA. In the inner page 3 it is mentioned

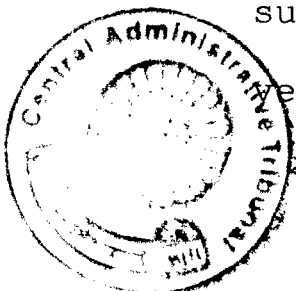
"Examiners Note: Please award 15 marks each for receipt side and payment side of Cash Book if attempted correctly."

Thus, it is very clear that it is for the examiner to decide whether a particular question has been answered correctly or not. The examinee writes the answer as per the instructions to the candidates and the examiner evaluates the answer sheets as per the instructions, which governs conduct of examination. Whether a particular question has been answered correctly and whether such answer deserves a particular quantum of mark or not has to be decided by the examiner, who



has the domain knowledge of the subject matter. The Tribunal cannot take up the role of the examiner and decide by its own judgment, whether a particular candidate in a particular answer deserves a definite quantum of mark or not. It will be totally against the law laid down by Hon'ble supreme court in Civil Appeal No. 1567/96 decided on 21.01.2001 reported in AIR 2001 SC 4005. Correctness or adequacy of the answer is a decision of the examiner.

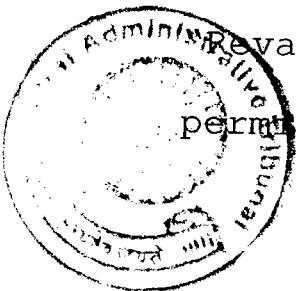
10. In the instant case before us the applicants have not brought out any instance of malpractice, malafide or violation of any rule. Moreover, this is an examination, which has been conducted in 27 circles throughout India, wherein 15000 employees of the department have appeared in the Part-II examination, of which 1181 candidates in 26 circles have been declared successful. This goes to show that there are very large number of candidates, who have not



come out successful and the applicants are only a few in that category. In the background of the above fact, it is very pertinent to mention that the applicants have not shown that they have been discriminated or singled out of poor marking resulting in their failure in the examination. In the absence of any violation of rule or any discrimination, we are not persuaded to agree with the submission of learned counsel for the applicants that the applicants have not been given proper marks or they have been treated unfairly.

11. Revaluation of answer sheets is possible, only if there is specific provision to that effect in the rules. The respondents, in their reply statement have submitted that in terms of Rule 15 of Part-I of Appendix 37, (rules relating to departmental examination) of P&T Volume IV

Revaluation of answer sheets is not permissible in any case under any

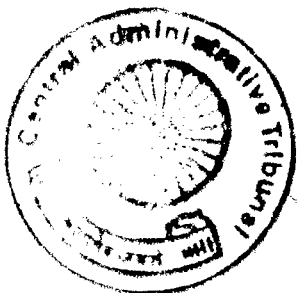


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circumstances." In the absence of any rule for revaluation, this Tribunal cannot give a direction for revaluation of answer sheets. In this connection, Hon'ble supreme court has already laid down the law after considering various judgments, in the case of **H.P. Public Service Commission Vs. Mukesh Thakur & Another in Civil Appeal No. 907 of 2006 decided on 25.5.2010** which has been produced by the respondents as Annexure R-1, in which the Supreme Court has held as follows:

"25. This view has been approved and relied upon and reiterated by this Court in Pramod Kumar Srivastava Vs. Chairman, Bihar Public Service Commission, Patna & others AIR 2004 SC 4116 observing as under:

"Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for re-valuation of his answer-book. There is a provision for scrutiny only wherein the answer-books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totaling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no



mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for re-valuation of answer-books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks." emphasis added)"

27. Thus, the law on the subject emerges to the effect that in absence of any provision under the Statute or Statutory Rules / Regulations, the Court should not generally direct revaluation."

In that view of the matter, we are bound by the judicial discipline to follow the law laid down by the Supreme Court. The applicants have placed reliance on a few decisions of Madras High Court in the following cases.

A. Eswaramoorthy Vs. Secretary to Government, Home (Police-IV) Chennai & Others in W.P. NO.4509 of 2009 & other connected matters decided on 04.11.2009.

S. Sagundala Devi & Others Vs. Teachers Recruitment Board, Chennai & Others in W.P. No. 11120 of 2010 & Other connected matters decided on 17.8.2010.

State of Tamil Nadu & another Vs. S. Mariappan & another in W.P. No.17639

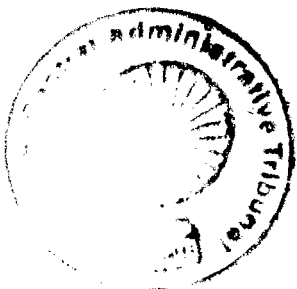




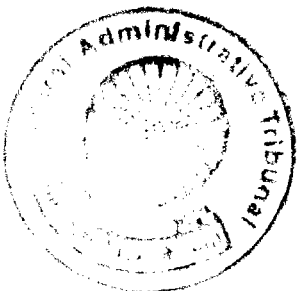
of 2001 & Other connected matters decided on 25.02.2005.

We have perused all these High Court orders. However, in the facts of the case, we are of the opinion that the law laid down by the Supreme Court in the case cited supra on the issue of revaluation of answer sheets will hold good.

12. The next point which has been very forcefully canvassed by learned counsel for the applicants is that the examiner in Maharashtra Circle have followed a liberal procedure of marking whereas the examiner in Tamilnadu Circle have not followed the same method of liberal marking. We are afraid that this Tribunal cannot grant any relief on the basis of comparison between two sets of Examiners in two different circles. Once again we would like to mention here that though the examination was the same, but the valuation has taken place on circle basis and the successful candidates also will be

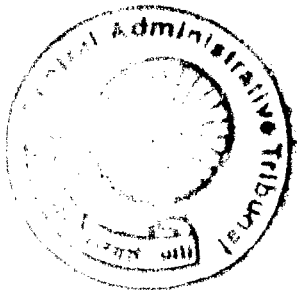


provided promotion only in respective circles. To make the case clear, it may be mentioned that the present exam for JAO Part-II which has been held in different circles, the successful candidate of Maharashtra cannot come and claim appointment for a vacancy in Tamilnadu circle and vice-versa. Moreover, whatever marking procedure has been followed in Tamilnadu Circle has been followed to award marks to all the candidates, both successful and unsuccessful. Therefore, it is not possible to come to the conclusion that the examiners from Tamilnadu Circle had singled out the applicants before us and failed them by giving no marks, whereas gave liberal marks in case of other candidates of Tamilnadu Circle making them come out successful in Tamilnadu Circle. There is nothing on record to show that any such discriminatory behaviour has been adopted by the examiner. Standard of marking followed in Tamilnadu circle is uniform to



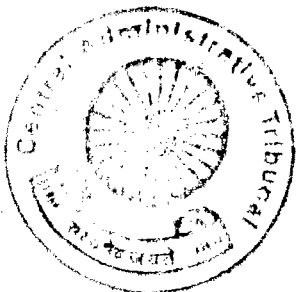
all candidates who have appeared for the examination in Tamilnadu circle. As such the applicants cannot have a grievance and compare themselves with the marks awarded for candidates, who wrote the examination in Maharashtra circle which have been evaluated by separate set of examiner. Neither for Maharashtra circle nor for Tamilnadu circle, the applicants have pointed out any violation in rule or any discrimination so far as the conduct of the examination is concerned.

13. It is also relevant to discuss here that examination have been held throughout India during January, 2010 in 27 circles. Though the question paper is same in all the centres, but valuation took place at the circle level;. There is no centralised valuation for answer sheet for the whole of the country. After evaluation, more than 1181 candidates have passed and they have been given promotion in the respective circle and working in the.



promotional post for more than one year. Therefore, at this stage, comparing the unsuccessful candidates of Tamilnadu circle with that of another circle like Maharashtra is purely academic. We are very sure that this tribunal cannot take up the comparison of marks awarded in all the 27 circles and find out which is the best method of awarding marks. Neither we find that there is any such legal requirement to conduct any such comparison by this Tribunal. Hence, the points convased by learned counsel for the applicants in comparing the results of the applicants before us who are unsuccessful candidates in Tamilnadu circle with that of a circle chosen by them, is irrelevant to decide the issue here. Situations prevailing in other circles where the exam is also conducted is not known.

14. So far as the point regarding instruction to examiner is concerned, we find that the respondents have issued revised ..



instructions to the examiners before evaluation of answer sheets started. Therefore, we do not find that such a step taken by the competent authority before evaluation of answer sheets vide their letter dated 20.01.2010 and 29.01.2010 is illegal or impermissible. It is not the case of the applicants that any revised instructions have been specifically issued to disqualify them or that there are discriminatory marking to make the applicants before us unsuccessful candidates. No bias or malafide is involved in this. Hence this argument fails.

15. It has also been brought to our notice by the respondents that the Principal Bench of this Tribunal in OA No. 3582/2010 and 1071/11 while dealing with the similar issue with regard to Sub Divisional Engineer, has held that revaluation of answer sheets is not permissible and the above OAs have been dismissed. In the facts of the case we find that the orders of the Principal Bench in the



above OA which are marks as Annexures R-2 and R-3 will also apply to the facts of the present case and there is no reason for us to take a different view.

16. In this OA we have mentioned in the beginning of this order that the applicants by way of relief want this Tribunal to give a direction to the respondents either to cancel the examination, which was held in January, 2010 and conduct re-examination afresh or award suitable marks to the applicants to enable them to come out successful in the examination already held. However, for the detailed discussion and the reasons cited supra and also placing reliance on the Supreme court decision cited supra and the orders of Principal Bench of this Tribunal marked Annexure R-2 and R-3 we do not find any reason to grant any such relief.

17. For the aforesaid reasons and also placing reliance on the orders of the Apex Court cited supra we do not find any



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merit in the OAs and consequently, the OAs are dismissed with no order as to costs.

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

/TRUE COPY/

*Myerlalulu* *Mr*  
DEPUTY REGISTRAR *30/5/11*

