

BHARAT SANCHAR NIGAM LIMITED
Recruitment wing
Room No.222, Eastern Court,
Janpath, New Delhi.

F.No.63-2/2015-Rectt

Dated February, 2015

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-Regarding discrepancy in the conduction of LDCE.

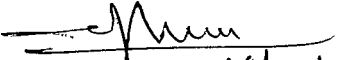
Sir,

I am directed to forward herewith copy of judgement dated 14.08.2014 of Hon'ble CAT, Jabalpur Bench, Circuit Sitting at Bilaspur regarding discrepancy in the conduction of LDCE for promotion to the grade of JTO(T) under 35% & 15% quota.

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


(O P JAT) 18/02/2015
AGM(Rectt-III)
Ph:23766167.

(Reserved)

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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.1033 of 2013

Jabalpur, this Thursday, the 14th day of August, 2014

HON'BLE SHRI G.P.SINGHAL, ADMINISTRATIVE MEMBER
HON'BLE DR. MURTAZA ALI, JUDICIAL MEMBER

1. Bhanu Pratap Dhruv, S/o P.R.Dhruv, aged about 34 years,
R/o BSNL, Civil Line, Khairagarh, Dist. Rajnandgaon-491441.
2. Geendu Ram Thakur, S/o Bideshi Ram Thakur, aged about 36 years,
R/o Telephone Exhchange, O/o SDOT Bagbahera, Pithora, Distt. -
Mahasamund, C.G. 384001.
3. Mohan Kumar Jaiswal, S/o Kapil Dev Jaiswal, aged about 40 years,
R/o H.No.575, Sindhiya Nagar, Durg 491001.
4. Smt. Pramila Kusram, w/o G.S.Kusra, aged about 38 years, R/o ST.
No.12, Plot No.416, Ashish Nagar, West Bhilai, Durg C.G.491001.
5. Shiv Mangal Kindo, S/o L.R.Kindo, aged about 41 years,
R/o Near Sai Mandir, Sundar Nagar Sitapur, Distt.Surguja, C.G. 802221.
6. Jageshwar Singh Raj, S/o Ly. J.M.S. Raj, aged about 34 years, R/o Qr.
No.9, Type-III/6, Telecom Colony, Nr. Agrssen Chowk, Bilaspur, C.G.
495006.
7. Neelam Choukikar, W/o Shailesh Choukikar, aged about 36 years,
R/o C-863, Krishna Vihar, NTPC, Jannipali, Korba (W) 495450.
8. Lalit Kumar Ra, S/o R.S.Ram, aged about 35 years, R/o O/o TDM BSNL,
Ambikapur, CG 497001.
9. Ramesh Sonkunwar, S/o late Shri Jagannath, aged about 46 years, R/o
Telephone Colony, Gariyabad, Pin 493889.
10. Rajesh Kumar Sood, S/o Madan Lal Sood, aged about 36 years, R/o
H.No.163, Podibahar, Korba, 495450.
11. Aashish Verma, S/o Shri Dinesh Chandra Verma, aged about 35 years,
R/o H.No. MIG C-25, Nehru Nagar, Bilaspur, C.G. 495006.
12. Rajkumar Patel, S/o S.L.Patel, aged about 37 years, R/o 3/7, BSNL
Colony, Rajkishore Nagar, Bilaspur 495006.

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Note: (1) This fee claim is based on the schedule and service tax payable as per rule.

Kindly, clear this bill, as early as possible and oblige me.

Thanking you,

(Signature)
(SANDEEP)

13. Dhananjay Prasad Dubey, S/o S.P. Dubey, aged about 36 years, R/o Qr. No.2A/148, P.O. Bishrampur, Dt. Surajpur (C.G. 492226.

14. Bhagesh Golachha, S/o Utam Chand, aged about 36 years, R/o in front of Anil Rangoli, Bhundar, Bhramanpura, Dhamtari-495773.

15. Narendra Rathore, S/o S.R.Rathore, aged about 33 years, R/o Near Gayatri Hospital, Rohnipuram, Tarun Nagar, 492013.

16. Kapil Sarna, S/o Manish Chand Sarna, aged about 36 years, R/o B-476, CR. ST.24, Smriti Nagar, Bhilai, C.G. 490006.

17. Smt. Reena Dwivedi, W/o Arvind Dwivedi, aged about 35 years, R/o A-103, Chaitanya Tower Movā, Raipur C.G. 492001.

18. Smt. Sharadha Vishnav, W/o Ashish Kumar Vishnava, aged about 35 years, R/o 501, Kashi Apartment, Geetanjali Nagar, Raipur C.G.492001.

19. N.Viswanath Rao, S/o N.L.Narayana, aged about 35 years Qr. No.9, Type-3, Telecom Colony, Sec-V, Bhilai 490006.

20. Sachin Kumar Soni, S/o S.K.Soni, aged about 38 years, R/o 25-A, Avenue-C, Sec-I, Bhilai, Durg C.G. 491001.

21. Girish Chincholkar, S/o Gopal Rao Chincholkar, aged about 36 years, R/o Balaji Ward, near Balram Press, Jagdalpur 494001.

22. B.Venkat Raju, S/o B.Bapuji, aged about 36 years, R/o BSNL Staff Quarters Nayapara, Jagdalpur 494001. **-Applicants**

(By Advocate – Shri Anubhav Jain)

V e r s u s

1. Bharat Sanchar Nigam Limited, Through its Chairman cum Managing Director, Corporate Office (Personnel), 4th Section, 5th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi – 110001.

2. The Director (HR), BSNL, Bharat Sanchar Bhawan, Janpath, New Delhi - 110001.

3. CGMT, Bharat Sanchar Nigam Limited, Chhattisgarh Circle, Raipur (C.G.) 492007.

4. DGM (A&HR) & Exam Coordinator, Chhattisgarh Telecom Circle, (Raipur) 492007.

5. Smt. Shandhya Gupta, W/o Shri Sanjay Gupta, O/o CSC, Sector-I, Exchange, Bhilai, R/o Flat No. 302, Lotus Apartment, Junwani Road, Bhilai, Chhattisgarh 490020.

6. Smt. Pratiksha Dubey, W/o Shri Shivendra Dubey,
R/o BSNL Staff Quarter, Type - 4/3, Sector-I,
Bhilai Chhattisgarh 490006.

- Respondents

(By Advocate -Shri Sandeep Dubey for respondents Nos.1 to 4 and Shri
K.R.Nair for respondents Nos.5 & 6)

ORDER

By Dr. Murtaza Ali, JM :-

The applicants have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 for seeking following reliefs:

- (i) Quash the examination conducted on 02.06.2013 as well as the result dated 08.11.2013.
- (ii) Direct the respondents to re-conduct the examination in accordance with the notifications.
- (iii) Direct the respondents to reconsider the name of the applicants for the promotion on the post of JTO and declared them successful in the exam under challenge.
- (iv) Any other relief this Court may deems fit in the interest of justice".

2. The relevant and brief facts of the case are that the applicants are working as Telecom Technical Assistants (for brevity 'TTAs') in different sections of Chhattisgarh Circle of Bharat Sanchar Nigam Limited (in short 'BSNL'). A notification dated 20.11.2012 (Annexure A-1) was issued by BSNL for Limited Departmental Competitive Examination (in short 'LDCE') for promotion to the grade of Junior Telecom Officer (T) (in short 'JTO') under 35% and 15% quota for filling the vacancies up to 31.03.2012. In pursuance of said notification, another letter dated 14.01.2013 (Annexure A-2) was issued by the Corporate Office (Recruitment Branch) in which the eligibility conditions and other details were mentioned. In compliance of direction contained in letter dated 14.01.2013, the Chhattisgarh Circle of BSNL issued a notification dated 14.02.2013 (Annexure A-3) for holding the said examination vide which the scheme and syllabus for the examination was also annexed. A Pre-exam training was also conducted for 10 candidates of SC/ST Category vide letter dated 21.05.2013 (Annexure A-4). The Chhattisgarh Circle conducted LDCE for promotion to the cadre of JTO on 02.06.2013. It has been alleged by the applicants that in the Question

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(In words *Sandeep Dubey*)

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Sandeep Dubey
(SANDEEP DUBAY)

Papers, some questions were asked beyond the syllabus and some questions were of very high standard and no question was asked from the material provided to SC/ST candidates during pre-training programme.

3. Aggrieved by the setting of Question Paper, the Sancha Nigam Association of Telecom Technical Assistants preferred a representation dated 29.06.2013 (Annexure A-9) to Respondent No.3 in which some discrepancies in the Question Paper were pointed out. BSNL Employees Union also made a representation dated 29.07.2013 (Annexure A-10) to Respondent No.2 for liberal evaluation of Answer Script. The National Federation of Telecom Employees, Raipur has also made a representation dated 21.06.2013 (Annexure A-11) to Respondent No.3 to re-conduct of LDCE, but no heed was paid by the concerned authorities. The respondents uploaded Provisional Answer Key of LDCE (Annexure A-12) in which several wrong answers were given. A merit list dated 08.11.2013 (Annexure A-13) was issued by respondent No.4 in which only two candidates were declared selected for promotion to the cadre of JTO. The respondents have also published a changed Answer Sheet on 11.11.2013 (Annexure A-14). Being aggrieved by the declaration of result, National Federation of Telecom Employees BSNL preferred a representation dated 12.11.2013 (Annexure A-16). It has been alleged that the applicants were discriminated with the applicants of other circles and have been deprived of promotion indirectly on the post of JTO in contravention of the provisions of notification issued by the Corporate Office. It has also been alleged that the Respondents have erred in conducting the examination, setting of question papers and declaring the results, which violated the fundamental rights of applicants guaranteed under Article 14 and 16 of Constitution of India.

4. In the reply filed on behalf of Official Respondents No.1 to 4, it has been submitted that LDCE for promotion to the grade of JTO was conducted on 14.02.2013. The vacancies for the said examination were 152 for 35% quota and 61 for 15% quota in Chhattisgarh Circle. Out of 28 candidates found eligible as per criteria of Recruitment Rules of JTO RR 2001, 27 candidates appeared in the examination and only 2 female candidates

qualified for selection on the basis of merit. It has been stated that the Question Paper was set as per syllabus provided by the BSNL Corporate Office. The applicants who silently participated in the selection process and after declaring merit list in which they have been declared unsuccessful, cannot assail the validity of examination process. It has also been submitted that evaluation of Answer Sheets and preparation of result were done as per guidelines issued by BSNL vide letter dated 15.02.2011 (Annexure R-2). In the said guidelines, there is a provision for sending representation/feedback by the candidates/their associations on the Provisional Answer Key within 10 days after uploading the Provisional Answer Key on the website. On such representation by the Association, in Part A, 2 questions and in Part B, 1 question were found wrong and were discarded from answer sheets and the evaluation was done on the basis of rest of the questions on the recommendation of Expert Body of the department. It has also been submitted that the result of the said examination has been declared as per guidelines of BSNL dated 06.08.2010. It has further been submitted that there was a printing mistake in OMR Answer Sheet regarding negative marking and it was got corrected by Centre Supervisor and intimated to all the candidates in time.

5. The Private Respondent No.5 and 6 who have been declared successful in LDCE, have also filed their reply separately in which it has been stated that the O.A is not maintainable as the applicants participated in the selection process and after having found themselves unsuccessful, the selection process is being challenged, which is not permissible. It has also been submitted that Clause 1.2 of the Scheme of Examination, which was circulated to all the candidates, clearly states that there would be negative marking and for each wrong answer 25% marks of the question would be deducted, and the same instructions are also provided under Clause 3 in the instructions supplied to the candidates. The applicants cannot take advantage of the mistake in printing of the OMR, which was also got corrected in the examination hall. It has also been stated that the Association of employees had made representation against the Provisional Answer key uploaded in the website, which was examined and considered before evaluating answer

sheets and it was found that 2 questions were wrong in Part A and 1 question was wrong in Part B of Question Paper. Therefore, the BSNL discarded the wrong questions and evaluated the Answer Sheets as there were only 48 questions in Part A and 99 questions in Part B and awarded the marks accordingly.

6. The applicants have not filed any rejoinder to the reply filed by the Official Respondent No. 1 to 4, but filed rejoinder to the reply filed by Respondents No. 5 and 6. In the said rejoinder, it has been reiterated that serious discrepancies were noticed in the Question Paper, and all the questions were beyond the syllabus and examination was conducted contrary to the Circulars issued by the BSNL. It has further been stated that the OMR Sheet clearly provided a note that, "**there will be No Negative Marking**", and the applicants started to attempt all the questions. However, after 45 minutes of distribution of Question Paper, the concerned invigilator announced that there is Negative Marking and this created the serious doubts in the minds of the applicants and disturbed them. It has also been reiterated that the representation of Association dated 29.06.2013 was not considered by the respondents and some questions were asked of the level of GATE and GRE, and no question was asked from the material given to SC/ST candidates during pre-recruitment training. It has further been stated that there is higher success rate in other Circles and different criteria has been adopted in Chhattisgarh Circle, which prejudiced the applicants.

7. Heard Shri Anubhav Jain, learned counsel for the applicants and S/ Shri Sandeep Dubey and K.R.Nair, learned counsels for the respondents and perused the pleadings and documents annexed therewith. We have also gone through the written submissions filed on behalf of the parties.

8. Learned counsel for the applicants has confined his arguments mainly on the following counts:

- (i) There were several discrepancies in the Provisional Answer key, and the respondents did not consider the representations preferred by the different Associations.

- (ii) The questions in the examination were beyond the syllabus and most of the questions were of higher level, which are asked in GATE and GRE.
- (iii) No question was asked from the material provided to the ST/SC candidates during pre-exam training.
- (iv) It was provided in the Question Paper that there would be no negative marking which was got corrected after 45 which resulted confusion in the minds of applicants.
- (v) The pass percentage in other Circles is very high, but in Chhattisgarh Circle, pass percentage is only 7%.

9. In support of above noted contentions, the learned counsel for the applicant has drawn our attention on the following judgments:

- (i) **Rishabh Saxena Vs. State of Rajasthan**, (S.B. Civil Writ Petition No. 7040/2014 and others) decided on 26.06.2014 by Hon'ble High Court of Rajasthan (Jaipur Bench).
- (ii) **Kanpur University, through Vice-Chancellor and Ors. Vs. Samir Gupta and Ors**, AIR 1983 SC 1230.
- (iii) **Manish Ujwal and Ors. Vs. Maharishi Dayanand Saraswati University and Ors**, JT 2005 (SC) 382.
- (iv) **Gunjan Sinha Jain Vs. Registrar General, High Court of Delhi**, 2012 (129) DRJ 361.
- (v) **Chancellor, Dr. N.T.R. University of Health Sciences and Anr. Vs. Kondapavuluri Benod Kumar and Ors.**, 2008 (2) ALT 40.
- (vi) **Sahiti and Ors. Vs. The Chancellor, Dr. N.T.R. University of Health Sciences and Ors.**, AIR 2009 SC 879.
- (vii) **Sudarshan Gaur & Ors. Vs. RPSC & Ors**, (S.B. Civil Writ Petition No. 19453/2012 and S.B. Civil Writ Petition No. 19556/2012) decided on 15.02.2013 by Hon'ble High Court of Rajasthan (Jaipur Bench).

10. It has been submitted by the learned counsel for the applicants that in the case of **Rishabh Saxena (Supra)**, the petitioners were the students

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(In words

Seventeen thousand five hundred rupees

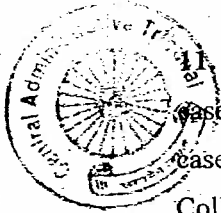
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Sandeep Dubey
(SANDEEP DUBEY)

desirous of seeking admission to **MBBS course** in different Medical Colleges of State of Rajasthan. There were different sets of petitioners. One set of petitioners were those who could not qualify the RPMT, and another set of petitioners, who have been declared successfully in the said test. Some of the affected candidates approached the State Government alleging various irregularities in the examination. It was alleged that some questions were wrongly framed, the translation of some questions from English to Hindi was wrongly done and some questions were out of syllabus or had multiple number of correct answers or had no correct answers at all. In such circumstances, the whole process of examination (RPMT, 2014) was set aside by the Hon'ble High Court and the respondents were directed to hold fresh examination.



Learned counsel for the applicants has also drawn attention on the case of **Sameer Gupta** (Supra), and it has been submitted that in the said case the petitioners were the aspirants of seeking admission to the Medical Colleges in the State of Uttar Pradesh, and the Key Answers of some of the questions were not found correct and in such circumstances, the Hon'ble Supreme Court confirmed the directions given by the Hon'ble High Court in regard to re-assessment of particular questions.

12. Learned counsel for the applicants has submitted that in the case of **Manish Ujwal** (Supra), the students filed a Writ Petition before Hon'ble High Court of Rajasthan at Jodhpur Bench challenging their ranking in entrance test for admission to Medical and Dental courses mainly on the allegation that various Key Answers were wrong and consequently erroneous ranking was prepared. It was held in the said case that students cannot be made to suffer on account of errors committed by the University. Our attention was also drawn on the case of **Gunjan Sinha Jain** (Supra), and it has been contended that on the basis of performance in Delhi Judicial Service (Preliminary) Examination, the petitioners were short listed for being provisionally admitted to Delhi Judicial Service Examination (Written). It was alleged that Question Paper contained many questions which were not properly phrased or were outside the syllabus and many of

the answers as provided in the Answer Keys were wrong and several questions have more than one correct answers whereas the answer key shows only one of them to be correct. It has been submitted that Hon'ble Supreme Court has not appreciated such type of mistakes and irregularities and observed that the respondents should take care in framing questions for such multiple-choice tests. The questions must be clear and provide all the necessary information leading to the appropriate answer. Questions which have doubtful or debatable answers should be excluded.

13. The learned counsel for the applicant has also placed reliance upon a judgment delivered by Hon'ble Andhra Pradesh High Court in the case of **Chancellor, Dr. N.T.R. University of Health Sciences (Supra)** and submitted that in the said case, certain directions were issued to the Selection Board to reevaluate of the Answer Books of the examinees on the petitioner's complaint that some questions were either out of syllabus or were such for which key answers were wrong and correct answers were available in the alternative answers or for which more than one answers were correct. Our attention was also invited on the judgment delivered in the case of **Sahiti (Supra)** by Hon'ble Supreme Court. In the said case there was an allegation that irregularities were committed in the process of revaluation and the Vice Chancellor had ordered to reevaluate the Answer Scripts and the University was inclined to hold supplementary exam of the students who had yet to clear MBBS examination, and it was held that the Vice Chancellor had power to order evaluation of Answer Scripts.

14. It has been submitted that in the case of **Sudarshan Gaur (Supra)**, Hon'ble High Court of Rajasthan (Jaipur Bench) has held that the mechanism of marks to be adopted by RPSC should have been such which did not violate rules and accordingly if any question was deleted out of any subject of paper I or II weightage of marks to remaining question should be given on particular subject from where it was deleted so as to maintain sanctity to total marks of each subject.

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(In words

Seventeen thousand five hundred rupees

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(SANDEEP DUB)

15. In the light of above judgments, it has been contended on behalf of applicants that LDCE conducted on 2.6.2013 and its result dated 8.11.2013 should be quashed and re-examination should be ordered.

16. At the outset, learned counsel for the respondents has submitted that the applicants cannot challenge the selection process after they have been declared unsuccessful. It has been argued on behalf of respondents that on receipt of representation filed by the Association within the prescribed time, an expert committee was constituted for this purpose, who considered the issues raised in the representation preferred by the Association, and on the recommendation of said expert committee, two questions were deleted from Part A and one question was deleted from Part B, and accordingly, the Answer Sheet was evaluated and result was published. It has also been contended that an unsuccessful candidate cannot turn back and assail the selection process. In support of his contentions, he has relied upon a judgment delivered by Hon'ble Supreme Court in **K.H.Siraj Vs. High Court of Kerala and others**, reported in (2006) 6 SCC 395.

17. Learned counsel for the respondents has also relied upon a judgment delivered in **Sadananda Halo & Others Vs. Momtaz Ali Sheikh and Others** reported in (2008) 4 SCC 619, in which it has been observed by Hon'ble Supreme Court as under:

"59. It is also a settled position that the unsuccessful candidates cannot turn back and assail the selection process. There are of course the exceptions carved out by this Court to this general rule. This position was reiterated by this Court in its latest judgment in **Union of India Vs. S.Vinodh Kumar** where one of us (Sinha, J.) was a party. This was a case where different cut-off marks were fixed for the unreserved candidates and the Scheduled Caste and Scheduled Tribe candidates. This Court in para 10 of its judgment endorsed the action and recorded a finding that there was a power in the employer to fix the cut-off marks which power was neither denied nor disputed and further that the cut-off marks were fixed on a rational basis and, therefore, no exception could be taken. The Court also referred to the judgment in **Om Prakash Shukla Vs. Akhilesh Kumar Shukla**, where it has been held specifically that when a candidate appears in the examination without protest and subsequently is found to be not successful in the examination, the question of entertaining the petition challenging such

examination would not arise. The Court further made observations in para 34 of the Judgment to the effect (S.Vinodh Kumar case, SCC P.107, Para 19)

"19..... '34. There is thus no doubt that while question of any estoppel by conduct would not arise in the contextual facts but the law seems to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is not "palatable" to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process."
In para 20 this Court further observed that there are certain exceptions to the aforementioned rule. However, the Court did not go into those exceptions since the same were not material."

18. The above judgments were considered by the Hon'ble High Court of Chhattisgarh, Bilaspur in Writ Petition No.231/2012, **Dr. Sapna Jaiswal vs. State of Chhattisgarh** decided on 4.5.2012 and it has been held that the petitioner is estopped from raising any grievance against the process of selection once he himself participated in the process of selection.

19. Learned counsel for the respondents has also drawn our attention on a judgment delivered by Hon'ble Supreme Court in **Basavajiah (Dr.) Vs. Dr. H.L.Ramesh and others** reported in (2010) 8 SCC 372 in which it has been held as under:

"21. It is the settled legal position that the courts have to show deference and consideration to the recommendation of an Expert Committee consisting of distinguished experts in the field. In the instant case, the experts had evaluated the qualification, experience and published work of the appellants and thereafter recommendations for their appointments were made. The Division Bench of the High Court ought not to have sat as an appellate court on the recommendations made by the country's leading experts in the field of Sericulture.

22. A similar controversy arose about 45 years ago regarding appointment of Anniah Gowda to the post of Research Reader in English in Central College, Bangalore in University of Mysore v. C.D. Govinda Rao in which the Constitution Bench unanimously held that normally the courts should be slow to interfere with the opinions expressed by the experts particularly in a case when there is no allegation of mala fides against the experts who had constituted the Selection Board. The Court further observed that it would normally be



(In words **Seventeen thousand five hundred rupees**)

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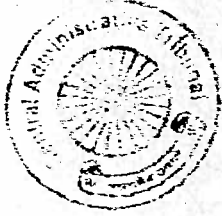
Sandeep Dubey
(SANDEEP DUBEY)

wise and safe for the courts to leave the decisions of academic matters to the experts who are more familiar with the problems they face than the courts generally can be."

20. The learned counsel for the respondents has also relied upon a judgment delivered by Hon'ble Supreme Court in **Ramesh Chandra Shah and others Vs. Anil Joshi and others**, reported in AIR 2013 SC 1613, wherein the Hon'ble Supreme Court has held as under:

"24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents have waived their right to question the advertisement of the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.

25. We are also prima facie of the view that the learned Single Judge committed an error by holding that despite the non obstante clause contained in Rule 2 of the General Rules, the Special Rules would govern recruitment to the post of Physiotherapist. However, we do not consider it necessary to express any conclusive opinion on this issue and leave the question to be decided in an appropriate case."



21. We have considered the rival submissions made by the learned counsel for the parties and we are of the opinion that the cases referred by the learned counsel for the applicants, are not applicable in the present case. The applicants could not point out which questions were beyond the syllabus and which questions were of higher level. There is no force in the contention of learned counsel for the applicants that no question was asked from the material provided to ST/SC candidates during Pre-exam Training. As such training was organized for four days and it was never assumed that the questions shall be asked from the material provided to ST/SC candidates during such training. The applicants have also failed to prove that the correction in respect of Negative Marking was got done after 45 minutes, whereas it has clearly been provided in the scheme of examination and the instructions supplied to the candidates that there would be Negative Marking, and for each wrong answers, 25% of the question would be deducted. It cannot be held that the applicants were prejudiced by such

remark mentioned below the OMR Sheet, which was got corrected by the invigilator during the examination. We also do not find any force in the contention that the pass percentage in other Circles is very high, but in Chhattisgarh Circle, pass percentage is only 7%. In our opinion this is also no ground to challenge the examination as well as its result.

22. Considering all the facts and circumstances of the case, we are of the view that the applicants are estopped from challenging the Question Papers as well as the process of evaluation of Answer Sheets since they have participated in the examination peacefully and issues raised by the Association in respect of some discrepancies in the Provisional Answer Key were considered by the Expert Committee duly constituted by the respondents, and on the recommendation of such Expert Committee, some questions were also deleted and the result of the examination was declared accordingly.

23. Thus, the OA is devoid of any merit and is accordingly dismissed. There is no order as to costs.

Sd/-
(Dr. Murtaza Ali)
Judicial Member
am

Sd/-
(G.P. Singhal)
Administrative Member

To
Shri Sandeep Dubey
Advocate,
Jash Tarwa,
Guru Nanak Chowk,
Bilaspur (CG).

4338
25/8/14

के.प्र.अ.प्रक्रिया निवारणदली के द्वारा
22 के अंतर्गत निःशुल्क प्रतिलिपि

TRUE COPY

21/8/14
Central Administrative Tribunal
Jabalour Bench, Jabalour

(In words

Seventeen thousand five hundred Rupees)

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Sd/-
(Sandeep Dubey)

