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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2368/2002

This the 30th day of April, 2003 -

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1. Manohari Lal S/O Maheshwar Prasad,
95 Prakash Vihar, Lane-6,
Azabpur, Dehradun.
2. Ranjeet Kumar S/O M.N.Bandooni,
Bandooni Brind, Village Miyawala,
P.O. Harrawala,
Dehradun-248160.
3. Naeem Ahmed S/O Abdul Rasheed,
Tapovan Enclave,
Amwala Tarla, Dehradun.
4. S.S.Rauthan S/O D.S.Rauthan,
G-31, P&T Colony,
Chukhuwala, Dehradun.
5. P.K.Singh S/O K.P.Singh,
Sector 3, C-99 Defence Colony,
Dehradun.
6. Deepak Kumar S/O Sita Ram,
Shiv Mandir Colony,
Prempur Mafi, Kaulagarh,
Dehradun.
7. U.S.Pandey S/O V.N.Pandey,
House No.2, Dispensary Road,
Dehradun.
8. D.S.Kandari S/O H.S.Kandari,
97/4 Dharampur, Dehradun.
9. Som Prakash S/O Kishan Dass,
111/1 Bhandari Bagh,
Dehradun.
10. Rakesh Kumar S/O Jyoti Prasad,
5/1 Dilaram Bazar, Dehradun.
11. R.M.Dobhal S/O S.L.Dobhal,
House No.257, Phase-II,
Panditwari, Dehradun.
12. Arvind Kumar S/O Dev Pal Verma,
B-50 Tons Colony, Dakpathar,
Dehradun.
13. Z.M.Zaidi S/O A.H.Zaidi,
Barlo Ganj, Mussoorie,
Dehradun.

14. R.P.Gupta S/O Rajdev Gupta,
Telephone Exchange,
Rishikesh, Distt. Dehradun.
15. Chandi Prasad Juyal S/O Ghananand Juyal,
Telecom Colony, Srinagar,
Garhwal.
16. Rakesh Chandra Sharma--
S/O Jagdish Chandra Sharma,
Telephone Exchange,
Pauri (Garhwal).
17. G.K.Saxena S/O Siya Raghbir Saran Saxena, -
R/O Kanoongoyan, Kashipur,
U.S.Nagar, Uttaranchal.
18. S.K.Bajpai S/O Sunder Lal Bajpai,
R/O Telecom Colony,
Telephone Exchange Kashipur, -
Udham Singh Nagar,
Uttaranchal.
19. B.P.Devedi S/O Dharm Raj Devedi,
R/O Telephone Colony,
Telephone Exchange Rudrapur,
Uttaranchal.
20. G.S.Bist S/O K.S.Bist,
R/O Punjabi Gali Kichha,
U.S.Nagar, Uttaranchal.
21. G.C.S.Bist S/O H.C.S.Bist,
12, Shiv Puram, Pili Kothi,
Badi Mukhani, Haldwani,
Uttaranchal.
22. R.D.Sharma S/O Mani Ram Sharma,
R/O Jagdamba Nagar,
Haldwani, Uttaranchal.
23. Birendra Singh S/O Bhagwan Singh,
R/O Telecom Colony,
Telephone Exchange Rudrapur, -
U.S.Nagar, Uttaranchal.
24. P.S.Mehra S/O Man Singh Mehra,
R/O Telephone Colony,
Almora, Uttaranchal.
25. K.N.Joshi S/O P.B.Joshi,
R/O Mohalla Dubkiya,
Almora, UttaRanchal.
26. N.S.Khati S/O Trilok Singh Khati,
R/O Inderprath Colony, Dehria,
Haldwani, Uttaranchal.
27. H.C.Pant S/O M.N.Pant,
R/O Near Uncha Pul,
Haldwani, Nainital,
Uttaranchal.

28. P.Ram S/O Ram Avtar,
R/O Telephone Colony Khatima,
U.S.Nagar, Uttaranchal.

29. Rajinder Kumar Gautam S/O T.R.Gautam,
R/O Telephone Exchange Colony Tanakpur,
Udham Singh Nagar, Uttaranchal.

30. R.P.Rai S/O S.P.Rai,
R/O Telephone Colony Kashipur,
U.S.Nagar, Uttaranchal.

31. Ghanshyam Singh Arya S/O M.S.Arya,
R/O Kiratpur. Distt. Bijnor.

32. A.P.Nautiyal S/O R.P.Nautiyal,
R/O Adhoiwala, Sahastradhara Road,
Dehradun.

33. Mohan Singh Rawat S/O V.S.Rawat,
R/O Telecom Colony,
New Tehri (Tehri Garhwal).

34. R.P.Uniyal S/O D.R.Uniyal,
R/O Telecom Colony,
New Tehri (Tehri Garhwal). Applicants

(By Shri L.K.Singh, Advocate)

-versus-

1. Govt. of India,
Ministry of Communication,
Department of Telecommunication
through Secretary, Sanchar Bhawan,
20 Ashok Road,
New Delhi-110001. Respondents

2. Office of the CGMT,
U.P.Telcom Circle (West)
through the Chief General Manager [UP(W)],
Windlass Complex, Rajpur Road,
Dehradun, Uttaranchal.

3. Uttaranchal Telecom Circle
through the Chief General Manager
(Uttaranchal), Windlass Complex,
Rajpur Road, Dehradun,
Uttaranchal. Respondents

(By Shri V.S.R.Krishna, Advocate)

O-R-D-E-R

Hon'ble Shri V.K.Majotra, Member (A) :-

Applicants, 34 in number, are employed as Junior
Telecom Officers (JTOs) and are posted on deputation in
UP Telecom (West) and Uttaranchal Telecom Circles.

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Applicants are all departmental JTOs having qualified departmental screening test conducted on 29.1.1995 to fill up the posts of JTOs against 35% departmental quota. After qualifying the screening test, applicants were sent for training in batches as per their seniority in the feeder posts, and after successful completion of their training they were appointed as JTOs. Applicants are aggrieved that they have been assigned recruitment years as 1994 onwards although their appointments were made against the recruitment year 1993. They have challenged the JTOs gradation list circulated on 20.9.2001 and the revised JTOs gradation list circulated on 25.7.2002 on the ground that applicants have been shown junior to many of the similarly situated JTOs who are otherwise junior to applicants if the seniority is considered on the basis of marks obtained in the training programme, which according to them is the sole criterion for determination of seniority in the JTOs cadre as per the recruitment rules. They have further challenged office circular dated 1.8.2002 vide which respondents are considering several JTOs for the purpose of local officiating promotion to the higher grade of TES Grade 'B' who are junior to applicants on the basis of criteria laid down under the recruitment rules, as also the basis of marks obtained in the training programme. Applicants have sought declaration to the effect that they are appointees as JTOs for the recruitment year 1993 and that JTOs gradation lists dated 20.9.2001 and 25.7.2002 should be modified/recast on assignment of the recruitment year 1993 regarding their appointment.

2. The learned counsel of applicants stated that respondents had selected applicants on the basis of the departmental screening test for promotion to the post of JTOs in the recruitment year 1993 against 35% quota and having sent them for training in respect of recruitment year 1993 cannot change the recruitment year to 1994 onwards. The learned counsel stated that the screening test for these applicants was held on 29.1.1995 for the recruitment year 1993 (Annexure A-1 dated 13.10.1994 read with Annexure A-2 dated 26.10.1994) by clubbing vacancies up to 1995. The learned counsel maintained that all appointments made on the basis of screening test held on 25.1.1995 constitute a single class and have to be related to the year 1993, and that their seniority in the cadre of JTOs has to be determined on the basis of marks obtained during the basic training course collectively and not batch-wise, as training batches are constituted on the basis of length of service in the feeder cadre. Length of service in the feeder cadre loses significance in the allocation of seniority which is relatable to marks obtained in the training course by trainees of all batches for a particular year taken together.

3. The learned counsel of respondents stated that promotions to the grade of JTOs are made Circle-wise and that there is no all India feeder grade for promotion to the grade of JTOs. While the screening test is conducted on an all India basis for preparing batches of officials who qualified in the screening test, promotions are to be effected on the basis of seniority in the feeder grade within the concerned Circle. All persons who secure

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qualifying marks in the screening test are to be imparted training in the order of length of service in the feeder grade, and subject to availability of vacancies, such of those trained in the order of seniority who are covered by the number of vacancies available in the Circle, are promoted to the higher grade of JTO. The panel once prepared on the basis of qualifying marks does not lapse and the empanelled persons are promoted in subsequent years as and when vacancies become available. The relevant merit of the persons in the training programme is neither the basis for promotion to the post of JTO nor does it determine the order in which the persons who have completed the training are promoted to the higher post of JTO. The promotions are on the basis of their inter se seniority in the feeder grade depending on the availability of vacancies in each year. It is because of this reason that the recruitment is not made every year. It is made after a gap of number of years, i.e., as and when the earlier panel is exhausted and more vacancies in the higher grades arise, or are anticipated. It is only when fixing the inter se seniority of the persons in the higher grade of JTOs that the number of marks secured by them in the training are to be taken as the basis for fixation of their seniority. As regards applicants who belonged to the UP Circle, it was explained that there was no vacancy in the grade of JTO during the year 1993 and as such applicants could not be promoted against the vacancies of 1993. Some of them on the basis of their seniority in the feeder grade were promoted against the vacancies which became available in the year 1994. Others were accommodated in the subsequent years. Their

seniority in the promoted post of JTO has been rightly fixed in the order of marks secured by them in the training depending upon the year in which they were promoted.

4. The relevant recruitment rules are called "Department of Telecommunications, Telecom Technical Assistant, Recruitment Rules, 1991". They were published on 8.2.1996 and are at Annexure A-5. As per these rules, the manner of filling of vacancies in the JTO cadre is 50% by direct recruitment, 35% by departmental screening test and 15% by departmental competitive examination. 35% transfer/promotions are to be effected from amongst :

- a) the Phone Inspector/Auto Exchange Assistants/Transmission Assistant/Wireless Operator who possess the qualification prescribed in column 8 and have completed 5 yrs regular service in the cadre of Phone Inspector/Auto Exchange Assistant/Transmission Assistant/Wireless Operator
- b) the phone Inspector/Auto Exchange Assistant/Wireless Operators/Transmission Assistant/Telecom Technical Assistants who possess the high school/ Matriculation qualification and who have completed 6 years of regular service, through a qualifying screening test unless he has already passed such test."

The explanation in the rules states, "Length of service in the Cadre of Phone Inspectors/Auto Exchange Assistant/ Transmission Assistant/Wireless Operator will be the criteria for sending them for JTOs training."

5. The rules quoted above clearly state that in case of recruitment by promotion, 15% have to be on the

basis of a competitive examination. The department conducts such competitive examination for filling up 15% departmental quota for promotion for a certain year's vacancies and for fixed number of vacancies. Qualifying screening test is held for 35% transfer/promotion quota. Promotions under 15% quota and 35% quota by way of holding examination/screening test are two different concepts. In the former, it is a competitive examination while the latter category has to undergo a qualifying screening test alone. Promotions for the latter category are made on the basis of their inter se seniority in the feeder grade depending upon the number of vacancies available in each year. As such, there is nothing wrong if the recruitment is not done every year for this category. Fixation of inter se seniority in the higher grade of JTO is on the basis of marks in the training.

6. We have considered the import of the aforesaid rules. We find nothing wrong with the procedure adopted by respondents in allocation of recruitment year, seniority etc. for promotion in the category of applicants. In other words, the seniority in the feeder grade is relevant for promotion to the grade of JTOs, while seniority in the grade of JTOs is to be determined on two factors, namely, the number of persons promoted in a particular year (which, in turn, depends upon the number of vacancies available in a particular year), and the relative merit position of the persons so promoted on the basis of marks secured by them in the training. As such a person who has secured more marks in the training but was not covered within the number of vacancies

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available in a particular year on the basis of his seniority in the feeder grade, and has been promoted in the subsequent year on a vacancy becoming available for him, cannot claim seniority above the persons who have been, on the basis of their own seniority in the feeder grade, promoted against the vacancies available in an earlier year, though he may have secured more marks than others in the training programme. The number of vacancies arising in all Circles may not be uniform and will certainly have an impact on promotions in different Circles.

7. Having regard to the facts and the relevant rules, we do not find any infirmity in the assignment of years of recruitment to applicants in the cadre of JTOs as also JTOs gradation list dated 20.9.2001 and the revised gradation list dated 25.7.2002. Accordingly, the office circular dated 1.8.2002 is also in order.

8. The OA is dismissed being devoid of merit. No costs.

V. K. Majotra
(V. K. Majotra)

Member (A)

/as/

V. S. Aggarwal
(V. S. Aggarwal)
Chairman