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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.281/2001

New Delhi: this the 7th day of November, 2001.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A)

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

1. Manoj Kumar,
S/o Shri Sukhpal Singh,
H.No.200, Gali No.4,
Durgapuri Extension,
Delhi-93.

2. Nagendra Kumar,
S/o Sh. Subey Singh,
R/o Quarter No.31-A,
Police Colony, Model Town-II,
Delhi-9.

3. Vinit Kumar,
S/o Shri Ompal Singh,
R/o C-87, Amar Colony,
Meet Nagar,
(East Gokalpuri),
Delhi-94.

4. Rajiv Rana,
S/o Shri Veer Singh Rana,
H.NO.285, Gali No.5,
Durgapuri Extension,
Delhi-93

(By Advocate: Shri K.R.Sachdeva) Applicants.
Versus

1. Chairman,
Delhi Subordinate Services Selection Board,
Govt. of NCT of Delhi,
UTCS Building behind Karkardooma Court Complex,
Vishwas Nagar,
Shadara,
Delhi-32

2. Secretary,
Govt. of NCT of Delhi,
Dept. of Health & Family Welfare,
9th Floor,
I.P.Sachivalaya,
New Delhi Respondents.

(By Advocate: Shri Vijay Pandita).

ORDER

S.R.Adige, VC(A):

Applicants challenge respondents' action in ordering re-examination of their application

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for appointment to the post of Telephone Operator in Health & Family Welfare Dep'tt. Govt. of NCT of Delhi and seek a direction to respondents to declare the results based on their performance in the written test/interview already conducted for the post and to offer their appointment as Telephone Operator based on their relative merit position, with consequential benefits.

2. Admittedly the Delhi Subordinate Services Selection Board issued advertisement dated 1.3.99 (Annexure-P-1) inviting applications by 25.3.99 for various posts including those of Telephone Operators in Dep'tt. of Health & Family Welfare, Govt. of NCT of Delhi. The educational qualification and experience prescribed for the post as per advertisement was

Essential:

1. Matric or its equivalent from a recognised Board.
2. Certificate in the operation of Telephone Exchanges from Tele. Dep'tt. or recognised Institution.
3. The candidates will have to qualify in the general knowledge and intelligence test and also in aptitude test of telephone operation before actual selection.

Desirable:

Knowledge of Typing.

3. Selection consisted of written test and interview. Written test was held on 25.7.99, and

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interview was scheduled for 20/21 June, 2000.

Applicants aver that on the basis of their performance in the written test, they were called to appear for the interview, but at the time of the interview they were informed that their certificates in Telephone Operator Course was not from a recognised Institute and they should submit the certificate from a recognised Institute within 3 days, failing which their candidature would be cancelled. Applicants aver that they submitted application to the DSSSB that no Institute for Training of Telephone Operator is recognised, and secondly the training imparted by MTNL had been closed since 1996, but they state that DSSSB refused to receive their applications.

4. Applicants further aver that efforts to get the Recruitment Rules suitably amended proved to no avail, and meanwhile DSSSB wrote to Secretary Health Deptt. on 27.6.2000 (Annexure-P-12) seeking clarification whether Institutes such as Sarvodaya Institute of Education, Sarvodaya House, Vikas Marg, Delhi, from where applicants had obtained their Telephone Operator Certificates and National Association for the Blind, Haryana State Branch, Faridabad were to be considered valid for the post of Telephone Operator. The Health Deptt. Govt. of NCT of Delhi sought clarification from MTNL vide their letter dated

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30.8.2000 (Annexure-P14), upon which the Asstt.

General Manager, MTNL wrote on the body of the aforesaid letter dated 30.8.2000 that

"There is no such procedure of recognising any institution for imparting training for telephone operator nor MTNL, New Delhi is conducting any programme of imparting training to outside candidates for the job of Telephone Operator now-a-days."

5. Applicants further aver that meanwhile DSSSB has declared the result on 16.12.2000 (Annexure-P-15) in which applicants' names do not find mention, although as per their information they were amongst the first 10 candidates based on their performance in the written test and interview. Applicants contend that their exclusion from the list of selected candidates is illegal and arbitrary.

6. Respondents have filed reply in which they contend that as applicants did not produce certificate in operation of a telephone exchange from the Tele. Deptt. or a recognised institute they were not considered for appointment.

7. We have heard both sides.

8. We note that the Recruitment Rules framed under Article 309 of the Constitution for the post of Telephone Operator (Annexure-R-II to respondents' addl. affidavit dated 27.8.2001) lays down the education and other qualification required for direct recruits as shown in para 2 above. During ^{the} hearing, we asked respondents' counsel as to (i) who was the authority competent to recognise a institution

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within the ~~ambit~~ of the Recruitment Rules, and (ii) whether there was any list of institutions which had been recognised, to determine whether the Sarvodaya Institute of Education from which applicants had obtained their certificates, was recognised or not, but to neither of our queries did we receive any satisfactory reply.

9. In this connection we note that in DSSSB's letter dated 27.6.2000 seeking clarification from Health Dep'tt. Govt. of NCT of Delhi whether certain institutes issuing certificate for the post of Telephone Operator are valid or not, besides the Sarvodaya Institute of Education from which applicants obtained their certificates, the National Association for the Blind Haryana State Branch, Faridabad is also mentioned.

10. Applicants in para 4.20 of the OA have made a specific assertion that the certificates issued by the National Association for the Blind, Haryana State Branch, Faridabad have been entertained by DSSSB with regard to the selection process in question. This specific assertion of applicants remains unrebuted in respondents' reply to the OA. Furthermore in para 4.21 of the OA it has been specifically averred that to treat certificates from Sarvodaya Institute of Education differently would amount to hostile discrimination, which averment has also not been specifically denied by respondents in the corresponding para of their reply.

11. Under the circumstance, in the absence of any authority identified to be competent to recognise

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an Institution within the ambit of the Recruitment Rules, and in the absence of any list of recognised institutions furnished to us, applicants' claim for consideration for appointment on the basis of the certificate issued by the Sarvodaya Institute of Education cannot be lightly brushed aside, more so when respondents have not rebutted applicants' specific assertion that certificates of a similar institution namely National Association for the Blind, Haryana State Branch, Faridabad have been accepted by respondents.

12. Under the circumstance respondents are directed

i) to consider the claim of applicants for appointment as Telephone Operator pursuant to the selections in question against the available vacancies, subject to their securing a position in the merit list, and fulfilling the other prescribed qualifications.

Respondents shall pass a speaking order in this regard in accordance with rules and instructions within 2 months from the date of receipt of a copy of this order.

ii) to consider issuing a list of institutions recognised by the competent authority for the purpose of the recruitment rules.

13. The OA succeeds and is allowed to the extent contained in para 12 above. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).