

(13)

Central Administrative Tribunal
Principal Bench

O.A. No. 2830 of 1999

New Delhi, dated this the 31st May, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri Bachi Singh,
S/o late Shri Puran Singh,
Transmission Assistant,
O/o the S.D.E. (VFT),
Kidwai Bhawan, Janpath,
New delhi-110001. .. Applicant

(By Advocate: Shri M.K. Gupta)

Versus

1. Union of India through
its Secretary,
Dept. of Telecommunications,
Ministry of Communication,
Sanchar Bhawan,
New Delhi-110001.
2. The Director (DE&VP),
Dept. of Telecommunications,
Ministry of Communication,
Dak Bhawan,
New Delhi-110001. .. Respondents

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

ORDER

MR. S.R. ADIGE, VC (A)

Applicant who is a Transmission Assistant impugns circular dated 10.11.99 (Annexure A-1) and seeks a direction to respondents to fill up the vacancies of the posts of JTOs on the basis of the Recruitment Rules which were in force when the said vacancies arose, with all its consequences, after adhering to the clarification issued by the Asst. Director General (STC) in his letter dated 12.1.99 (Annexure A-V Colly.).

2. As per JTO's Recruitment Rules 1990
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(Annexure A-3), 65% of vacancies were to be filled by direct recruitment and 35% were to be filled by promotion of departmental candidates through competitive/qualifying examination as follows:

- a) 15% by promotion of departmental candidates through a competitive examination.
- b) 10% by promotion of Transmission Assistants etc. through a competitive examination.
- c) 10% by promotion of T.As etc. on seniority-cum-fitness basis through a separate qualifying test, the inter se seniority of the officials being decided on the basis of length of service in the grade.

3. The aforesaid Recruitment Rules of 1990 were subsequently superceded by the JTO Recruitment Rules, 1996 notified on 9.2.96 (Annexure A-4) by which 50% of the vacancies were to be filled by direct recruitment and 50% by promotion as follows:

- a) 15 % by promotion of departmental candidates through a competitive examination.
- b) 35% by promotion/transfer of TAs etc. which includes promotion of TTAs who have completed six years of regular service through a qualifying ~~test~~ ^{screening} test in case they have not already passed the test.
- c) 15% through a competitive examination of certain categories of Group C employees including TAs.

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4. Applicant contends that while respondents clarification dated 12/1/99 had rightly stated that examination should be conducted as per the Recruitment Rules existing for respective years of vacancies, by the impugned orders dated 10.11.99 all the vacancies occurring prior to 31.8.99 have been bunched together which is violative of the law laid down by the Hon'ble Supreme Court in Y.V. Rangaiah's case. Applicant states that he was eligible to take the test in 1995 itself, and he cannot be made to compete with candidates who were not then eligible and became eligible to appear in the said examination only subsequently and respondents are under obligation to hold the examinations for the vacancies which arose in 1995 by considering the candidates who alone were eligible to appear in the examination. It is contended that any candidate who have become eligible in subsequent years, cannot be allowed to compete with the candidates who were not only senior but alone were eligible to appear earlier.

5. Respondents in their reply state that the 2nd qualifying screening test for the post of JTO under 35% quota was initially scheduled on 11.4.99, but had to be postponed from time to time. These tests were to be held at various centres. Respondents state that their circular dated 12.1.99 already clarifies that the tests would be conducted as per Recruitment Rules existing for respective years of vacancies i.e. vacancies for the year 1995 will be conducted as per JTO Recruitment rules Notified in 1990, and vacancies for the year 1996,

1997 and 1998 and upto 31.8.99 will be conducted as per the Recruitment Rules notified on 9.2.96. They strongly deny that there will be any bunching of vacancies and aver that those who clear the qualifying test will be slotted against vacancies occurring in the year in which they became eligible.

6. Applicant has filed a rejoinder. In this rejoinder, he has stated that as per the 1990 Recruitment Rules respondents have conducted a competitive examination in May, 1999 (Annexure A-11) under (a) of 35% quota. However (b) and (c) of 35% quota still remain to be done. Meanwhile the Recruitment Rules have been amended in 1996, wherein though the percentage of posts to be filled from promotion from departmental candidates minus the competitive examination category remains the same i.e. 35% but the category (b) and (c) enumerated above have been amended as far as the nature of the examination is concerned, and a new feeder category of TTA's have been made eligible for promotion to the said posts. It is also urged that under the 1996 Recruitment Rules the mode of examination has been made "qualifying screening test" which was not the mode of examination in the 1990 Recruitment Rules.

7. We have given the matter our careful consideration.

8. We note that both the 1990 Recruitment Rules as well as the 1996 ^{Rec. Rules} provide for filling up of a certain percentage of vacancies through a qualifying

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test. We have no reason to doubt that the term "qualifying test" ^{used} ~~and~~ in the 1990 Recruitment Rules and the term "qualifying screening test" ^{used} ~~and~~ in the 1996 Recruitment Rules mean one and the same thing. Shri Krishna has pointed out that holding of such a qualifying test each year for 1995, 1996, 1997 and 1998 vacancies are likely to result in delaying the promotions considerably and, therefore, respondents had decided to hold a qualifying test jointly for vacancies for the year 1995, 1996, 1997 and 1998 and then assign those candidates who qualified, to the vacancies of the particular year in which they were eligible.

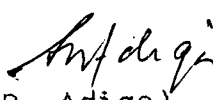
9. We cannot see how applicant ^{would} ~~not~~ be prejudiced by this. As per applicant's own averment, he became eligible for promotion in 1995. A cause of action may accrue to him if despite qualifying in the test respondents propose to hold, he is not assigned to a vacancy that occurred in 1995, but not before.

10. Under the circumstances it cannot be said that respondents' circular dated 10.11.99 deviates from their earlier letter dated 12.1.99 to prejudice ^{the} applicant materially at this stage.

11. If applicant, despite qualifying in the test respondents propose to hold pursuant to their circular dated 10.11.99, is not assigned a vacancy of 1995, we permit him to approach ^{us} through an M.A. seeking revival of this O.A.

12. The O.A. is disposed of in terms of Paragraph 5 above. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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