

Central Administrative Tribunal, Principal Bench

O.A.2084/1998

New Delhi, this the 5th day of ^{March} ~~February~~, 2001

Hon'ble Mr.Kuldip Singh, Member(J)
Hon'ble Mr.M.P. Singh, Member(A)

1. Kishori Lal
S/o Shri Het Ram,
S.D.E. (Officiating),
Coaxial Maintenance,
Kidwai Bhawan, New Delhi.
2. Sant Ram Singh,
H.O. No. 45-A, Sector IV,
Pushap Vihar,
M.B. Road,
New Delhi.
3. Chhote Lal,
D-16, Kanchan Apartments,
Shastri Nagar,
New Delhi.
4. Harbhajan,
H.No. 62-B, Pocket I,
Phase I, Mayur Vihar,
Delhi.

... Applicants

(By Advocate : Shri Harvir Singh proxy
for Shri K.C. Mittal)

Versus

1. Union of India
Through the Secretary
Department of Telecommunication,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi-I.
2. S.M. Kaushal,
Assistant Director General (SGT)
Department of Telecom,
20, Ashoka Road,
New Delhi-I.

... Respondents

(By Advocate: Shri S.M. Arif)

ORDER

By Mr. Kuldip Singh, Member (J):

The applicants who belong to reserved category have filed this OA challenging the order dated 21.10.1998 vide which certain Junior Telecom

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✓ Officers (for short JTOs) of general category had been promoted as TES Group 'B', which is a Gazetted post and they have prayed for the following reliefs:-

(a) Set aside the impugned order dated 21.10.1998 as illegal and unconstitutional.

✓ (b) The implementation of the impugned order dated 21.10.1998 may be withheld till the promotion order of reserved category from the post of JTOs to the post of TES Group 'B' is issued by the respondents.

✓ (c) The applicants may be given promotion with retrospective effect against the vacancies for which they were eligible and consequential benefits may also be given to the applicants.

✓ (d) Respondents may be directed to issue promotion order of applicants immediately.

2. As an interim measure, they have also prayed that the order dated 21.10.1998 may be kept in abeyance till the decision of the OA.

3. The main grievance of the applicants is that as per the Recruitment Rules of the Department all the candidates of reserved community who appeared in TES Group 'B' prior to 1.12.1992 are eligible for promotion even if they secured zero marks and thereafter promotion is to be made on the basis of

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seniority-cum-fitness. As far as the examinations held subsequently to 1.12.1992 are concerned, the reserved category candidates be declared to have passed the Limited Departmental Examination in case of SC if they have secured 20% and in case of ST if they have secured 15% marks.

4. It is further alleged that promotions of the reserved category should be made as early as possible to fill up the backlog of the vacancies.

5. The respondents contested the OA and denied the contentions of the applicants that officers belonging to SC/ST community can be given relaxation of marks in qualifying examination for promotion to TES Group 'B' even if they had secured zero marks. It is denied that any relaxation for promotion to TES Group 'B' is governed by specific provisions existing in the statutory rules of TES Group 'B' posts.

6. The respondents further submitted that the instructions dated 4.5.1981, Annexure-2 relied upon by the applicants are applicable to only Group 'C' and 'D' posts only. However, for giving relaxation to TES Group 'B', it is denied that there is any backlog of TES Group 'B' since 1973, as contended, rather it is submitted that there was no shortfall till 1990 DPC. In 1991 DPC there was shortfall of ST candidates and only to make good the shortfall, results in respect of failed ST candidates for the year 1989, 1990 and 1991 were reviewed and after giving relaxation, suitable number who were declared qualified were promoted to

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TES Group 'B'. All SC/ST candidates who were qualified and found fit for promotion had been promoted. The shortfall of SC candidates existed only in 1993-94 DPC but thereafter the examinations had been conducted after the matter had been finally settled by the Hon'ble Supreme Court in the year 1995. After 1991 the department took the decision not to conduct the qualifying examination as a large number of qualified JTOs were awaiting their promotion to TES Group 'B' and after 2.7.97 the DOP&T has again issued instructions about reservation of jobs for SC/ST/OBC. According to the latest instructions, reservation should apply to posts and not to vacancies and those instructions are effective in respect of appointment/promotions made on or after 2.7.97.

7. It is further stated that after the judgment of the Apex Court dated 25.10.1996 in OA No.25016/97, all the vacancies upto 22.7.96 were to be filled up in accordance with the pre-revised Recruitment Rules of TES Group 'B' and vacancies on or after 23.7.96 were to be filled up as per the revised Recruitment Rules and the promotions have been made in accordance with the judgment of the Apex Court.

8. It is further stated that in the order dated 21.10.1998, 55 SC/ST officials who appeared and qualified were found fit for promotion and had been promoted, so it is stated that the OA has no merits and the same is liable to be dismissed.

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9. We have heard the learned counsel for the parties and have gone through the records of the case.

10. The learned counsel appearing for the applicants heavily relied upon Annexure-2 which is a letter of DGP&T New Delhi dated 4.5.1981. The learned counsel referring to this annexure submitted that the subject of this will show that it provides guide-lines for relaxation of standards in favour of SC/ST candidates in qualifying/confirmation in departmental promotion examination and according to clarification issued in this letter, it has been noticed that in cases of those SC/ST candidates who had secured zero marks have been recommended for declaring them successful and it has now been decided that results of only those failed Scheduled Caste candidates who have secured at least 20% marks and Scheduled Tribe candidates who have secured 15% marks in each paper should be reviewed.

11. Relying upon this the counsel for the applicants submitted that this letter and clarification also applies to the applicants who are seeking promotion to TES Group 'B' service of the Telecommunication.

12. On the contrary the learned counsel for the respondents submitted that this letter applies only to Group 'C' and 'D' posts and not for promotion to TES Group 'B' service since the post of TES Group 'B' is a Gazetted post. We have considered this aspect and from a reading of the entire letter particularly para


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2 sub-clause (ii) does indicate that this letter pertains to recruitment to Group 'C' and Group 'D' posts and it does not cover the Group 'B' post of Telecommunication Engineering Service,. Hence this letter does not provide any assistance to the applicants.

13. As regards the contention of the learned counsel for the applicants that there is backlog of vacancies for which the applicants are entitled to be given relaxation and their results are to be reviewed. On this aspect we find that the examinations had been conducted as per the directions of the Hon'ble Supreme Court and since the applicants had failed in the earlier examinations, so as per the rules they cannot ask for review of their results.

14. In view of the above discussions, we find that the OA has no merits and the same is dismissed.

No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)