

Central Administrative Tribunal, Principal Bench

O.A. 2122/98
MA Nos. 2246 and 2693 of 1998

New Delhi, this the 16th day of July, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)
Hon'ble Mr. Kuldip Singh, Member (J)

1. Shri B.K. Jha S/o Late Shri H.K. Jha
R/o BD-56-A, Shalimar Bagh,
Delhi-52.
2. Shri P.K. Mehta S/o Shri R.K. Mehta
R/o 53/A-1-Sector-5, Rohini,
Delhi-85.Applicants

By Advocate Shri R.K. Kapoor.

Versus

1. Union of India through
Secretary, Department of Telecom.,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi.
2. Umesh Dutt Sharma S/o Sh. Basudeb Sharma
R/o 588 Vivekanand Nagar, Ghaziabad.
3. Shri Sanjay Kumar S/o Sh. Mahesh Prasad
R/o Gh-8/343, Paschim Vihar,
New Delhi-87.Respondents

(By Advocate Shri N.C. Sikri, Sr. Counsel with Ms.
Geetanjali Goel and Mrs. Meera Chhibber.

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

Applicants are aggrieved by respondents Orders dated 15.10.98 (Annexure A-1) and dated 21.10.98 (Annexure A-2). They seek a direction restraining respondents from filling up any of the 1966 vacancies created by the impugned order dated 15.10.98 by candidates eligible under the old Recruitment Rules and also to restrain respondents from filling up vacancies whether under the old Recruitment Rules or the New Recruitment Rules till the eligible list of both groups is published in accordance with the law and in accordance with Hon'ble

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Supreme Court's order dated 25.10.96. They seek a direction to respondents to fill up these 1966 vacancies under the New Recruitment Rules which were published on 23.7.96.

2. According to the order dated 15.10.96, Respondents have created 1966 posts of SDE in TES Group 'B'. These posts would be deemed to have been created along with 2636 posts which were created in the year 1993 itself, meaning thereby that the respondents intend that these 1966 posts be created with retrospective effect. By order dated 21.10.1996, respondents have issued orders promoting certain officers against these 1966 vacancies.

3. Admittedly the Recruitment Rules of TES Group 'B' service were replaced by 1996 rules for which a Notification was issued on 22.7.97 and which came into force w.e.f. 23.7.98.

4. It is common case of both the parties that in an earlier proceedings before the Hon'ble Supreme Court the respondents' department had made a statement that the vacancies which existed upto 22.7.96, would be filled up in accordance with the old rules and the vacancies arising thereafter would be filled up in accordance with the new rules.

5. Since by impugned order dated 15.10.96 respondents have created 1996 posts of SDEs in TES Group 'B' service, applicants have challenged the same, contending that these could not have been

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created with retrospective effect and claiming that respondents should have filled these vacancies in accordance with the new rules.

6. Respondents have contested the OA and have stated that these posts have been made available as a consequence of the agreement between the respondents and the JTO Association. A Committee under the Chairmanship of Advisor (HRD) was constituted to examine and suggest remedial measures to avoid reversion of 550 TES Group 'B' Officers whose seniority had been revised as per the judgment dated 20.2.1985 of the Lucknow Bench of the Allahabad High Court in the case of P.N. Lal Vs. U.O.I. As a result of the recommendations of the High Powered Committee, 2636 posts of SDEs were created for upgradation of JTOs on the basis of 'Matching Saving Principle'. The promotion list was issued in the years 1993 and 1994 and the total number of JTOs promoted were more than 7700. To avoid reversion of already promoted 550 TES Group 'B' Officers, as a result of factual error based on the information received from various circles, it was found that an additional 1966 posts were required, over and above 2636 posts already created through upgradation. Thus these 1966 posts are not freshly created posts, but are posts which are being upgraded to avoid the reversion of persons who had already been promoted.

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

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8. The only controversy is whether the 1966 posts created by respondents' vide order dated 15.10.98 are to be filled up in accordance with the new Recruitment Rules or the old Recruitment Rules.

9. For the reasons explained by respondents and noticed in the preceding paragraphs, we are satisfied that these 1966 posts have been made available from 1993 itself, to avoid the reversion of persons already promoted, and hence respondents action on issuing impugned order dated 21.10.98 warrants no interference. Indeed the question of filling up these 1966 posts by application of the new Recruitment Rules does not arise in the facts and circumstance noticed above, More so, as applicants do not deny the specific averments of private respondent Nos.2 and 3, that officers have already joined the promotional posts.

10. The OA is, therefore, dismissed. No costs.


(Kuldip Singh)
Member(J)


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

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