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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 207/95

New Delhi: July 19th, 1995.

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

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

1. Diploma Engineers Telecom. Association (India), through its General Secretary Shri P.C.Saraswat, New Delhi - 110059.
2. Vighneshwar Pandey, S/o Sh.Nara Singh Pandey, MEK-428, Gali No.10, Mahipalpur Extension, New Delhi -37.Applicant
By Advocate Shri K.P.S.Sunder Rao.
1. Union of India, through Its Secretary, Department of Telecommunication/Telecom., Sanchar Bhawan, Ashoka Road, New Delhi.
2. Department of Telecom., Office of the General Manager, MTCE 'N' Region, Kidwai Bhawan, New Delhi.
3. Chief General Manager, MTNL, Khursheed Lal Bhawan, Janpath, New Delhi.
4. Director (DE & VP), Dak Bhawan, Parliament Street, New Delhi.
5. Association of Phone Inspectors TAs, AEAs & WOA (APRAW-INDIA) through Bachhi Singh, c/o VFT, Kidwai Bhawan, New Delhi -1 Respondents.
By Advocate Shri M.M.Sudan by Shri B.K. Punj
Shri Bacchi Singh for Respondent No.5

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A)

In this O.A. filed by the Diploma Engineers Telecom. Association of India through its General Secretary

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Shri P.C.Saraswat and one other, a prayer has been made to declare the action of the respondents in not allowing the applicants (TTAs) to appear in ensuing qualifying examination for the post of JTOs against the 35% quota to be held on 29.1.95 as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution and to issue a consequential direction to the respondents to implement the scheme of recruitment of JTOs by promotion in terms of letter dated 16.10.90.

2. A prayer had been made for interim relief that pending the disposal of the O.A., the operation of letter dated 25.1.95 prohibiting the applicants from appearing in the said examination, be suspended and the applicants be permitted to appear at the departmental qualifying examination for promotion to JTOs' cadre to be held on 29.1.95, or alternatively direct the postponement of the examination scheduled to be held on 29.1.95.

3. This O.A. came up for preliminary hearing on 25.1.95 and after hearing the applicants' counsel, notices ^{to the respondents} were directed to be issued, Meanwhile on the basis of available facts ~~of~~ ^{and} law, an interim direction was given to the respondents to permit such of those applicants who had already been issued admit cards, or would otherwise have been issued admit cards but for impugned orders dated 25.1.95, to issue admit cards, to enable them to participate in the said examination to be held on 29.1.95, subject to their answer books being kept separately in a sealed cover.

4. The respondents have now filed their reply in which it has been pointed out that consequent to the direction of the CAT, Ernakulam Bench dated 23.1.95,

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the impugned order dated 25.1.95 debarring the applicants from appearing in the qualifying examination has been superseded by respondents' letter dated 27.1.95 (Annexure-R4) and consequently TTAs were also allowed to appear in the qualifying examination on 29.1.95 and hence cause of action no longer existed.

5. Applicants' counsel Shri K.P.S. Sunder Rao has now prayed that the answer books of the applicants which were ordered to be kept in a sealed cover till further orders, vide our interim order dated 25.1.95, be evaluated and the successful candidates be sent for training in accordance with rules. While the counsel for the official Respondents Shri Punj states that there should be no objection to the same, this is opposed by Respondent No.5 (Association of Phone Inspectors) through their representative Shri Bachi Singh who has filed reply to the O.A. and has also been heard. Shri Bachi Singh asserts that the applicants are not entitled to promotion quota of 35% of posts as JTO's. In this connection, he has invited our attention to CAT, Calcutta Bench's order dated 27.1.95 in O.A.No.1250/95, rejecting the applicant's prayer for an interim order for allowing them to appear in the examination to be held on 29.1.95 and has also referred to certain other judgments of different benches of the Tribunal.

6. We note that the question whether or not the applicants are entitled to promotion to 35% quota of JTOs, as claimed by them, is seized of by CAT Ernakulam Bench in O.A.No.37/95, in which

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Respondent No.5 before us is also one of the parties.

That O.A. has still to be finally heard and disposed of, in which Respondent No.5 will get ample opportunity to make submissions. We would not like to prejudge the matter by making any observations, on that score at this stage, particularly when the CAT, Ernakulam Bench order dated 23.1.95 states that these are matters which will be considered at the time of final hearing after the full facts are before them.

7. The immediate issue is the evaluation of the answer books of the applicants which were ordered to be kept in a sealed cover and despatch of the successful candidates for training. As the official respondents themselves have superseded their letter dated 25.1.95 debarring the applicants from appearing in the 29.1.95 examination by their subsequent letter dated 27.1.95 and the applicants accordingly did appear in the said examination. *it will be open to the official respondents to take* ~~on~~ *on* 29.1.95, ~~take~~ *further action regarding evaluation* of the answer books of the applicants and the despatch for training of the successful candidates ~~as~~ ~~as~~ strictly in accordance with law, the extant rules and instructions, as well as judicial pronouncements on the subject made from time to time.

8. This O.A. stands disposed of accordingly.
No costs.

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

S. R. Adige
(S. R. ADIGE)
MEMBER (A)