

(51)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

R.A.NO.88/96  
R.A.NO.89/96  
in  
O.A.NO.283/96

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 4th day of December, 1996.

R.A.NO.88/96 in OA No.283/96:

1. Secretary to the Govt. of India  
Department of Telecommunications  
Ministry of Telecommunications  
Sanchar Bhavan  
NEW DELHI.

2. Chairman  
Telecommunications Commission  
Sanchar Bhavan  
NEW DELHI.

Review  
... Applicants

(By Shri M.M.Sudan, Advocate)

Vs.

1. Shri A.S.Nair  
E-4, Telecom Officers Qrs.  
Law College Junction  
Vikas Bhavan PO  
Trivandrum - 695 033.

2. Shri O.P.Arya  
DDA SFS FLAT NO.4  
Pocket 2, G Block  
Naraina Vihar  
NEW DELHI.

3. Shri Veeranna  
A-11, Laxmibai Nagar  
New Delhi - 110 023.

... Review respondents

(By Shri G.D.Gupta, Advocate)

AND

R.A.NO.89/96 in OA No.283/96:

1. Shri B.A.G.S.Ramasarma  
s/o Shri B.V.R.Murthy  
aged about 43 years  
r/o D-16-C, Mayapuri  
Govt. Quarters  
New Delhi - 110 064.

2. Shri A.K.Gupta  
s/o Shri V.S.Gupta  
r/o 18/V, ALTTC  
Ghaziabad, UP.

... Review Applicants

(By Shri Jag Singh, Advocate)

Vs.

Contd...?/-

1. Shri A.S.Nair  
E-4, Telecom Officers' Quarters  
Law College Junction  
Vikas Bhavan PO, Trivandrum
2. Shri G.P.Arya,  
SFS DDA Flat No.4, Pocket 2  
G-Block, Naraina Vihar  
NEW DELHI - 110 028.
3. Shri Veerana  
A-11, Laxmibai Nagar  
New Delhi - 110 023.
4. Secretary to the Govt. of India  
Department of Telecommunications  
Ministry of Communications  
Sanchar Bhavan  
NEW DELHI.
5. Chairman  
Telecommunication Commission  
Sanchar Bhavan  
NEW DELHI.

... Review Respondents

(By Shri G.D.Gupta, Advocate)

ORDER(Oral)

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)

Respondents 1 and 2 in the Original Application have filed the R.A.No.88/96 and two of the private respondents in the Original Application have filed the R.A.No.89/96. In both these Review Applications, the review applicants seek a review of the Order passed on 12.4.1996. The Original Application related to filling up of posts in Group 'A' Service of the Indian Telecommunication Service(ITS). The case of the original applicant was that the Telegraph Traffic Service(TTS) Group 'A' and Indian Telecommunication Service (ITS) Group 'A' have been merged by a Presidential Order and stipulations have been made in the order itself for filling up of posts in the ITS till Recruitment Rules are amended, and that the official respondents were filling up the posts against that said stipulation to the detriment of the officers of the TTS. The respondents, official as well as private, contended that there was no merger of the cadre but there was only a proposal to merge and therefore, the posts in the cadre have to be filled only in accordance with the existing Recruitment Rules.

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2. After hearing the matter at length and giving consideration to the rival contentions the Tribunal took the view that the modalities for filling up of the vacancies in Group 'A' Service of the ITS had already been spelt out in the Presidential Order and that promotion to the posts in Group 'A' ITS leaving out the officers of the TTS was not in order, and therefore, disposed of the application directing the official respondents to promote the officers on the basis of the length of service in the equivalent grade. The private respondents as also the official respondents feel that the order suffers from an error inasmuch as it is against the settled law that direction is given to make appointments not in accordance with the existing Recruitment Rules but only on the basis of a proposal to merge. Another point has been taken up by the Review <sup>order of alleged merger</sup> Applicants that the process contained in the merger namely, Clause 6 and Clause 8 have since been deleted/amended by the Government Order dated 26.4.1996 and therefore, it would be wrong to hold that modalities of filling up of vacancies in Group 'A' had been spelt out in the alleged Presidential Order.

3. We have heard Shri Jog Singh, counsel for the Review applicants in RA No.89/96 and Shri M.M.Sudan, counsel for the Review applicants in RA No.88/96, and Shri G.D.Gupta, counsel for the Review Respondents in both these Review Applicants. On a perusal of the averments made in the Review Applications as also on listening to the detailed arguments of the counsels for the review applicants, we find that the review applicants are challenging the wisdom of the finding on the grounds which had already been urged and considered by the Tribunal. If the Tribunal has taken a decision on a point after due consideration to the contentions raised, if the finding is considered to be not correct, the

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proper course open to the aggrieved party is to move the Hon'ble Supreme Court by a petition for Special Leave ~~to~~ <sup>is agreed</sup> ~~Petition~~.

Appeal for review by this Tribunal under such circumstances  
is not permissible.

4. The contentions raised on the deletion/amendment of paragraphs 6 and 8 of the order of merger is also untenable because this deletion/amendment took place after the order was passed <sup>2</sup> said to be reviewed was passed.

5. Under the above circumstances, we find no merit in both these Review Applications and therefore, we dismiss the same, leaving parties to bear their own costs.

R.K. Ahuja  
(R.K. AHOOJA)  
MEMBER(A)

A.V. Maridasan  
(A.V. MARIDASAN)  
VICE-CHAIRMAN(J)

/rao/