

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1777/2000

Monday, this the 17th day of September, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.A.T. Rizvi, Member (Admn)

1. Vinod Singh s/o Sh. Mahinder Singh
2. N. K. Nigam, s/o Sh. Bidhe Ram
3. Balbir Singh s/o Sh. Soran Singh
4. T. K. Sahu s/o Sh. A. P. Sahu
5. Bijender Mohan s/ Sh. B. Yadav
working as Technical Assistant-II, in the
office of IMS, Ministry of Communication,
Ghitorni, New Delhi-30.
6. D.S. Rawat s/o Lt. P. S. Rawat
7. S.K. Tiwari s/o Sh. B. P. Tiwari
8. Yogesh Nandwani s/o Sh. P. L. Nandwani
9. S.K. Gupta s/o Sh. I.P. Gupta
10. Thakur Parshad s/o Sh. J.D.Kapoor
11. P.K.Kapoor s/o J. D. Kapoor
working as Technical Assistant-II, in the
office of Wireless P&C Wing, Ministry of
Communication, Sardar Patel Bhawan,
New Delhi
12. J.S.Gupta s/o Sh. M.S. Gupta
13. A.K. Sharma s/o Sh. Bani Ram Sharma
14. A.K. Saxena s/o Sh. B.N.Saxena
15. D.K.Pant s/o Sh. P.C.Pant
16. P.S.Parwal s/o Sh. M.L.Parwal
17. Rajesh Kumar s/o Sh. Ram Charan Singh
18. Ganga Parshad s/o Sh. Bhagirathi
19. A.K. Kushwaha s/o Sh. Chander Pal Kushwaha
20. Ram Niwas s/o Sh. Mohan Lal
21. Rajesh Bajpai s/o Sh. V.S.Bajpai
22. H.S. Dabas s/o Sh. K.S. Dabas
working as Technical Assistant-II, IMS,
Ministry of Communication, Ghitorni,
New Delhi-30.



23. R.K. Yadav s/o Sh. G.P. Yadav

working as Technical Assistant-II, in the
office of Wireless P & C Wing, Ministry of
Communication, Sardar Patel Bhawan, New Delhi.

...Applicants

(By Advocate: Dr. Surat Singh & Shri Zaved Ahmed)

Versus

1. Union of India through the Secretary
Ministry of Communication, Sanchar Bhawan
Ashoka Road, New Delhi
2. The Secretary,
Ministry of Communication
Sanchar Bhawan
Ashoka Road, New Delhi
3. A.N. Rudola working as Technician Grade-I
4. Rakesh Kumar working as Technician Grade-I
5. B. S. Kanda working as Technician Grade-I
6. S. K. Ghose working as Technician Grade-I
7. N.K. Kalra working as Technician Grade-I
8. M.S. Kalsi promoted as JWD on adhoc basis
9. A.P. Wagh working as Technician Grade-I
10. N.P. Sati working as Technician Grade-I
11. B.L. Patel working as Technician Grade-I
12. P.S. Negi working as Technician Grade-I
13. A.K. Sharma working as Technician Grade-I
14. R. K. Khare working as Technician Grade-I
15. Ram Shanker working as Technician Grade-I
16. N. Suresh working as Technician Grade-I
17. Naresh Bhandari working as Technician Grade-I
18. D. Umakanthan working as Technician Grade-I
19. S.K. Thakur working as Technician Grade-I
20. C.K. Dam working as Technician Grade-I

Intervener applicants, Department of Telecommunication
Sanchar Bhawan, New Delhi

...Respondents

(By Advocate: Shri S.M. Arif for Respondents 1 to 2
Shri S.K. Gupta for Respondents 3 to 20
as per MA-1256/2001)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J):-

The applicants are working as Technical Assistants Grade II (re-designated as Junior Engineers (Wireless)). They are aggrieved by the action of the respondents in amending the relevant recruitment Rules, i.e., Notification/G.S.R. 313 dated 1.8.2000 to the extent that the promotion quota prescribed in the Rules for promotion of their Grade to the next higher grade of Technical Assistants Grade I has been reduced, which, according to them, is in contravention of the provisions of Articles 14 & 16 of the Constitution.

2 The present OA is a sequel to the earlier OA filed by the private respondents, i.e., the Technicians Grade I in the same Department who had filed OA-299/95. This OA was disposed of vide Tribunal's order dated 10.3.1999. Shri S.M. Arif, learned counsel had submitted in that OA that the respondents had set up a Committee to consider the question of promotional avenues to the various cadres who are in the feeder grade, namely, the Technicians Grade I and Technical Assistants Grade II, who are respectively the private respondents and the applicants in the present OA. The Tribunal in its order dated 10.3.1999 had observed, inter alia, that it is not possible for the Tribunal to go into the relative strength of the cadres and technical and educational qualifications and other relevant considerations "to decide as to what proportion should be found between two cadres". We are in respectful agreement with these observations as it is settled law that the Tribunal in exercise of judicial review is not to decide such matters which is with the executive to decide as a policy matter. Further, we note that the question of

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amendment of the recruitment rules had been taken up by the respondents in consultation with the concerned Departments, including the recommendations of the Review Committee which had been set up by the official respondents, on which the applicants placed much reliance.

3. As per the earlier recruitment rules, the proportion of promotions of the cadre of the applicants and cadre to which the private respondents belong, was admittedly in the ratio of 14:1 which has now been altered in the impugned recruitment rules of 2000 to the ratio of 4:1. The main contention of Dr. Surat Singh, learned counsel is that the alteration of the percentage of the promotion quota in respect of the applicants means that their chances of promotion are reduced and persons belonging to the other cadre, who have joined service much later, are likely to get their promotions early.

4. Shri S.M. Arif, learned counsel has drawn our attention to the brief history of the case as given in the counter reply and to the comparative table in the recruitment rules before and after amendment, as given in paragraph 5. He has submitted that as per the pre-amended recruitment Rules of 1975, the promotion was to the extent of 66.2/3% from feeder grades to the post of Technician Grade I and 33.1/3% by direct recruitment. As against the 66.2/3% by promotion after the amendment by the Notification dated 1.8.2000, the same has been increased to 75% with consequential reduction of direct recruitment of 25% for the same higher post. Shri S.M. Arif, learned counsel has submitted that the Technical Assistants Grade II is 216 whereas the number of persons who are in Technician Grade-I is 42. One of the contentions raised

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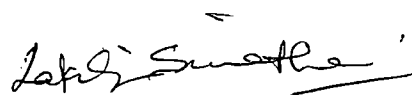
(27)

by Dr. Surat Singh, learned counsel is that the criteria laid down by the Review Committee set up to look into the amendment of the recruitment rules has not been considered by the respondents. We are unable to agree with this contention and noting the number of incumbents in the two cadres who are admittedly in the feeder grades for promotion to the post of Technical Grade I, there appears to be no question of arbitrariness or unreasonableness in the criteria adopted by the respondents to justify any interference in the matter. It is settled law that because of the amendment in the recruitment rules, if the chances of promotion of any particular category is reduced, that does not give ^{a r.} cause of action or a legally ^{enforceable} right. Taking into account the facts and circumstances of the case, we agree with the contentions of the learned counsel for the official respondents that the respondents have taken into consideration the various parameters and relevant factors into account, including the number of posts in the feeder category while making the aforesaid amendments to the recruitment Rules. The change in the ratio of promotion quota brought up by the amendment in the recruitment Rules which was earlier 14:1 to 4:1 is a policy matter, which in the facts and circumstances, cannot be held to be either arbitrary or illegal so as to set aside the ratio.

5. In the result for the reasons given above, we find no merit in this application. OA is accordingly dismissed. No order as to costs.



(S.A.T. Rizvi)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

/sunny/