

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 220/2000

New Delhi this the 2nd day of March, 2001

Hon'ble Smt. Lakshmi Swaminathan Vice Chairman(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

1. Shri Vinod Kumar S/O late
Shri Nand Kishore, R/o
30/2, CPWD Quarter, Sector-1,
Pushp Vihar, New Delhi-17
2. Shri Sachidanand Rai S/O
Shri Awadh Rai, R/O 85-A,
Sangam Vihar, Khora Colony, Noida.

..Applicants

(By Advocate Shri Jasmeet Singh)

VERSUS

1. Union of India, through,
The Secretary of Information and
Broadcasting, Shastri Bhawan, New Delhi
2. The Director General, Doordarshan,
Mandi House, New Delhi.
3. The Director, Doordarshan Kendra,
Akashwani, New Delhi.

..Respondents

(By Advocate Shri K.C.D. Gangwani)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)

The applicants who are working as
Helpers/Khallasis with the respondents are aggrieved
by the action of the respondents in amending the
Recruitment Rules(RRs) of 10.5.1979 by the
Notification dated 15.2.1996. They have, therefore,
prayed that the Notification of 15.2.1996 may not be
applicable to them as they had joined the services
before that date i.e. 25.11.1985 and
26.11.1986, respectively and also possess certificate

✓ of competency for Wireman- Mechanic which they had obtained on 12.9.1995 i.e. prior to the coming into force of the amended Rules notified on 15.2.1996. (13)

2. We have heard Shri Gurmeet Singh, learned counsel for the applicants and Shri K.C.D. Gangawani, learned senior counsel for the respondents.

3. As per the RRs notified by the Ministry of Information and Broadcasting by Notification dated 10.5.1979, 'Helpers' which admittedly include 'Khallasis' like the applicants, were entitled for promotion to the higher posts of Technicians under 5 % quota who have completed 15 years of service on the 1st day of July, of the year and who have passed the departmental test conducted by the Director General, All India Radio. In clause 9 of the Schedule of this Notification it has been clearly stated that the educational qualification for the direct recruitment was not applicable in the case of promotion. This Notification states that 95 % of the posts of Technicians are to be filled by direct recruitment and 5 % by promotion, failing which by direct recruitment.

4. In the RRs as amended, the promotion quota has been raised from 5 % to 20 % and consequently direct recruitment quota has been reduced to 80 %. The qualification for consideration of Helpers/Khallasis for promotion to the post of Technicians is those persons who have completed 11 years of service as Helper instead of 15 years as earlier, and those who have passed the

JS

Departmental Competitive Examination with 50 % minimum marks in each paper.

14

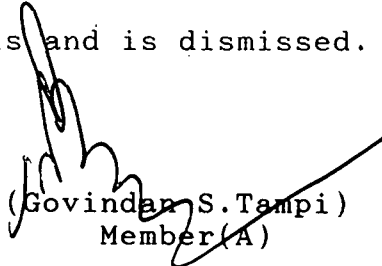
5. Shri Jasmeet Singh, learned counsel, for the applicants has contended that the applicants, on acquisition of certificates of competency of Wireman-mechanic under the unamended RRs which existed on 15.2.1996, could have been considered for promotion to the posts of Technicians. We are unable to agree with this contention because it is clearly stated in Clause 9 of those Rules that the educational and other qualifications prescribed for direct recruitment will not be applicable to the case of promotion. The qualifications required for consideration under the promotee quota in the Notification dated 10.5.1979 was helper with 15 years of service which the applicants did not admittedly have, before the amendment of the Notification which came into force on 15.2.1996. Under the amendment Notification, the period of service has been reduced to 11 years, instead of 15 years for Helpers/Khallasis. The requirement of passing the departmental test was changed with slight difference even in the previous Rules. The contention of the learned counsel for the applicants is that because the applicants had acquired the certificate of competency as Wireman-mechanic, therefore, their cases are to be considered for promotion to the next higher post as per the Rules notified on 10.5.1979. This cannot be accepted as these Rules are not applicable to the case. Apart from that at the relevant time the applicants did not have 15 years of service as Helpers/Khallasis and they cannot claim part benefits under different Rules.


Yr,

6. Shri K.C.D. Gangwani, learned senior counsel has also submitted that the applicants have been considered and given the benefits under the Assured Career Progression Scheme (ACPs) in the pay scale of Helpers as per the Govt. of India directions dated 9.8.1999. Therefore, he has submitted that the applicants cannot contend that they have no avenues of promotion.

7. Considering the facts of the case, the main reliefs prayed for by the applicants in Paragraph 8(a) and (b), namely, to consider them for promotion to the post of Technicians in terms of the Notification dated 10.5.1979, which existed prior to the amendment Notification dated 15.2.1996 is untenable for the reasons given above. It is also relevant to note that the applicants have nowhere stated that there were any vacant posts prior to coming into force of the 1996 amendment Rules, and as mentioned above, they were also not eligible for consideration at the relevant time as they have not completed the requisite number of years of service as Helpers /Khallasis.

8. In the result for the reasons given above, the OA fails and is dismissed. No order as to costs.


(Govindan S. Tampi)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice.Chairman(J)

sk