

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.2431/90

DATE OF DECISION:16.1.92.

SHRI S.K. KAUL & OTHERS.

...APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

FOR THE APPLICANTS

SHRI RAKESH LUTHRA,
COUNSEL.

FOR THE RESPONDENTS

SHRI P.P. KHURANA,
WITH SHRI J.C. MADAN,
COUNSEL.

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Heard the learned counsel for both the parties.

The learned counsel for the applicants briefly submitted that 12 applicants who filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 belong to Department of Telecom, who qualified in the 1985 examination for appointment to the posts of Junior Engineer.

The respondents in their counter-affidavit in an identical case dealing with the qualified candidates of 1982 and 1983 examinations had made a commitment that the qualified candidates will be absorbed as Junior Engineers before resorting to direct recruitment to the restructured cadre of Junior Telecom Officers (JTOs). He specifically referred to paragraph 18 of the judgement of the Principal Bench in OA No.349/87 **The National Federation of Telecommunication Employees through the General Secretary & Others v. Union of India & Others.** decided on 15.1.1990 wherein it was observed:-

2

18

"18. Having gone through the records of the case carefully and having heard the learned counsel of both parties, we are of the opinion that there is considerable merit in the contention of the applicants to the extent that those who have already been selected after they have successfully passed the examination have a right to be appointed as Junior Engineers in the available vacancies. As observed by the Supreme Court in Prem Prakash Vs. U.O.I, AIR 1984 SC 1831 at 1837, if selected candidates are available from the previous list, there should either be no further recruitment until they are absorbed or in the alternative vacancies which are declared for the subsequent years should take into account the number of persons who are already in the list of selected candidates who are still awaiting appointment. There should be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies. Once a person is declared successful according to the merit list of selected candidates, the appointing authority has the responsibility to appoint him, even if the number of vacancies undergoes a change after his name is included in the list of selected candidates. The Supreme Court also referred to the notification issued by the Ministry of Home Affairs, Department of Personnel & Administrative Reforms, on 8.2.1982 on this subject."

He further referred to the decision of the Chandigarh Bench of the Tribunal in OA No. 795/JK/90 R.K. Mattoo Vs. UOI decided on 19.7.1991, wherein

2


the applicant had qualified in the 1985 examination and based on the judgement of the Principal Bench, referred to above, has been granted the relief. The applicant Shri R.K. Mattoo in that Original Application has also since been sent for training and the orders of the Tribunal have been implemented.


The present case of the 12 applicants, i.e., Shri S.K. Kaul & Others is based on the identical set of facts and, therefore, the learned counsel prayed that similar reliefs may provided to them.

Shri P.P. Khurana, learned counsel for the respondents submitted that the decision of the Principal Bench in **OA No.349/87** (supra) relates only to the personnel who had qualified in the examination in 1982 and 1983 and the judgement was delivered on 15.1.1990 but it did not deal with ^{the} personnel of the Telecom Department in the qualifying examinations held in the successive years.

We have considered the rival contentions and are of the view that the applicants herein, who are the qualified candidates for the post of Junior Engineers should be adjusted against the post of Junior Engineers before the direct recruitment to the restructured cadre of JTOs is resorted to. This direction would also be in consonance with the instructions of the respondents vide their letter dated 30th March, 1987. We further direct that the above orders shall be implemented within 8 weeks from the date of communication of this order.

The O.A. is disposed of as above, with no order as to costs.


(J.P. SHARMA) 16.1.92
MEMBER(J)


(I.K. RASGOTRA)
MEMBER(A)