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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

DA No. 687/91 .. Date of decision: 18.12.92
Sh. S.D. Gautam .. Applicant
Versus
Union of India & Ors. .. Respondents
For the applicant .. Sh. Asish Kalia, Counsel.
For the respondents .. Sh. P.P. Khurana, Counsel.

CORAM

Hon'ble Sh. P.K. Kartha, Vice Chairman (J)
Hon'ble Sh. B.N. Dheundiyal, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgement? *Yes*
2. To be referred to the Reporters or not? *Yes*

J U D G E M E N T

(Of the Bench delivered by Hon'ble Sh. B.N.
Dheundiyal, Member(A))

This DA has been filed by Sh. S.D. Gautam, a Telephone Technician working at Meradabad against the impugned order dated 28.11.90 passed by the General Manager, Telecom, Ahmedabad, denying him promotion to the post of Phone Inspector/Repeater Station Assistant (P.I./R.S.A.)

2. The applicant had applied for the post of P.I./R.S.A. (Rs. 1320-2040) in response to a circular issued by the General Manager, Telecom, Ahmedabad. The selection for *lv*

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this post was to be from amongst the departmental outsider candidates on the basis of marks obtained in Inter Science or Diploma in Engineering without any written ^{test} ~~or~~ interview. They did not reply to his application but he learnt that the candidates who had obtained lower marks than him had been selected. There was no response to his representations but the representation sent to the office of the Prime Minister elicited a reply from the Vigilance Officer, Gujarat Telecommunications Circle, Ahmedabad on 28.11.90 stating that though his name finds a place in the Select List for recruitment for the post of P.I./R.S.A. for the year 1982, it was removed from the Select List in 1984, as his service particulars were not received from D.E.T., Muradabad. The applicant has requested for the following reliefs :-

- (i) Respondents be directed to order deputation to training course pre-requisite to appointment to the post of PI/RSA;
- (ii) On completion, offer appointment to the post of PI/RSA against 1982 vacancy;
- (iii) Interpolate applicant's name above the next junior in the select list; and
- (iv) Consequential benefits accruing therefrom. *Av*

3. The respondent No.2 has taken the plea that the Select List was prepared in the year 1983 and the present OA was filed in 1991 and hence the application is barred by limitation. What is to be challenged is the order dated 20th June, 1984[&] and not a reply to the representation dated 20.11.90. The respondent No.3, D.E.T., Meradabad has filed a separate counter and has stated that no correspondence appears to have been made regarding the submission of service particulars by CGMT and application of Sh. Gautam for recruitment to the post of P.I. was sent to CGMT Ahmedabad with the service particulars.

4. We have gone through the records of the case and heard the counsel for both the parties. There is considerable force in the argument advanced by the learned counsel for the applicant that as he had scored 71.2% marks in Diploma, he was confident that he would be selected for the said post. However, when Sh. Ram Narayan Shakya, whose percentage was lower than him was selected, he sent representation to the General Manager, Telecommunication, Gujarat Circle, Ahmedabad on 21.2.89. No reply was received to his representation till he received a clarification for

the first time vide the impugned letter dated 28.11.90 (Annexure-I). We, therefore, over-rule the plea on limitation. The selection process in this case was in the nature of direct recruitment. It has been held that the name of the candidates cannot be removed from the select list for an appointment against future vacancies without giving him an opportunity to show cause against such exclusion (S. Gavindaraju Vs. Karnataka State Transport Corporation (AIR 1987)). This view has been confirmed in the other decisions cited by the learned counsel for the applicant and the circulars issued by the Government of India on 8.2.82 (ATJ 1989 (2) Shivaji Ray Vs. Union of India page 295, Prem Prakash Vs. U.O.I. & Ors. AIR 1984 SC 1831 & Ishwar Singh Khatri & Ors. Vs. U.O.I. & Ors. AIR 1987 (1) Pages 502-513). There is considerable force in the arguments advanced by the ld.counsel for the applicant that his name was removed from the select panel without giving him any opportunity. Contradictory submissions have been made by the Respondents No. 2 & 3 regarding the service particulars and the Respondent No.3 has clearly stated that the service particulars were sent

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alongwith the application of Sh. S.D. Gautam to D.E.T.,
Ahmedabad.

4. We, therefore, hold that the applicant is entitled
to succeed and direct the respondents to consider the
applicant for selection for the post of P.I./R.S.A. on the
basis of the marks obtained by him. He shall be given
appointment and seniority on the basis of his place in the
select list but the pay and allowances of the post would
be payable only from the date of appointment. These
orders shall be complied with, expeditiously and preferably,
within a period of three months from the date of
communication of this order.

There will be no order as to costs.

B.N. Dhaundiyal
(B.N. Dhaundiyal) 18/12/82
Member (A)

P.K. Kartha
(P.K. Kartha) 18/12/82
Vice Chairman (J)