

CENTRAL ADMINISTRATIVE TRIBUNAL  
 ALLAHABAD BENCH  
ALLAHABAD

Allahabad this the....6<sup>th</sup> day of June..1997

Coram : Hon'ble Mr. T. L. Verma, Member-J  
Hon'ble Mr. S. Dayal, Member-A

Original Application No. 556 of 1996.

1. Bankey Lal Yadav,  
 son of Shri Ghurai Ram Yadav,  
 residing in Village-Pachantian,  
 P.O.Sitla Chaukiyan,  
 District Jaunpur.
  2. Karuna Shanker Upadhyaya  
 son of Shri Ram Kalal Upadhyaya,  
 C/o. Telephone Exchange,  
 Jaunpur.
  3. Saheb Lal Yadav,  
 son of Shri Siya Ram Yadav,  
 residing in Village Saloni Mahimapur,  
 District Jaunpur.
  4. Surya Narain Yadav,  
 son of late Shri Ram Nawal Yadav,  
 residing in village Raibhanipur,  
 P.O. Madarpur,  
 District Jaunpur.
  5. Ram Jab son of Shri Munshi Ram,  
 C/o. Telephone Exchange,  
 Jaunpur.
- ....Applicants

(Counsel Sri A.B.L.Srivastava)

Versus

1. Union of India through the Chief General  
 Manager Telecommunication, U. P. Circle,  
 Lucknow.
2. The General Manager Telecom.  
 Varanasi East Zone, Varanasi.
3. The Divisional Engineer Telecom.  
 Mirzapur Division, Mirzapur.
4. The Sub-Divisional Engineer (Phones),  
 Jaunpur.

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5. The Sub-Divisional Engineer (Telegraph),  
Jaunpur.
6. Vijay Kumar Temporary Status Mazdoor, care  
of Sub-Divisional Engineer(Phones),  
Jaunpur.
7. Vijay Nath Rai temporary status Mazdoor,  
Care Sub Divisional Engineer(Phones),  
Jaunpur.

.. Respondents.

( Through Counsel Sri Amit Sthalekar).

ORDER.

( By Honble Mr. T.L.Verma, Member-J ).

In this application Under Section 19 of the Administrative Tribunals Act, 1985, the applicants are challenging the notification dated 9.6.1994 notifying the selection and screening for the post of Telephone Mechanic Telcom. Technical Assistant and Senior Telephone Operating Assistant. The applicants have also challenged letter dt. 22.6.1994 whereby the names of candidates who had submitted options for qualifying the examinations were forwarded by the Sub-Divisional Officer, Telegraph, Jaunpur to the Divisional Engineer (Telecom), Mirzapur.

2. The respondents by letter dated 9.6.1994 invited applications for appointment on the post of Telephone Mechanic, Telecom Technical Assistant and Senior Telephone Assistant created under the Scheme of new Technology. ~~From amongst~~ <sup>the</sup> The applicants, who are regular Mazdoors, claim ~~that~~ they possess prescribed qualifications for appointment on the said posts. The grievances of the applicants is that the respondents have in supersession of their claim sent regular, Mazdoors ~~Mazdoors~~ for ---

3.

for training on the said posts, who are juniors to the applicants. The applicants contend that they should have been sent for training in the walk-in group or for the qualifying screening test. The respondents, it is alleged, with malafide intention and acting arbitrarily, empanelled persons who are neither regular nor have temporary status of Mazdoors for the qualifying screening test. It is also alleged that notice dated 9.6.1994 was not given wide publicity in as much as, neither the notification nor the instructions/ Circulars were pasted on the Notice Board, nor copies thereof were supplied to the registered Unions of the employees. Due to this, it is alleged that the applicants could not appear for the selection in the walk-in group and persons junior to the applicants have been sent for training for promotion to the post of Phone Mechanic in supersession of the claim of the applicants.

3. The further case of the applicants is that the applicant No: 2, Saheb Lal Yadav had submitted his application alongwith option form and his name was also included in the impugned seniority List dated 22.6.1994, but his name was later on, struck off from the list without any valid reason. The omissions and commissions of the respondents, it is alleged, have vitiated the entire selection process. Hence this application for quashing of the entire process of selection/ training and for issuing a direction to the respondents to call for options afresh from all eligible employees as per Govt. instructions allowing the applicants to exercise their options for training as per their inter-se seniority with effect from -

4. The respondents have contested the claim of the applicants. The respondents in the counter-affidavit, filed on their behalf have, inter-alia, stated that the persons whom the applicants allege to be junior and who have been empanelled and sent for training for appointment on the post, have not been impleaded as respondents, therefore, this application is bad for non-joinder of necessary parties. The further case of the respondents is that notice inviting applications was given wide publication inasmuch as one of the applicants applied and enough time to disirous candidates to submit their options was given. It was further submitted that the application form submitted by the applicant No.3 Sri Saheb Lal Yadav was later on returned to him for completion and returned the same to the office of the Sub-Divisional Officer, Telecom., as he did not return the form duly filled, his name was struck off from the list dated 22.6.1994. The further case of the respondents is that as the applicants were working as regular mazdoors, they were not eligible for promotion in the ~~Walking~~ Group.

5. We have heard the learned counsel for both the parties and perused the record very carefully. The restructuring scheme dated 24.5.1994 has been annexed both by the applicants and the respondents which has been marked as Annexure-A-4 and CA-2 respectively to the application and counter-affidavit. The restructuring scheme lays down the criteria for the ~~Walking~~ <sup>Walk-in</sup> group for those eligible to appear in the qualifying screening test. For ~~walking~~ <sup>Walk-in</sup> group/qualification for the post of Phone Mechanic, the post in dispute is lineman, Wireman and Cable Splier

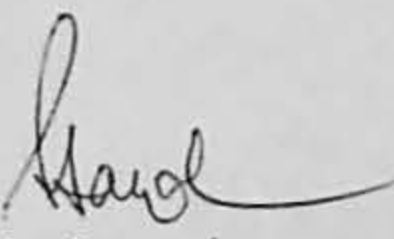
For qualifying screening test, the Lineman, Wireman who have not passed High School Examination, Mazdoors, Casual Mazdoors and Mazdoors with temporary status are eligible for qualifying the screening test for the said post.

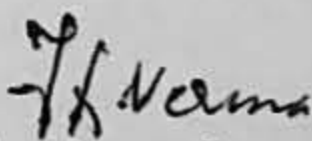
6. It was contended by the learned counsel for the applicant that the notification (Annexure-A-1) inviting application/option for appointment on the post of Phone Mechanic is dated 9.6.1994 and that the same was signed by competent authority on 16.6.1994 and served on 17.6.1994 and 19.6.1994 and the last date for submission of the option form was 19.6.1994 as mentioned in the notification. The candidates desirous of appointment on the said post therefore had no information of the aforesaid notice. The respondents have denied this allegation. It is submitted that a large number of candidates had applied for both ~~walking~~ <sup>walk-in</sup> category as well as for qualifying screening test pursuant to the notification. Not only that the applicant No.3 had also submitted his application. We find no material on the record to lead to the conclusion that impugned notice inviting applications and options was not given wide publication. Admittedly the applicants except applicant No.3 had not submitted their options form in response to the notice inviting such options.

7. It was next argued by the learned counsel for the applicants that since the applicants fulfilled necessary qualification for appointment in the walk-in group, they should have been considered in that group. since this was not done and the persons junior to them who were not within the eligibility zone, were considered, principles as contained in Articles 14 and 16 of the Constitution of India had been contravened, which vitiated the entire selection process. In view of the submissions made by the learned Counsel for the applicant, we have to see first whether the applicants were eligible for being considered for appointment in the walk-in group. The restructuring scheme provides that for appointment on the post of Phone Mechanic in walk-in group, the incumbents should be Lineman, Wireman, who have passed the High School Examination or equivalent and (ii) Cable Splicer. It would thus appear that the applicants, who are neither the Lineman, nor Wireman nor cable splicer ~~were neither the Lineman, nor Wireman nor Cable Splicer~~ were not eligible for Walk-in group. As per the eligibility condition, it was a must for the regular Mazdoor to pass the qualifying Screening test for appointment on the said post irrespective of the fact whether they have passed, or not passed the High School Examination or equivalent. The applicants, who were working as regular mazdoors, were eligible for being considered for the qualifying screening test as per notice dated 9.6.1994. Such of the employees who fulfilled the eligibility conditions were required to submit their option form within the time prescribed. Even for being considered for qualifying Screening test, submission of option form was necessary.

8. In view of the fore-going conclusion, the 2nd question that arises for consideration is whether the applicants had submitted their option form as required under notice dated 24.6.1996 . From the averments made in the rival pleadings it is absolutely clear that except applicant No.3, no <sup>other</sup> ~~other~~ applicants had submitted the option form . The application submitted by the applicant No.3, as stated by the respondents, was incomplete and the same was returned to him for being re-submitted after completing the same. The respondents submit , which we have <sup>that applicant No 3</sup> no reason ~~not~~ to accept <sup>it</sup> , did not return <sup>it</sup> after ~~it~~ completing the same. This leads to an obvious conclusion that the applicant No.3 had also not submitted an option as required.

9. In view of the facts and circumstances of the case discussed above, we find no merit in this application and dismiss the same leaving the parties to bear their own costs.

  
Member-A

  
Member-J

(pandey)