

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

*1 Feb. 2001.*  
Allahabad this the 22nd day of September, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C  
Hon'ble Mr. S. Dayal, Member- A.

Orginal Application No. 489 of 1995

1. Umesh Chandra Tripathi, S/o Sri Krishna Kumar Tripathi  
R/o 62, Bai Ka Bagh, Colonalgang, Allahabad.
2. Shyam Sudhakar S/o Late Roopnarain Ji Tripathi  
R/o Sankatinagar West, P.O Shiv Puri  
New Colony, Roostampuri, Gorakhpur.
3. Ashok Kumar Pandey, S/o Shiv Prasad Pandey  
R/o 38/81, Stanley Road, Allahabad.
4. Basant Singh, S/o Ram Lakhman Singh  
R/o 194, Tula Ram Bagh, Allahabad.
5. Arun Kumar Pandey, S/o Sri Rajendra Kumar Pandey  
Vill. Garaila, P.O. Basali, Allahabad.
6. Ashok Kumar II S/o Late S.M. Lal J.E. (Civil)  
Office of the Telecom Sub Division, Allahabad.

.....Applicants

Counsel for the applicants:- Sri H.S. Srivastava

V E R S U S

1. Union of India through the Secretary to the Govt.  
of India, M/O Telecommunications, Dak Tar Bhawan,  
Parliament Street, New Delhi- 110001.



3. The Chief General Manager, Telecom (East) U.P.  
Circle, Lucknow.

4. Chief Engineer (Civil), Telecommunication,  
Civil Central Zone, Lucknow.

.....Respondents.

Counsel for the respondents:- Sri Ashok Mohiley

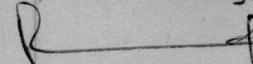
O R D E R (oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman)

By this application under section 19 of the Administrative Tribunal's Act, 1985, applicants have prayed for direction to the respondents not to hold the fresh limited departmental competitive examination in pursuance of letter dt. 24.10.94 (annexure A- 8). The letter says that limited departmental competitive examination for recruitment of 50% of the vacancies in the cadre of Asstt. Engineers (Civil/ Elect) will be held on 24.03.95 as per the notification No. 24-1/91-CWC dt. 11.11.92. The eligibility mentioned in the letter is that Junior Engineers (Civil/Elect.) in the civil wings of the Department of Telecommunication and Department of Post who are likely to <sup>have</sup> ~~be~~ completed four years regular service in the grade on 01.07.95, shall be eligible to appear in the examination. The case of the applicants is that under rules of 1976 the eligibility was eight years completed service as Junior Engineers who have qualified in the departmental

competitive examination will be eligible for promotion to the grade of Asstt. Engineer (Civil). Under the Rules of 1976, limited departmental competitive examination was held in 1987 which the applicants completed successfully and their names were included in the eligibility list published on 01.01.91. It is submitted that the grievance of the applicants is, that they have already passed the departmental competitive examination and they can not be asked to appear in the fresh examination required by the impugned office order dt. 24.10.94. Learned counsel has submitted that department of Tele-communication and Department of Posts, Civil Engineering Wing (Group B Gazetted Officers) Recruitment Rules, 1992 which came in force on 11.11.92 can not take away the right of the applicants for being considered for promotion as Asstt. Engineer under 1976 Rules which were in operation earlier.

2. We have considered the submissions of the learned counsel for the applicants. The 1992 Rules have been promulgated by President of India <sup>under the provisions of</sup> in article 309 of Constitution of India and in supersession of the Rules 1976. Thus before the applicants could actually be promoted they became inoperative. Applicants can not claim any benefit on the basis of old rules. The explanation provided in the notification is only with regard to the things done or omitted to be done. It is not disputed that the process of promotion was not completed before the rules of 1992 came in force. In the facts and circumstances the applicants can not get any benefit on the basis of passing of earlier departmental competitive examination. It may also be mentioned that similar controversies were raised before Principal Bench in O.A No. 290/96 Veer Singh & ors. Vs. Department



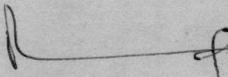
of Telecommunication and Ors. However, the O.A was dismissed. Another O.A was filed before Calcutta Bench of this Tribunal which was registered as O.A. No. 245/94 Praveer Kumar Singh and Ors. Vs. U.O.I & Ors. which was dismissed on 14.06.1994. In case before Calcutta Bench the departmental competitive examination was postponed in view of the enforcement of Rules 1992. The court however, rejected the plea. ~~Whereas~~ As the two Benches of this Tribunal have already taken the view we do not find any thing from the material on record to take the different view in the similar controversy.

3. Sri H.S. Srivastava, learned counsel for the applicant however, relied upon departmental guide lines issued by Department of Personnel & Training on 18.03.98. However, this guide line can not helpfull to the applicants.

4. For the reasons stated above we do not find any merit in the case and is dismissed accordingly.

5. There will be no order as to costs.

  
Member- A.

  
Vice-Chairman.

/Anand/