

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 89/91

T.A. NO.

DATE OF DECISION 10/7/1995

Keshav Parnuji Borkar Petitioner

Mr. P.H. Phatak Advocate for the Petitioner (s)

Versus

Union of India and Ors. Respondent

Mr. Akil Kureshi Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. N.B. Patel, Vice Chairman

The Hon'ble Mr. K. Ramamoorthy, Member (A)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No.

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Keshav Parnuji Borkar,
TOA Training,
District Telecom Training
Centre, Patel chambersm,
West End of Nehru bridge,
Ahmedabad

.. Applicant

(Advocate : Mr.P.H. Phatak)

Vs.

1. Union of India,
Notice to be served on
Chief General Manager,
Telecom, Gujarat Circle,
Ahmedabad.

2. Assistant Engineer (Training),
Telecom Training Centre,
West End of Nehru bridge,
Ashram road, Ahmedabad

.. Respondents

(Advocate : Mr. Akil Kureshi)

Date : 10-7-1995

OA/89/91

J U D G M E N T

Per : Hon'ble Mr. N.B. Patel, Vice Chairman

The applicant, who was holding the post of Wireman in the respondent-department in 1990, was allowed to appear at the departmental examination held on 6.10.1990 for promotion to the cadre of Office Assistant. On 23-1-1991, the result of the examination was declared and the applicant's name was shown among the names of the successful candidates. The applicant was then sent for training for the post of Office Assistant with effect from 28.1.1991. A test was required to be held at the end of this examination to determine

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whether the candidates had successfully completed the training so that ~~the xxxxxxxx question of~~ those who had successfully completed the training may be promoted. However, by letter dated 18.3.1991 (Annexure-A3), the applicant was informed that he was wrongly declared as having passed the departmental examination for promotion to TOA and it was stated that he was declared as having failed at the said examination. He was directed to report to his parent unit in his parent cadre i.e. the cadre of Wireman. The applicant challenges this communication Annexure-A3 and prays for a declaration that the applicant had passed the departmental promotion examination and the order sending him back to his parent department was illegal. He has also asked for consequential reliefs including the relief to appear at the examination which was then scheduled to be held for determining whether the applicant and others had satisfactorily completed the necessary training.

2. It may be noted at this stage that, by an interim direction, the applicant was directed to be allowed to appear at the examination to be held on completion of training and it was further directed that the applicant's result may be kept aside for evaluation following the direction on disposal of the reply of the respondents.

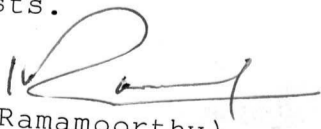
3. The only ground on which the respondents have, by their reply, justified the action of declaring the applicant as having failed at the departmental promotion examination is that, on the eve of ^{the} test to be held to determine whether candidates had satisfactorily completed the training, it was noticed that the applicant belongs to Scheduled Caste community of Maharashtra State and he is not a Scheduled Caste person for Gujarat State and, therefore, application of relaxed standard in his case, qua the departmental promotion examination, was mistaken and that mistake was rectified by the impugned order Annexure-A3 whereby the applicant was declared as having failed at the departmental promotion examination. The contention raised on behalf of the applicant was that, since the applicant is a Union Government employee, he will be entitled to claim benefits available to SC persons anywhere in India for Central Government services irrespective of the fact whether he belongs to a Scheduled Caste in the ^{State} where, for the time being, he is posted, provided he belongs to a Scheduled Caste in his parent State.


4. In support of his contention, the applicant has produced at Annexure-A5 a Circular issued by the Director (ES-I) & Dy. L.O., SCT Cell, Department of Telecom, New Delhi addressed to all Heads of Telecom Circles etc. By this Circular, it is clarified that, ^{the instructions contained in the} Ministry of Home Affairs Circular

No.35-1/72-RU(SCT) dated 2.5.1975 (stating that a person migrating from one State to another State can claim to belong to SC/ST only in relation to the State to which he originally belongs and not in respect of the State to which he has migrated) are applicable only to State government services and State Government Educational institutions. So far as Central Government services are concerned, it is clearly stipulated that all Scheduled Castes and Scheduled Tribes are treated alike for jobs in the Central Government services. The Circular further mentions that, in view of this clarification, SC/ST persons employed in Central Government services in the States/Union Territories are entitled to get the benefits admissible to them. The Circular also clearly states that, since the Department of Telecommunications (respondent-department) is Central Government department, the benefits admissible to SC/ST persons under the Central Government should continue to be extended SC/ST persons in the Department to those also who have migrated from the State of their origin to other States. This Circular leaves no doubt about the fact that the applicant who belongs to SC community declared as such in Maharashtra and who has migrated to Gujarat and who is employed in a Central Government service in Gujarat is entitled

to claim all benefits available to SC candidates and the fact that the caste to which he belongs is not declared as SC in Gujarat is immaterial. The learned Additional Standing Counsel, Mr. Akil Kureshi could not show as to why the applicant should be denied the benefit available to SC candidates in the face of this circular.

5. In the result, therefore, we allow the application and hold that the applicant was entitled to claim all benefits available to SC candidates so far as the evaluation of his marks at the departmental promotion examination is concerned. We, therefore, hold the applicant was entitled to claim the benefit of relaxed standard in the matter of assessment of his answer books. It then follows that he was rightly earlier declared as successful and wrongly declared at a later stage as having failed at the departmental promotion examination. The impugned letter Annexure-A3 is therefore liable to be struck down and is hereby struck down. The applicant is declared as having passed the departmental promotion examination and the respondents are directed to proceed accordingly on that basis and to now evaluate the performance of the applicant at the training, if not already done, and if it is found that he has satisfactorily completed the training, to give him all consequential benefits. OA stands disposed of accordingly. No order as to costs.


 (K. Ramamoorthy)
 Member (A)


 (N.B. Patel)
 Vice Chairman