

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 1285 of 1996

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman

Hon'ble Mr. S. Dasgupta, Administrative Member

1. Goutam Basak, s/o Sri Radha Kanta Basak, residing at 56/1, Shyama Nanda Bagchi Lane, P.O. Khagra, Distt. Murshidabad(WB) employed as Telephone Operator under T.D.E., Berhampore ;
2. Rohini Gopal Karmakar, s/o Sri Shyam Sunder Karmakar, residing at 62, K.K. Banerjee Road, Gorabazar, Berhampore, Murshidabad, Pin-742101, employed as Telecom Assistant under Telecom District Engineer at Berhampore, Distt. Murshidabad;
3. Subrata Kumar Chakraborty, s/o Sri S.C. Chakraborty, residing at 18A/1, Olabibitala Lane, Distt. Howrah-4, employed as Telecom Office Assistant under Sr. S.D.E.(Administration) at Netaji Subhas Chandra Bose Telecom Training Centre, P.O. Kalyani, Distt. Nadia.

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Applicants

-vs-

1. Union of India, service through the Secretary, Ministry of Communication, Sanchar Bhavan, Parliament St., New Delhi-1 ;
2. Chief General Manager, Telecom, West Bengal Telecom Circle, 1, Council House St., Calcutta - 700 001 ;
3. Area Manager, Telecom (South), West Bengal Telecom Circle, 1, Council House Street, Calcutta - 700 001 ;
4. Telecom District Engineer, Berhampore, Telecom Division, P.O. Berhampore(West Bengal), Distt. Murshidabad ;
5. Shri K. Dutta, Sub-Divisional Officer (Telegraphs), Berhampore and Supervisor-in-charge, Departmental Examination Centre at College of Textile Technology, P.O. Berhampur, Distt. Murshidabad.

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Respondents

For applicants : Mr. B.R. Das, counsel
Mr. B.P. Manna, counsel

For respondents : Mr. M.S. Banerjee, counsel

Heard on : 25.6.1998

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Order on : 15-7-1998

O R D E R

S.N. Mallick, VC

O R D E R

S.N. Mallick, VC

In this O.A., the three petitioners have prayed for a direction upon the respondent authorities to assess the answer scripts and declare the result of the departmental competitive examination held on 14th and 15th June, 1989 for promotion to the cadre of TI/RSA/WO and 50% of the vacancies in the cadre of AEAs for the years 1987, 1988 and 1989, in which they participated and to declare them promoted as TI/RSA/WO if their respective position so justifies. They have also challenged the order as per Annexure A/2 dated 30.3.90 issued from the office of the Chief General Manager, Telecom, West Bengal Circle, Calcutta, whereby eight persons have been selected for appointment to the cadres of RSA/TI/WO and 50% of the vacancies in the cadre of A.C.A. against departmental quota of vacancies on the basis of the competitive examination held on 14th & 15th June, 1989. They have also challenged the order dated 29.10.90 as per Annexure A/1, whereby different local authorities were directed to release the officials working under them as per list enclosed to undergo the training of Telephone Inspector and Transmission Assistant.

2. The petitioners' grievance is that they appeared in the aforesaid departmental competitive examination for promotion against the vacancies as available from 1987 to 1989 at Berhampore, West Bengal held on 14th & 15th June, 1989. But their names do not appear in the selection list dt.30.3.90 as per Annexure A/2. Furthermore, there were 44 declared vacancies, against which only 8 persons were selected on the basis of the result of the competitive examination. It is the further case of the petitioner that keeping their result pending, the respondents held another departmental examination in 1990 and 12 more officials selected on the basis of the 2nd examination were given promotion in addition to the earlier

eight persons as would appear from Annexure A/1, page-28 of the application. The petitioners made personal representations before the appropriate authority for declaration of their result in the competitive examination held at Berhampore on 14th & 15th June, 1989 without any effect. Suddenly, the petitioners along with some others were served with separate charge-memos at the instance of respondent No.4 under Rule 16 of the CCS(CCA) Rules, 1965 alleging that they resorted to mass copying at the aforesaid competitive examination. In the aforesaid proceeding, identical penalty was imposed upon the petitioners withholding one annual increment without cumulative effect. These three petitioners preferred a departmental appeal against the order of punishment inflicted in the above minor penalty proceeding and the appeals were dismissed. Thereafter, each of the present petitioners filed O.A. 451/1994, O.A. 449/1994 and O.A. 452/1994 respectively against the order of punishment passed by the disciplinary authority and the order passed by the appellate authority confirming the punishment before this Tribunal. A Bench of this Tribunal dismissed the above OAs by a common order dated 5.7.95 (Vide Annexure R/1 to the reply). Review application was also filed against the said order, which was also dismissed on 2.8.96. After having lost there, the petitioners filed this application before this Tribunal on 17.10.96 for the relief already noted.

3. The respondents have filed a reply challenging the maintainability and bonafide of this application. It is stated that in the departmental examination held in June, 1989, the present applicants and some others were found guilty of copying for which they have been penalised by drawing up minor penalty disciplinary proceeding. It is the case of the respondents that in view of the dismissal of the earlier OAs being Nos.451/94, 449/94 and 452/94 filed by the petitioners by this Tribunal by order dated 5.7.95 as per

Annexure R/1, coupled with the fact that the review application was also dismissed, the instant application is a frivolous one liable to be dismissed in limini.

4. The petitioners have filed a rejoinder, but the basic facts as noted above have not been challenged.

5. We have heard Mr. B.R. Das, Ld. Counsel appearing for the petitioners and Mr.M.S. Banerjee, Ld.Counsel appearing for the respondents at length.


5. Mr.Das, Ld.Counsel for the petitioner has made lengthy submission emphasising that there has been total denial of justice to the petitioners on the part of the respondents by not declaring their result of the competitive examination held in 1989 and by not giving promotion to the relevant post on the basis of their result. We must note that in view of the circumstances on record, we are unable to agree with Mr. Das.

6. The question of denial of natural justice does not arise in the instant case. The charge against the petitioners of taking resort to unfair means by mass copying in the competitive examination held in June, 1989 has been proved in the disciplinary proceeding. The punishment order passed by the disciplinary authority was upheld by the appellate authority and the Original Applications filed by the petitioners against the punishment order passed by the disciplinary authority and the order passed by the appellate authority were dismissed by this Tribunal by the order dt.5.7.95. The Tribunal has held in the aforesaid judgment dated 5.7.95 that the same was clearly of the view that the penalty imposed on the applicants was in accordance with the relevant rules and such action could not be faulted. The petitioners preferred review application against that order, which was also dismissed. In such a position, it would be an absurd proposition to ask the respondent authorities to publish the result of the petitioners of the

competitive examination in which they adopted the unfair means. So, the question of giving them promotion does not arise. The instant application is utterly frivolous and harassing and does not lie in view of the order passed by this Tribunal on 5.7.1995 in the earlier OAs filed by the applicants.

7. In view of the above, we find no merit in the instant application and the same is rejected at the stage of admission.

8. No order is made as to costs.


(S. Dasgupta)
Member(A)


(S.N. Mallick)
Vice-Chairman