

11

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 30.3.2001

ORIGINAL APPLICATION NO. 106/1999.

Uma Ram Parihar son of Shri Mala Ramji, aged about 40 years resident of C/o Magga Ramji Meghwal, Itendra Chhanan Road, Rani Distt. Pali, at present employed on the post of Technician Coaxial in the office of Sub-Divisional Engineer OFC Station Rani Distt. Pali.

...APPLICANT.

VERSUS

1. Union of India through Secretary to Govt. of India, Min. of Communication, Department of Telecom, Sanchar Bhawan, New Delhi.
2. Chief General Manager Telecom, Rajasthan Circle, Jaipur.
3. General Manager Telecom (West), Jodhpur.
4. Telecom District Manager, Pali, Distt. Pali.
5. Shri J S Hooda, T T A, under Junior Telecom Officer, Jaitaran Distt. Pali.

...RESPONDENTS.

Mr. J. K. Kaushik, counsel for the applicant.
Mr. Kuldeep Mathur, Adv. Brief holder for
Mr. Ravi Bhansali, counsel for respondent no. 1 to 4.
None is present for respondent no. 5.

CORAM

Hon'ble Mr. A. K. Misra, Judicial Member.
Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant Uma Ram Parihar has filed this application, praying for a direction to the respondents to extend the benefit of restructured cadre as per the Restructuring

Cupabg

... 2 ...



12-

Scheme and consider his promotion to the post of T.T.A. at par with his junior, respondent no. 5, w.e.f. 01.01.1994 and allow all consequential benefits including consideration for further promotion to the post of J.T.O. as per his seniority according to the Rules. The applicant has also prayed for a direction to the respondents to allow him to appear provisionally in the Screening Test, ~~Scheme xxxxxxxxxx~~ for the post of J.T.O. under 30% quota, scheduled to be held on 23.05.1999.

2. Prayer for Interim relief was allowed by this Tribunal vide order dated 20.05.1999 with following observations :-



" Considering all the above aspects, I think it just and proper that the applicant should be allowed to appear provisionally in the ensuing screening test in question under departmental quota scheduled to be held on 23.05.1999 or any other subsequent date. It is, however, made clear that mere appearance in the screening test or passing the same by the applicant would not confer upon him any right till the question in controversy, i.e., exercise of option and wrongful denial of benefits in terms of restructuring scheme and connected aspects are decided on merits favourably. It is further ordered that the result relating to the applicant in respect of his provisional appearance in the screening test of JTO should be kept in a sealed cover, to be produced before this Tribunal as and when the Tribunal requires the same. The retention of applicant's result in sealed cover as mentioned above would not come in the way of the department from declaring the result of other candidates and the rights of the applicant would ultimately depend on the decision of this case".

3. Applicant's case is that he was initially appointed on the post of Technician on 14.10.1987. He belongs to Scheduled Caste Community. The name of the applicant figures at sr. No. 6 in the Gradation List issued on 11.08.1997 for the post of Technician of Pali Telecom

Copals

13

District. In order to meet the changing requirement of the technology, it was decided to introduced a new restructured cadre for the post of Telecom Technical Assistant vide respondents letter dated 16.10.1990. The original scheme prescribed a screening test / competitive examination according to the qualification, but the requirement of screening test was dispensed with in respect of technicians possessing the qualification mentioned in the letter dated 29.03.1994 (Annexure A-4). The respondents department had called for the options from the eligible technicians working in the area of new technology for induction cadre of into newly restructured / T.T.A. Accordingly, he submitted his option on 27.05.1994, it is contended by the applicant that many of his juniors were promoted to the post of T.T.A. in the new pay scale in restructured cadre vide letter dated 05.07.1996 (Annexure A-6). The applicant represented his case to the authorities vide his representation dated 23.09.1997 followed by various reminders but to no avail. Hence this application



4. In the counter, it has been pointed out by the respondents that the applicant had not given any option for restructured cadre of T.T.A. and, therefore, he is not entitled to any relief. It has also been pointed out by the respondents that the options were called for by C.G.M.T., Jaipur vide letter dated 27.06.1994, Director Telecom South, Udaipur letter dated 28.06.1994 and Telecom District Engineer Pali letter dated 19.07.1994. The respondents had pointed out that the applicant's statement, that he has submitted his option on 27.05.1994 is false and

Cupall of

untrustworthy because no option was called for prior to ~~xxxxx~~ 27.05.1994. The field unit had called for option for the first time on 19.07.1994. Thus, it has been submitted by the respondents that the applicant is making a false claim of having submitted the option on 27.05.1994, it has therefore, been averred by the respondents that the applicant is not entitled to any relief and the application is liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the records of the case carefully.

6. It is seen from the records that the Ministry of Communication vide its letter dated 27.04.1994 (Annexure R-1) had issued consolidated instructions in regard to preparation of eligibility list and select Panel for restructuring cadres in Group-C, wherein it was provided that options will be called for from the prospective officials seeking their absorptions in restructured cadres and those options were required to reach the Headquarter Office at Jaipur by 30th of June 1994. We see no reason to doubt the statement of the applicant that he had submitted option for restructured cadres on 27.05.1994, since the scheme was made known to the staff/ ^{and} there was provisions for the options therein. The respondents department have doubted the statement on the basis that the Ministry's letter dated 27.04.1994 was received in the Telecom District Engineer Pali Office on 19th July 1994 and the applicant working there could not have any knowledge about the scheme or option prior to that date. It is also pointed out that the scheme provided for the last date of submission of options as 30.06.1994. Thus, the contention of the respondents that applicant could have submitted the option only after 19.07.1994 is not tenable. It is



Cepal

also seen that the respondents department had promoted various officials to the restructured cadres of T.T.A. vide order dated 05.07.1996 (Annexure A-6).

Apparently, there has been lapse on the part of the official respondents in not considering the case of the applicant for promotion to the restructured cadre of T.T.A. despite his option.

7. In the light of the above discussion, we are of the view that there is merit in the contention of the applicant and the applicant deserves to be allowed.

8. By our interim order dated 20.05.1999, the applicant was allowed to appear provisionally in the screening test held on 23.05.1999 or a subsequent date and the result relating to the applicant was ordered to be kept in a sealed cover. It was also observed that rights of the applicant would ultimately depend on the decision of this case. Now, that the O.A. is being decided in favour of the applicant, he would also be entitled to further promotion as per rules, if he has been declared successful in the screening test held on 23.05.1999 or thereafter.

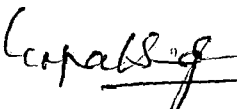
9. The O.A. is accordingly allowed with a direction to the respondents to extend the benefit of restructured cadre as per the restructuring scheme and consider the case of the applicant for promotion to the post of T.T.A. w.e.f. 01.01.1994, the date from which his junior has been promoted as T.T.A. with all consequential benefits including consideration for further

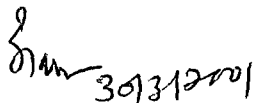
Capable



promotion to the post of J.T.O.

10. Parties are left to bear their own costs.


(GOPAL SINGH)
Admn. Member


(A. K. MISRA)
Judl. Member

Joshi

Part II and IM destroyed
in my presence on 26-3-07
under the supervision of
section officer as per
order dated 19/2/02

Section officer (Records)

R/Copy
on 10/4

M. W.
10.4.07