

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.428/95

Monday, this the 21st day of August, 1995

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

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1. KV Jasprakash, Technician,
Telephone Exchange, Ernakulam.
2. Sunny George, Technician,
Telephone Exchange, Panampilly Nagar,
Ernakulam.

....Applicants

By Advocate Mr MR Rajendran Nair.

vs.

1. The Chief General Manager, Telecom,
Kerala Circle, Trivandrum.
2. The Assistant Director General (STC),
Department of Telecom, New Delhi.
3. The Chairman,
Telecom Commission, New Delhi.
4. Union of India represented by
Secretary, Ministry of Communications,
New Delhi.

....Respondents

By Shri TPM Ibrahim Khan, Sr Central Govt Standing Counsel.

The application having been heard on 21st August, 1995,
the Tribunal on the same day delivered the following:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants contend in their prayer (iii) that the vacancies in the cadre of Telecom Technical Assistants that arose before 31.12.94 should be filled up on the basis of the Recruitment Rules as they stood before the amendment. During the hearing, learned counsel for applicants stated that he is not pressing prayers other than prayer (iii) referred to above.

contd.

2. The Tribunal in OA 1047/94 and connected cases had already held that the executive instructions amending the Statutory Rules would be followed only after the amendments are notified and the Statutory Rules are amended according to rules. Review Applications filed against that decision have also been subsequently dismissed.

3. The question here is whether the vacancies which arose before the amended Rules came into force are to be filled up on the basis of the Statutory Rules as they stood prior to the amendment. Learned counsel for applicants produced an order of the Tribunal in OA 1000/94 of the Chandigarh Bench. This forms part of the record. We find this question has been examined by the Chandigarh Bench of this Tribunal. The Tribunal held in that case:

"The recruitment rules have been modified by order dated 13.12.94 which have been notified in the official gazette on 31.12.94. The applicants have rightly urged that Statutory Rules notified under Article 309 of the Constitution cannot be amended by executive instructions. Moreover, recruitment to vacancies has to be governed by Recruitment Rules then applicable and not by subsequent amendments....Respondents 1 to 4 are directed to fill up the vacancies in the cadre of Telecom Technical Assistant which occurred on 30.12.94 or earlier, in accordance with the Recruitment Rules framed under Article 309 of the Constitution notified on 22.7.91. Vacancies occurring on 31.12.94 and thereafter, will be governed by the amended rules notified in the gazette on 31.12.1994."

4. We are in respectful agreement with the views expressed by the Chandigarh Bench. We accordingly direct the respondents

to fill up the vacancies in the cadre of Telecom Technical Assistant which occurred on or before 30.12.1994 in accordance with the Statutory Rules as they stood prior to the amendment on 31.12.1994.

5. Application is disposed of as above. No costs.

Dated the 21st August, 1995.



P SURYAPRAKASAM
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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