

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.440/2000

Thursday this the 4th day of July, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

G.Gopakumar  
S/o P.Govindan  
Telecom Technical Assistant  
Office of the Sub Divisional Engineer O/D & W.S.  
Manjalikulam Road, Trivandrum  
Residing at TC 3/2442, T.K.Divakaran Road  
Pattam Palace P.O.  
Trivandrum.

Applicant.

(By advocate Mr.Shafik.M.A.)

Versus

1. Union of India, rep. by the Secretary  
Ministry of Communications  
Sanchar Bhavan, Ashoka Road,  
New Delhi-110 001.
2. The Chief General Manager  
Telecom, Kerala Circle  
Trivandrum.
3. The Asst. General Manager (Administration)  
Telecom District, Trivnadrum. Respondents

(By advocate Mr. C.Rajendran, SCGSC)

The application having been heard on 4th July, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant aggrieved by A-1 order dated 8.3.2000 issued by the second respondent notifying the 2nd qualifying screening test for promotion to the cadre of Junior Telecom Officers (JTOs) against the 35% quota in so far it permitted only those who were eligible as on 31.8.99 has filed this Original Application seeking the following reliefs:

- i. To call for the records relating to A-1 to A-5 and to declare that the applicant is also entitled to be considered for promotion to the cadre of JTOs in the 35% departmental quota and is eligible to compete in the screening test conducted for this purpose on 30th April 2000 or on any other deferred date notwithstanding the date of eligibility, 31.8.99 contained in A-1.



- ii. To set aside A-1 to the extent it restricts the chances of TTAs who have qualified after 31.8.99 for competing in the screening test for promotion to the cadre of JTOs and to direct the respondents to issue hall ticket to the applicant and to permit him to take part in the qualifying screening test conducted on 30th April 2000 for promotion to the cadre of JTOs from the category of TTAs.
- iii. To issue such other appropriate orders or directions this Hon'ble Court may deem fit, just and proper in the circumstances of the case and
- iv. To award the costs of this Original Application.

2. Applicant claimed in the OA that he started working as Technician under the 2nd respondent with effect from 6.6.83. The Department selected him to work on deputation to the Telecommunication Consultants India Ltd. (TCIL for short) for their projects in Kuwait as per A-2 order dated 30.7.91 issued by the first respondent. Meanwhile the applicant was selected to the restructured post of TTA and was at Sl.No.238 in the list of selected candidates for training. He was repatriated after the deputation and was posted to OCB installation in Trivandrum by A-3 order dated 26.7.96. He claimed that in the meantime the juniors in the list of selected candidates for appointment as TTAs were already sent for training and were appointed as TTAs. Thereafter inspite of the specific requests of the applicant he was not deputed for the training. Applicant entered into medical leave for treatment of acute peptic ulcer. Even though others were deputed for training he was never asked to go for training. Ultimately he was sent for training only on 16.8.99 and he successfully completed the training on 23.10.99 and he was appointed as TTA as per A-4 order dated 23.10.99. Meanwhile A-1 notification was issued calling for applications from the categories of Phone Inspectors, Wireless Operators, TTAs etc. for the screening test to be conducted for promotion to the cadre of JTOs, from those who were having eligibility as on 31.8.99



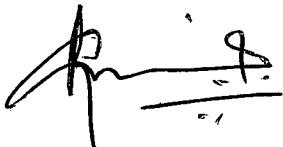
only. According to the applicant, had the respondents taken appropriate action at the right time, he would have been appointed as TTA earlier and would have been qualified for being admitted to the screening test. It was also submitted by him that the notification also specified that there was no vacancy in the general quota and the applicant would be losing his chance to get promoted to the cadre of JTO inspite of the fact that he was awaiting the chance right from 1991 onwards. Detailing all these, he submitted A-5 representation dated 11.4.2000 to the 2nd and 3rd respondent. Understanding that his representation was going to be rejected as he had not qualified as TTA as on 31.8.99, he filed this OA seeking the above reliefs.

2. Respondents filed reply statement resisting the claim of the applicant. According to them, the applicant was deputed to work at TCIL from 23.9.91 as he volunteered for the same and he was repatriated to the parent circle on 18.2.96 from TCIL and he joined the parent circle on 26.7.96 and was posted to OCB Installation Section. It was submitted that the applicant proceeded on leave with effect from 31.7.96 to 24.8.96 and joined again on 26.8.96 and was frequently on leave till 4.10.96 and from 4.10.96 onwards he was continuously on leave till 28.5.97 and joined on 29.5.97. Again he proceeded on leave from 13.6.97 and was continuously on leave on medical ground till February, 1998. It was also submitted that R1(A) communication was received from TCIL through Chief General Manager, Kerala intimating that the applicant was negotiating with a private company for job. It was submitted that the select panel and eligibility list for the deputation of TTA training was prepared

A handwritten signature in black ink, appearing to read "A. S. R.", is positioned at the bottom of the page.

from the optees strictly in accordance with the seniority and his turn for TTA training reached during January 1997 when he was on leave. His position was 139 at that time. Therefore he was deputed for training in the subsequent batch as a drop out case considering the relevant departmental instructions on the relevant subject. R1B was the instructions dated 12.8.97. By R1C communication dated 21.7.97 the concerned officers were directed to relieve the applicant for training but the applicant did not turn up for training as ordered as per R1C. It was submitted that all the officials in the eligibility list who had successfully completed the TTA training were posted as TTA during December 1997 whereas the applicant who was on leave till February 1998 was not posted. He was not eligible for the screening test as per the notification A-1 as he was not satisfying the requirements as per A-1 notification for eligibility. The screening test was meant for those who were TTAs as on 31.8.99. It was submitted that the OA was devoid of merit and was liable to be dismissed.

3. Heard the learned counsel for the parties. Learned counsel for the applicant submitted that it was due to the fault of the respondents that the applicant was not sent for training in time and had he been sent for training because he was available from 1996 onwards, he would have been eligible for the screening test as notified as per A-1. Learned counsel also brought to our notice the communication issued by the Asst. Director General (ST-C) of the Department of Telecommunication dated 23.2.2000 regarding eligibility condition to appear in JTO qualifying screening test. Learned counsel for the respondents took us through the reply statement and reiterated the points made therein.

A handwritten signature in black ink, appearing to be a stylized 'A' and 'S'.

4. We have given our anxious consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the documents brought on record.

5. The first relief sought for by the applicant is for a declaration that the applicant is entitled to be considered for promotion to the cadre of JTOs in the 35% departmental quota and is eligible to compete in the screening test conducted for this purpose on 30th April 2000 notwithstanding the date of eligibility 31.8.99 stated in A-1. The second relief is to set aside A-1 to the extent it restricts the chances of TTA who have qualified after 31.8.99. Therefore unless the second relief is granted, the applicant will not be eligible for the first relief. Even though the latter relief is sought for by the applicant, absolutely no material has been brought to our notice or placed before us in support of the said relief sought. Nothing has been brought out in the pleadings or during the submissions made by the learned counsel for the applicant as to how the date 31.8.99 specified in A-1 is in any way illegal or arbitrary or violative of the principles of natural justice. There is nothing stated in the reply statement also justifying the date of 31.8.99 except that the same had been issued pursuant to the directions contained in DOT letter dated 12.8.97 but the letter had not been brought out as a document. It is now well accepted that determination of a 'cut off date' in a notification is an executive prerogative and Courts/Tribunals would generally not interfere in the fixing of cut off date unless Courts/Tribunals are convinced that such cut off date is fixed on arbitrary or extraneous considerations or without application of mind. In

A handwritten signature in black ink, appearing to read "R. S. J.", is positioned below the text.

this case, no such material has been brought to our notice or has been pleaded or has been submitted. We do not find any reason to interfere in the cut off date specified in A-1 just because the applicant has sought for it as a relief.

6. As we do not find any reason to interfere with the cut off date of 31.8.99 and as admittedly the applicant was not a TTA as on 31.8.99, the applicant is not eligible for participating in the screening test being conducted pursuant to A-1 order.

7. In the result, we hold that the applicant is not entitled to the reliefs sought for by him through this OA. Accordingly we dismiss this OA with no order as to costs.

Dated 4th July, 2002.



K.V.SACHIDANANDAN  
JUDICIAL MEMBER



G.RAMAKRISHNAN  
ADMINISTRATIVE MEMBER

aa.

APPENDIX

**Applicant's Annexures:**

1. A-1 : True copy of the Notification No.Rectt/30-6/99 dt.8.3.2000 issued on behalf of the 2nd respondent.
2. A-2 : True copy of the order No.26-3/90-MCG dt.30.6.91 issued by the 1st respondent.
3. A-3 : True copy of the order No.Memo ST26/Tfr/Tech/XIX/51 dated 26.7.96 issued by the 3rd respondent.
4. A-4 : True copy of the order No.Memo No.ST/1034/TTA/Genl/pt/41 dt.20.12.99 issued by the DGM of the 2nd respondent.
5. A-5 : True copy of the representation dt.11.4.2000 of the applicant before the 2nd respondent.

**Respondents' Annexures:**

1. R-1A: Photo copy of the relevant communication dated 19.11.96.
2. R-1B: Photo copy of the relevant departmental instructions No.27-2/94-TE-II dated 12.8.97.
3. R-1C: Photo copy of the Memo No.ST.1034/TTA/Genl.V/50 dt.21.7.97.

\*\*\*\*\*

npp  
9.7.02