

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

OA No. 446/2000

Thursday, this the 29th day of August, 2002.

CORAM :

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

Omana C.S.
Telecom Technical Assistant
Telephone Exchange
Painavu, Idukki District
Ernakulam S.S.A.

Applicant.

(By Advocate Mr. K.V. Raju)

Versus

1. The Principal General Manager
Telecom, Ernakulam
Cochin.
2. The Chief General manager
Telecom Circle, Trivandrum.
3. Director General
Telecommunications
New Delhi.
4. Union of India rep. by
the Secretary
Ministry of Communications
New Delhi.

Respondents.

(By Advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 29.8.2002, the Tribunal on the same day delivered the following :

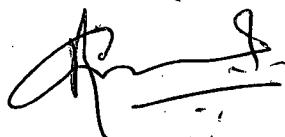
ORDER

HON'BLE SHRI G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant who is working as Telecom Technical Assistant(TTA), aggrieved by Annexure A3 order dated 28.12.1999 by which she was refused permission to appear for the screening test for promotion to the post of JTO against 35% quota for the reason that she did not have the required length of service, filed this Original Application seeking the following reliefs :-

(i) to call for the records relating to Annexure A3 and to struck down the same;

(ii) to declare that the applicant is eligible to appear in the Screening Test and to get promotion as J.T.O. if she passes the test.



(iii) to issue appropriate directions or order to the 1st or 2nd respondent to allow the applicant also for appearing in the Junior Telecom Officer Screening Test to be held as per Annexure A3 order.

(iv) to grant such other reliefs which this Hon'ble Tribunal deem fit, proper and just in the circumstances of the case; and

(v) to award cost of the applicant.

2. Heard the learned counsel for the parties.

3. The main ground on which the applicant has assailed A3 order was that when juniors to the applicant were permitted to appear in the Screening test, not allowing her was discriminatory because, if the juniors pass the test, the senior would become junior to the junior.

4. This Original Application along with three other Original Applications were heard together by this Bench of the Tribunal as the issues involved were similar. As there were two divergent views expressed by two coordinate Benches of the Tribunal, viz. the Hyderabad Bench and the Principal Bench, the Division Bench referred the following question of law to be placed before the Larger Bench :-

"The "six years of regular service" referred to in the Recruitment Rules to be put in by the Phone Inspectors/Auto Exchange Assistants/Transmission Assistants/Wireless Operators who possess High School/Matric qualification to be called for the qualifying screening test under 35% quota would be called for the qualifying screening test under 35% would be the total service as interpreted by the Principal Bench of this Tribunal in OA 193/99 or it should be 6 years in the cadre of TTA and other eligible cadres as interpreted by the Hyderabad Bench of the this Tribunal in OA 1754/98."

5. Before framing the above issue for reference to the Larger Bench, on the basis of the reliefs sought for in the four original applications after perusal of the pleadings in the original applications and reply statements and the reliefs sought for in these original applicants, the Division Bench of the Tribunal framed the following issues which would be considered :-



(i) The "six years of regular service referred to in the JTO Recruitment Rules should be only as a TTA or would include the earlier service prior to his becoming a TTA.

(ii) If a junior TTA becomes eligible for participating in the screening test, will the senior TTA also become eligible for participating in the screening test even if he/she does not complete the six years of service.

(iii) whether the length of service put in by a TTA in another circle would get counted towards the 6 years of service in the case of employees who are transferred from one circle to another under Rule 38.

6. The first issue framed as above was referred to the Larger Bench because of the divergent views of two Benches of the Tribunal as said earlier.

7. The Larger Bench went into the issue and by its order dated 9.8.2002 answered the reference as follows :-

"The PI/AEA/WO/TA/TTA who possess the High School/Matriculation qualification should have completed six years of regular service in the Department in order to be eligible to appear for the Screening Test under the 35% quota as per the relevant recruitment rules."

8. In the light of the above, the first issue framed by the Division Bench is now settled, according to which an employee to be eligible for appearing in the Screening Test should have six years of regular service.

9. There is no dispute that the applicant has not completed six years of regular service as on 1.7.1999 or on 31.8.1999. The only ground as advanced by her was that when juniors were permitted to appear in the screening test, the seniors also should be called. When the Full Bench of the Tribunal after considering the Recruitment Rules had held that for being eligible for Screening Test, an employee should have put in six years of regular service and admittedly the applicant does not have six years of regular service *prima facie* she is not entitled for being called for the Screening Test and A3 to the extent it rejected the applicant's request on the ground of "no required service" could not be faulted.



10. On considering R1(a) Recruitment Rules also, we do not find anything there to indicate that the 35% quota earmarked for being filled up by promotion/transfer of staff from different cadres of staff of the Department on the basis of educational qualifications or on the basis of the Screening Test gives any weightage for seniority. Basically, the criteria stated therein is length of service and educational qualifications. Therefore, we hold that the applicant is not entitled to get the reliefs sought for in the Original application.

11. Accordingly, we dismiss this Original Application. No costs.

Dated the 29th August, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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A P P E N D I X

Applicant's Annexures:

1. A-1: Relevant portion of the Letter No.5-11/99-NCG dated 12.3.99 of the 3rd respondent.
2. A-2: True copy of the Letter No.12-44/98-DE dated 18th November, 1999 of the 3rd respondent.
3. A-3: True photocopy of the Order NO.STA-I/EK-214/2(a)/XI/82 dated at Kochi-31, the 30th March, 2000 issued from the Office of the 1st respondent.
4. A-4: True copy of the representation dated 8.6.99 submitted by the applicant to the 2nd respondent.
5. A-5: True copy of the Order No.STA-I/ENK-214/2(a)/XI/77 dated at CHN-31, the 13.3.2000.

Respondents' Annexure:

1. R-1A: Photo copy of the letter NO.5-10/99-NCG dated 23.3.2000 issued by Asst.Director General.

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