

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 453/2000

MONDAY THIS THE 15th DAY OF JULY 2002.

C O R A M

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

1. Sundari V.
Telecom Technical Assistant
Telephone Exchange
Kalpetta.
2. Sherly Chacko
Telecom Technical assistant
E-10B Telephone Exchange
Kunnamkulam.

Applicants

By Advocate Mr. P.P. Jnanasekharan

Vs.

1. Union of India represented
by the Secretary
Ministry of Communications
New Delhi.
2. Director General Telecommunications
Sanchar Bhavan
Ashoka Road,
New Delhi.
3. The Chief General Manager,
Telecommunications
Thiruvananthapuram.
4. The General Manager,
Telecommunications
Calicut
5. The Genereal Manager
Telecommunications
Trichur.

Respondents

By Advocsate Mr. C. Rajendran, SCGSC

The Application having been heard on 21.6.2002 this Tribunal
delivered the following on **15.7.2002.**

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants two in number filed this O.A. aggrieved
by A-10 order dated 12.4.2000 in which it had been stated
that they had been found ineligible to appear in the
examination due to not having the required service and hence
were not admitted to the examination/screening test for



promotion to 35% quota to the cadre of Junior Telecom Officers (JTOs for short) to be held on 30th April, 2000. They sought the following reliefs through this O.A.:

(i) to call for the records leading to Annexure A-10 and to set aside the same.

(ii) to declare that the applicants are eligible and entitled to appear in the Junior Telecom Officer Screening test.

(iii) to direct the respondents to permit the applicants to write the Junior Telecom Officer Screening Test being held on 30.4.2000 provisionally pending disposal of the Original Application.

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

and

(v) to award the costs to the applicants.

2. According to the averments of the applicants in the OA the first applicant was initially called for training to the Cadre of Technician in the Department by A1 memo dated 13.10.93 of the General Manager, Telecom District, Calicut. Accordingly the first applicant underwent training at the Circle Telecommunication Training Centre, Kerala Circle, Thiruvananthapuram from 1.11.93. On successful completion of the training for a period of 40 weeks she was relieved from the above centre w.e.f. the afternoon of 5.8.94 as per A2 communication dated 5.8.94. By A3 order dated 8.8.95 the first applicant was appointed as Technician w.e.f. 8.8.94. Having undergone training along with the 1st applicant, the 2nd applicant also was relieved from Training Centre by A2 and on successful completion of the practical training was posted by A-4 order dated 31.10.94 as Technician under Sub Divisional Engineer, RLU, Kunnankulam w.e.f. 8.10.1994. Subsequently on completion of the prescribed training the 1st applicant was promoted and appointed as TTA w.e.f. 25.1.97 by A-5 order dated 15.4.97. Similarly the 2nd applicant was



promoted and posted as TTA w.e.f. 18.5.97 by A-6 memo dated 11.8.97. Since then they were working as TTA. In the meanwhile the 2nd qualifying Test for promotion to the post of Junior Telecom Officer against 35% quota was notified to be conducted on 30.4.2000 by the Department. The applicants submitted A-7 and A-8 applications. The respondents had permitted TTAs to appear in the 35% quota Screening test on earlier occasions without insisting on the six years service condition stipulated in the relevant rules because of pending legal proceedings. On similar lines by A-9 communication dated 23.3.2000 TTAs had been permitted provisionally to appear in the 2nd Screening test without insisting upon 6 years service condition as TTA subject to the outcome of the OAs pending in different Circles. In spite of the above unambiguous and specific statements in A-9 with regard to eligibility conditions for appearance in the JTO, the third respondent by A-10 communication dated 12.4.2000 had listed the applicants along with officials mentioned "not eligible for JTO to be held on 30.4.2000". Hence, the applicants filed this O.A. seeking the above reliefs alleging that A-10 was illegal and arbitrary.

3. Respondents filed reply statement resisting the claim of the applicants. It was submitted that according to the provisions in the JTO Recruitment Rules, 1996 which had been in existence till publication of JTO Recruitment Rules, 1999 on 1.9.99, 35% of the vacancies in the cadre of JTO were to be filled up by (a) transfer/promotion from among Phone Inspectors/Auto Exchange Assistants/Transmission Assistants /Wireless Operators who possess the qualification prescribed for outsider candidates and have completed 5 years regular service in such cadres (PI/AEA/TA/WO) and (b) Phone Inspectors/Auto Exchange Assistants/Wireless Operators /



Transmission Assistants/Telecom Technical Assistants who possess the High School/Matriculation qualification and who had completed 6 years of regular service through a qualifying screening test, unless they had already passed such test. Vide letter NO. 5-11/99-NCG dated 12.3.99 issued by the Director General, Deptt. of Telecom Services, New Delhi it had been decided to permit TTAs to appear in the 35% screening test without insisting 6 years service in the cadre of TTA. Vide DOT order NO. 5-11/99-NCG dated 10.11.99 all eligible candidates upto 31.8.99 in the cadre of TTAs were permitted provisionally to appear in the 35% quota without insisting 6 years service in the cadre of TTA. The matter was clarified vide DG, Telecom, New Delhi letter No.5-111/99-NCG dated 23.3.2000 according to which TTA had been permitted to appear in the second screening test without insisting 6 years service in TTA cadre but in any case the service in their old cadres and TTA cadre together should not be less than 6 years as on 1st of July of the respective recruitment year. The screening test was held in Kerala circle on 30.4.2000 as per Directorate's letter dated 10.11.99. The applicants had not completed the required condition of six years service laid down in R-3(a). Hence they were not permitted to appear in the said examination. As per the interim order of this Tribunal the applicants were permitted to appear in the examination. The applicants prayer was against the statutory recruitment rules and could not be granted. As per R-3(b) order issued by the Telecom Directorate dated 12.1.99 it had been indicated that TTAs would be eligible to appear for the JTO Examination against 35% quota provided they have completed 6 years regular service as TTA. The subsequent orders issued by the Telecom Directorate was with reference to the orders dated 12.1.99, based on the interim orders issued by the Principal Bench of



the Tribunal in O.A. NO. 193/99 and 217/99. But the statutory Recruitment Rules are in force for the vacancies upto 31.8.99. Accordingly officials not having a total service of not less than 6 years service in Kerala Telecom Circle in any of the feeder cadre together with service in TTA cadre could not be permitted to appear for the screening test. Annexure A9 had only specified that 6 years service condition in TTA cadre itself need not be insisted. Even on taking into account the training period the applicants would not complete 6 years service on 1.7.1999 and thus had not fulfilled the conditions in the Recruitment Rules. The O.A. was devoid of any merit and the same was liable to be dismissed.

4. Heard learned counsel for the parties.

5. We have given careful consideration to the submissions made by the learned counsel for the parties and rival pleadings and have also perused the materials brought on records.

6. The applicants are basically relying on A-9 letter dated 23.3.2000 for the reliefs sought for. A-9 reads as under:

To
The Chief General Manager
Kerala Telecom Circle
Trivandrum.

Sub: Eligibility condition to appear in JTO qualifying screening test.

Please refer to your office letter NO. REctt/30-6/98/Pt. Dated 24.1.2000 on the subject noted above. The issue has been examined in the light of relevant Recruitment Rules and I am directed to convey the requisite clarification as under:



1. Technicians are not eligible for appearing in the 2nd screening test under 35% quota. However Technicians turned TTAs have been permitted provisionally to appear in the 2nd screening test without insisting upon 6 years service condition in TTA subject to the outcome of the OAs pending in different circle vide letter No. 5-11/99-NCG dated 10.11.99.

2. Those PI/RSA/WO/AEA who are still working in their cadre and having high school/matriculation qualification are to be permitted to appear in the 2nd screening test subject to the condition that they have completed 6 years service in their respective cadre.

3. In the case of PI/RSA/WO/AEA turned TTAs, the service rendered in their respective cadre before switching over to the restructuring cadre i.e. TTA will be taken into account while reckoning 6 years service condition together with the service rendered in the TTA cadre. But in any case the service rendered in their old cadres as well as in TTA cadre should not be less than 6 years service on 1st July of respective recruitment year.

Sd/- J.B. Jain
Asst. Director General (ST-C)

According to the respondents A-9 letter dated 23.3.2000 could not be read in isolation. The said letter had to be read along with R-3(b) letter dated 12.1.99 followed by letter dated 10.11.99 issued by the directorate of Telecom Services. The subsequent orders issued by the Telecom Directorate is with reference to R-3(b) letter dated 12.1.99 based on the interim orders issued by the Principal Bench, New Delhi in O.A. 193/99 and 217/99. R-3(b) letter dated 12.1.99 reads as under:

No.5-11/99-NCG

dated 12.1.99.

To

All Heads of Telecom Circles
All Heads of Telecom districts
Heads of all other Administrative offices
LCGM, MTNL, Delhi/CGM, MTNL Bombay

Sub: Eligibility conditions to appear in JTO
qualifying Screening and competitive examination



We have received large number of requests for clarification from various circles regarding eligibility of various cadres. Questions were raised as to whether these examinations will be conducted as per old R/Rs of JTOs or as per new R/Rs.

The case has been examined in detail. Following clarifications are hereby issued:-

1. The examination should be conducted as per the R/Rs existing for respective year of vacancies. That is to say that examination for the vacancies of the year 1995 will be conducted as per the JTO R/Rs notified in year 1990. Similarly examination for the vacancies of year 1996, 1997 and 1998 will be conducted as per the R/Rs notified on 9.2.1996.
2. TTAs will be eligible to appear in 15% competitive quota of the JTO vacancies for the year 1995, however they will not be eligible for 15% competitive quota for the JTO vacancies of the year 1996, 1997 and 1998 as per the existing R/Rs dt. 9.2.96.
3. TTAs will be eligible to appear in 35% Qualifying screening quota of the JTO vacancies for the year 1996, 1997 and 1998 provided they have completed six years of regular service as TTA.

These instructions should be followed strictly.

Sd/- J.B. Jain
Asstt. Director General (STC)

On a combined reading of the above two letters dated 12.1.99 and 23.3.2000 specifically what is contained in para 1 of letter dated 23.3.2000 and R-3(a) Recruitment Rules we hold that there is no substance in the claim of the applicants. It was never a dispute that 6 years of service was required to be put in by all the eligible categories for appearing in the 35% Screening test as per the Recruitment Rules for JTOs. the only point of dispute was whether the six years should be as TTA itself or TTA and the earlier cadre also. According to letter dated 12.1.99 it had to be in the cadre of TTA. By letter dated 10.11.99 the six years service need not be in TTA cadre only. We find from Annexure A-3 order of appointment of the first applicant and Annexure A-4 memorandum dated 31.10.94 of the second applicant that the applicants have been recruited to service as Technicians only on 8.8.94



and 8.10.94 respectively. As such they have not completed 6 years of service as Technician and TTA put together on 31.8.99. When specifically the Recruitment Rules provide that a TTA should have 6 years service, even if it is accepted that the said service need not be only in the cadre of TTA and the service rendered in old cadres could also be counted, we hold in this case where the applicants do not have 6 years service, they would not be eligible for appearing in the test. In this view of the matter we do not find any infirmity in the impugned order A-10.

7. In the result we hold that the applicants in this Original Application are not entitled for the reliefs sought for. Accordingly we dismiss this O.A. with no order as to costs.

DATED THE 15th JULY, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER

kmn



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

APPENDIX

APPLICANTS' ANNEXURES

- A1 True copy of the Memo No. STM 1001/119 dated 13.10.93 of the General Manager, Telecom District, Calicut.
- A2 True copy of relieving order No. E-4/71/93-95/25 dated 5.8.94 of the Principal Circle Telecommunication Training Centre, Kerala Circle, Trivandrum.
- A3 True copy of order No. STM 1001/164 dated 8.8.95 of the General Manager, Telecom, Calicut.
- A4 True copy of Memo No. E/207-5/912-92/Spl. Rectt/91 dated 31.10.94 of the District Manager, Telecom, Trichur.
- A5 True copy of the Order No. STT-2001/50 dated 15.4.97 of the General Manager, Telecom, Calicut.
- A6 True copy of Memo No. STA/218-7/94-114 dated 11.8.97 of the General Manager, Telecom, Trichur.
- A7 True copy of the Application for the Screening Test to be held on 30.4.2000 submitted by the 1st applicant on 23.3.2000
- A8 True copy of Application for the Screening test to be held on 30.4.2000 submitted by the 2nd applicant on 18.3.2000
- A-9 True copy of letter No. 5-17/99-NCG dated 23.3.2000 of the 2nd respondent.
- A10 True copy of the communication No. Rectt/30-6/98 dated 12th April, 2000 of the Chief General Manager, Telecom Kerala Telecommunication, Doorsanchar Bhavan, Trivandrum with relevant enclosure.

Respondents' Annexures

- R3(a) Photo copy of the Recruitment Rules 1990.
- R3(b) Photo copy of the letter No. 5-11/99-NCG dated 12.1.99 issued by the Asst. Director General.