

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 470
T.A. No.

1990

DATE OF DECISION 21.11.1990

K.K.Sreelatha, 'Liba',
Bilathikulam
Calicut-6. Applicant (s)

Mr.P.K.Lakshmanan Advocate for the Applicant (s)

Versus

UOI rep. by the Secretary Respondent (s)
to the Ministry of Telecommunications, New Delhi
and 2 others

Mr.P.Santhosh Kumar, ACGSC Advocate for the Respondent (s)
(for R.1&2)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant a science graduate who had applied for the post of Junior Telecom. Officers, Kerala Circle, pursuant to an advertisement which appeared in the Employment News in March, 1989 has prayed that the respondents may be directed to conduct the selection afresh to the post of Junior Telecom. Officers by following selection criteria prescribed in the notification.

2. The averments in the application can be briefly stated as follows. Pursuant to the advertisement in the Employment News inviting applications for the post of Junior

Telecom. Officers, the applicant had submitted an application on 13.3.1989. According to the notification, the selection was to be made strictly according to the order of merit on the basis of the marks obtained in the Engineering or B.A., B.Sc(Hons) examination as the case might be to the extent of vacancies available. The applicant, a graduate in Science with Mathematics main and Statistics and Physics as subsidiaries has secured 92.7% marks in the optional subject. While as per the method of selection specified in the notification, the selection was to be made on the basis of percentage of marks obtained in the final Degree examination. The applicant has reliably understood that deviating from the above method the respondents had made the selection on the basis of aggregate marks in the main, optional and languages. This deviation in the method of selection is unjust and illegal by taking into account the aggregate marks including the marks obtained by the candidates for the language, the respondents have materially and substantially modified the selection criteria.

As a result of the illegal modification of the selection criteria seven persons who would/have been otherwise selected have been selected and those who had obtained more marks in the optional subjects have been left out. It is understood that selection was made to the post of Junior Telecom. Officers according to the stipulation in the notification in the respective circles to the effect that selection would be on the basis of marks obtained in the final Degree examination alone. Treating similarly placed persons differently is discriminatory and arbitrary and therefore, it is unjust and/necessary that the respondents

are ~~xx~~ directed to conduct selection afresh to the post of Junior Telecom. Officers by following selection criteria prescribed in the notification issued in March, 1989.

3. The learned counsel for the respondents submitted that the same question is involved in this case was decided in OA 149/90, that the contentions of the respondents in these cases are identical, and that the matter can be disposed of in the light of the above judgement, and that therefore, they are not filing any separate reply statement in this case.

4. We have gone through the averment in the application and heard the counsel on either side. We have also perused the judgement and the connected papers in OA 149/90.

5. OA 149/90 also related to the selection of candidates for the post of Junior Telecom. Officers pursuant to the same notification as in this case. The applicant in that application also challenged the selection based on the merits on the basis of the aggregate marks obtained in the Degree examination reckoning the marks obtained in the optional subjects as well as languages. The educational qualification and mode of selection advertised in the employment news read as follows:

"EDUCATIONAL QUALIFICATIONS-(1) A candidate must have obtained a Degree in Engineering Mechanical, Electrical, Telecommunications Electronics or Radio Engineering from a recognised university or equivalent qualifications
ii) B.Sc/B.Sc(Hons) degree of a recognised university (with physics and mathematics as main/effective subsidiary/Additional/optional

subjects) with 60% marks in the aggregate obtained in part III of the degree examination of the recognised university.

The applicant must be registered with the any of the Employment Exchange in Kerala State and the registration must be current."

Selection will be strictly according to the order of merit on the basis of the aggregate marks obtained in the degree examination to the extent of vacancies."

Interpreting the stipulation in the advertisement and in instructions to the candidates, the judgement in OA 149/90 to which both of us were parties, we observed as follows:

"The Recruitment Rules as they stand, as also the Advertisement and Instructions to the Candidates clearly distinguish between the eligibility and selection criteria. For ordinary Science graduates the eligibility criterion is at least "60% marks in the aggregate obtained in Part III of the Degree examination of recognised University" For selection it is clearly laid down that the basis would be "the order of merit on the basis of the aggregate marks obtained in the Degree examination to the extent of vacancies" Thus, it will be a violation of the Recruitment Rules and the advertised criteria if at this stage the selection criterion is changed from aggregate marks to marks in Part III of the Degree examination for ordinary Science graduates."

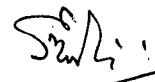
In view of above views expressed by us, we dismissed the application OA 149/90. The case on hand poses exactly identical question and it relates to same notification, and same selection. We do not find any reason to deviate from the view taken by us in OA 149/90. As observed by us in that case, a candidate who has obtained 60% marks in aggregate in the optional subjects is eligible for

consideration for selection, while the selection will be on merits on the basis of the aggregate marks obtained in all the subjects including languages in the Degree Examination. The averment in the application, i.e. Punjab and Haryana, a different method was adopted which is not based on any clear date or basis will not alter the situation.

In view of what is stated in the foregoing paragraph, we do not find any merit in the application and therefore, we dismiss the same without any order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER

21-11-90


(S.P. MUKERJI)
VICE CHAIRMAN

21.11.1990