

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.NO.492 OF 1997

MONDAY, THIS THE 7TH DAY OF APRIL, 1997.

C O R A M :

HON'BLE MR A V HARIDASAN, VICE CHAIRMAN

HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. Antony C V  
Technician  
Telephone Exchange  
Palarivattom  
(Residing at  
Chirackal House  
Pulluvazhy)
2. G Subramanian  
Technician  
Telephone Exchange  
Kumbalangi  
(Residing at  
Murickanthara Parambu  
Koovappadam West)

.. Applicants

By Advocate Mr Raju K Mathews

Vs

1. Union of India represented by its  
Secretary  
Department of Telecommunication  
New Delhi
2. The Chief General Manager  
Telecom, Kerala Circle  
Thiruvananthapuram
3. The General Manager  
Telecom  
Ernakulam
4. Mary Jose  
Telecom Technical Assistant  
Office of Sub Divisional Engineer  
Telephones, Kattappana

.. Respondents

The application having been heard on 7.4.1997, the  
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR A V HARIDASAN, VICE CHAIRMAN :

Applicants are Technicians under the third respondent.  
The technical cadre in Group 'C' and 'D' was restructured by

the first respondent by order dated 16.10.1990. A new cadre of Telecom Technical Assistant (TTA for short) was created in the pay scale of Rs.1320-2040. For the purpose of recruitment to this cadre, Recruitment Rules were notified on 22.7.1991. The above Recruitment Rule was subsequently amended vide G.S.R. No.661 notified on 13.12.1994. 710 posts of Technical Assistants in the Kerala Telecom Circle were sanctioned by order dated 19.1.1995. Sanction for creation of further 255 posts of Technical Assistants in the Kerala Telecom Circle was made by order dated 8.6.1995. In O.A. 428/95 filed by one Shri Jasprakash and another by its order dated 21.8.1995 the Tribunal directed the official respondents to fill up the vacancies in the cadre of Telecom Technical Assistants 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. In accordance with the directions contained in the above order the third respondent issued an order dated 30.10.1995 (A-16) that the posts created vide order dated 15.11.1993 (A-5) would be filled in accordance with the Recruitment Rules notified on 22.7.1991 and the posts created by order dated 19.1.1995 and 8.6.1995 would be filled in accordance with the provisions contained in the Recruitment Rules gazetted on 31.12.1994. One Shri N Gopalakrishnan Nair and another filed O.A 1517/95 before this Tribunal challenging the order dated 30.10.1995 (A-16) and praying for a declaration that the posts created vide orders dated 19.1.1995 and 8.6.1995 were vacancies that arose prior to 31.12.1994 and were liable to be filled up in accordance with the Recruitment Rules notified on 22.7.1991 (A-2). The application was dismissed by the Tribunal by order dated 2.5.1996 holding that the vacancies in the cadre of Telecom Technical Assistants arose only on the date of their sanction by the third respondent and that the sanction having been accorded after 31.12.1994 the applicants therein were not entitled to the declaration and

directions sought. Thereafter the third respondent issued the impugned order dated 28.1.1997 promoting 83 Technicians including 4th respondent. Alleging that the promotions by the impugned order were effected following the amended Recruitment Rules (A-12) and that as the vacancies in question arose prior to 30.12.1994 the respondents 1 to 3 have acted illegally, the applicants have filed this application for the following reliefs :

- (i) to declare that the posts of Telecom Technical Assistants created as per Annexure A-13 and A-14 are liable to be filled up in accordance with the qualifications and method of recruitment prescribed in Annexure A-2 statutory recruitment rules as it stood prior to 31.12.1994;
- (ii) to direct the respondents to make promotions to the posts of Telecom Technical Assistants created as per A-13 and A-14 orders following the qualifications and method of recruitment prescribed in A-2 statutory recruitment rules as it stood prior to the amendment on 31.12.1994;
- (iii) to set aside A-18 order;
- (iv) to reconsider A-17 order in O.A No.1517 of 1995;
- (v) to grant such other reliefs as this Hon'ble Tribunal deems just and fit; and
- (vi) to award costs.

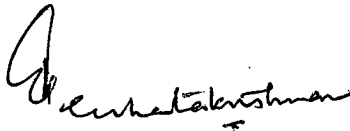
It has been alleged in the application that the proposal for creation of the posts which were made under A-13 and A-14 orders were mooted much earlier and therefore it should be deemed that the vacancies arose prior to 31.12.1994. The applicants have also stated that the decision in O.A.No. 1517/95 deserves to be reviewed and reconsidered.

We have perused the application and the annexures thereto. We have also heard Shri Raju K Mathews, counsel for the applicants and the Standing Counsel for the official respondents. The undisputed facts in this case are that appointments were made by the impugned order dated 28.1.1997 (A-18) against vacancies created by A-13 and A-14 orders dated 19.1.1995 and 8.6.1995 and that the amendment to the Recruitment

Rules G.S.R. 661 was notified on 31.12.1994. It is settled law that recruitment to the vacancies have to be made in accordance with the provisions of statutory Recruitment Rules which is operative on the date of accrual of vacancies. What is the date on which the vacancy arose is a question of fact. The identical fact situation as in this case in regard to the arisal of 965 posts was considered by this Tribunal in O.A. 1517/95 and it was held that the vacancies arose on the date on which the orders A-13 and A-14 were issued. Though the applicants in this application have stated that the decision in O.A. 1517/95 needs reconsideration, we do not find even prima facie any reason or relevant grounds for a reconsideration of the order. As the vacancies in question arose on 19.1.1995 and 8.6.1995 respectively by sanction of the competent authority accorded by orders A-13 and A-14 after the amendment to the Recruitment Rules by A-12 order was notified on 31.12.1994, we are of the considered view that the action taken by the respondents in making appointments to these posts by A-18 order is unexceptionable and unassailable. There is nothing in this application which needs its admission and further deliberation.

In the light of what is stated above, we reject the application under Section 19(3) of the Administrative Tribunal's Act, 1986. Parties will suffer their costs.

Dated, 7th April, 1997.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
AV HARIDASAN  
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A-2 : True copy of the Telecom Technical Assistants Recruitment Rules 1991.
  2. Annexure A-5 : True copy of the order No.ES/1-5/RC/93 dated 15-11-1993 of the 2nd respondent.
  3. Annexure A-12 : True copy of the Telecom Technical Assistants Recruitment (Amendment) Rules 1994.
  4. Annexure A-13 : True copy of the order No.ES-15/RC/93 dated 19-1-95 by the 2nd respondent.
  5. Annexure A-14 : True copy of the order No.ES/1-5/RC/93 dated 8-6-95 by the 2nd respondent.
  6. Annexure A-16 : True copy of order No.HRD/1-4/95 dated 30-10-95 by the 3rd respondent.
  7. Annexure A-17 : True copy of the order dated 2-5-1996 in OA No.1517/95 of this Tribunal.
  8. Annexure A-18 : True copy of the order No.ST&EK/261/4/97 dated 28-1-1997 of the 2nd respondent.
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