

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.535/99

Wednesday, this the 1st day of August, 2001.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. P.J. Francis Xavier, Driver,
Office of the Sub Divisional Engineer Cables(Junction),
Ernakulam.
2. T.P. Thankachan, Driver,
Office of the Sub Divisional Engineer A/C & Power,
Ernakulam.
3. V.A. Sebastian, Driver,
Office of the Sub Divisional Engineer Phones,
Willington Island.

Applicants.

By Advocate Mr P. Santhosh Kumar.

Vs.

1. Union of India represented by the Secretary,
Ministry of Communications.
New Delhi.
2. The Principal General Manager,
Ernakulam Telecom District.
Catholic Center,
Kochi-31.
3. The Assistant General Manager (Admn),
Office of the Principal General Manager Telecom,
Ernakulam, Kochi-31.

Respondents.


By Advocate Mra C. Rajendran, Sr.CGSC.

The application having been heard on 1.8.2001, the
Tribunal on the same day delivered the following:

O R D E R


HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek to quash A-2 to the extent it stipulates conditions that the drivers have to seek reversion to enable them to appear in screening test and to continue in the reverted post if he fails in the screening test, to quash A-3 and to declare that they are entitled to appear for the screening test without any conditions.




2. Applicants say that they are working as Drivers at present. Initially they were appointed on casual basis and they were subsequently absorbed as Drivers in the outside quota which is a Group-C post. As per A-1, 3rd respondent issued a circular in regard to screening test for promotion/deputation/absorption to the restructured cadre of Telecom Mechanic. Subsequently A-2 was issued by 1st respondent prescribing certain conditions in respect of Drivers to appear for the screening test. Conditions prescribed are that Drivers who want to appear for the screening test should seek reversion to Group-D post and in case the reverted officials do not come out successful in the screening test should continue to work in the reverted cadre. Same conditions have been incorporated in A-3 also.

3. Respondents resist the OA contending that the statement of the applicants that they were initially engaged as casual drivers and subsequently absorbed in the cadre of Drivers is not correct and hence denied. They were recruited against the outside quota of drivers in Ernakulam Secondary Switching Area. Applicants do not originally belong to any of the feeder cadres of Telecom Mechanic and therefore their claim for appearing in the screening test for absorption/promotion as Telecom Mechanic is in violation of the statutory Recruitment Rules. As per rules, absorption/promotion is not permissible to the restructured cadre of Telecom Mechanic direct from the cadre of Drivers. Only those drivers who originally belong to the feeder cadre of Telecom Mechanic have been given a chance to exercise reversion option to come back to their original lower cadre forfeiting all their future claims as Driver at their own risk. This chance is not available to the applicants since they were originally appointed in the cadre of Driver which is higher than the feeder cadres of Telecom Mechanic. Their first entry in the Department is as Drivers only.



4. A-2 one of the impugned orders says that drivers may be allowed to seek reversion if they originally belong to Regular Mazdoor, Lineman, Wireman or any Group-D cadres provided they seek reversion, in writing and undertake to abide by the conditions stipulated therein. A-3 the other impugned order says that as per the existing orders only the drivers who originally belong to Regular Mazdoor, Lineman, Wireman or any Group-D cadre are allowed provided they seek reversion in writing and undertake to abide by the conditions stipulated therein and that applicants cannot be considered since Drivers recruited as outside candidates are not eligible for entry into the restructured cadre of Telecom Mechanic.

5. Learned counsel appearing for the applicants argued that drivers are discriminated as persons who were appointed directly as drivers are not allowed to take part in the screening test while those who belong to the feeder category and subsequently become drivers are permitted to take part in the screening test. In fact it is not a discrimination as submitted by the learned counsel for the applicants. What the respondents have done is that they have classified the aspirants as those who were in the feeder category and those not in the feeder category. R-2A is the Recruitment Rules to the post of Telephone Mechanics. R-2B is the amendment to R-2A. R-2B is dated 11th April, 1996. As per R-2B, for the post of Telephone Mechanic, only Linemen/Wiremen belonging to the Telecommunication Engineering Wing of the Department, Cable Splicers, Regular Mazdoors, Group-D officials of the Department and Casual Mazdoors/Casual Labourers who are covered under temporary status scheme alone come in the feeder category.



6. The learned counsel appearing for the applicants submitted that applicants were initially engaged as casual labour drivers. At this juncture it is pertinent to note that in para 4.1 of the OA it is thus stated:

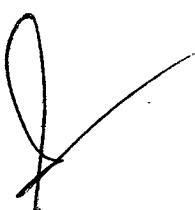
"Their initial appointments were on casual basis and were subsequently absorbed as Drivers in the outside quota which is a Group-C post."

7. From a reading of the same it is abundantly clear that they were initially appointed as Drivers and not as Casual Labour Drivers. There is absolutely no material to show that the applicants were initially engaged as casual labourers. Respondents have categorically stated that the applicants were recruited against outside quota of drivers in Ernakulam Secondary Switching Area. So the position is that the applicants were, to start with, drivers and even now they are drivers. As per the Recruitment Rules they are not in the feeder category.

8. A-2 order does not apply to the applicants for the reason that it is applicable only to those who originally belong to regular mazdoor/lineman or any other Group-C cadres.

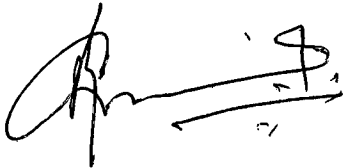
9. A-3 is in tune with the Recruitment Rules. There is no challenge against the Recruitment Rules.

10. We do not find any discrimination as submitted by the applicants.



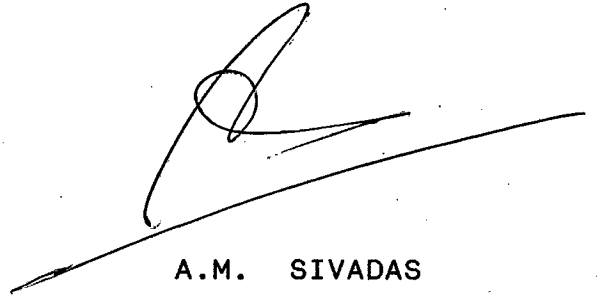
11. We do not find any merit in this OA and accordingly the OA is dismissed. No costs.

Dated 1st August, 2001.



G. RAMAKRISHNAN

ADMINISTRATIVE MEMBER



A.M. SIVADAS

JUDICIAL MEMBER

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List of annexures referred to in this order

- A1 True photostat copy of the option form submitted by the 1st applicant in the prescribed form dt.5.2.99.
- A2 True photostat copy order No.2-3/199-NCG (Part-I) dated 7.4.99 issued by the 1st respondent.
- A3 True photostat copy of order No.STA-I/ENK-267/143/2-TMST/TV/17 dated 23.4.99 of the 3rd respondent.
- R2A Photo copy of the statutory Recruitment Rules of Telecom Mechanic published vide Gazette Notification No.GSR 512(E) dated 31.7.91(Notification issued by Ministry of Communications dated 2.7.91)
- R2B Photo copy of the Notification No.GSR 220 dated 25.5.96 (notification issued on 11.4.96 by Assistant Director General (STC)).