

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 572 of 1997.

Tuesday this the 19th day of August 1997.

CORAM:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

P.G. Rajamma,
Senior Section Supervisor (O),
Office of the Chief General Manager,
Telecom, Thiruvananthapuram.

.. Applicant

(By Advocate Shri G. Sasidharan Chempazhanthiyil)

Vs.

1. Chief General Manager, Telecom,
Kerala Circle, Thiruvananthapuram.

2. The Telecom Commission represented
by it's Chairman, New Delhi.

3. Union of India represented by its
Secretary Communications,
New Delhi.

.. Respondents

(By Advocate Shri T.R. Ramachandran Nair, ACGSC)

The application having been heard on 19th August, 1997,
the Tribunal on the same day delivered the following:


O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant a member of a Scheduled Caste
Community passed the Part I of the Junior Accounts Officers
Examination in the year 1990. In the Part II Examination
held in November 1992, the applicant obtained the following
marks in the three subjects:

| | | |
|-------------|------------------------|-----|
| 1st Subject | Paper VII (Theory) | 100 |
| | Paper VIII (Practical) | 100 |
| 2nd Subject | Paper IX (Theory) | 100 |
| | Paper X (Practical) | 100 |
| 3rd Subject | Paper XI (Practical) | 150 |

...2/-




2. The qualifying marks for each subjects in the aggregate for members of the Scheduled Castes is 33%. However, a relaxed standard has been prescribed in case of members of the reserved category in case they fail to make the grade by awarding the grace marks. The instructions in this regard is contained in the letter No. 9-11/95-DE of Government of India, Department of Telecommunications, Departmental Examination Section, dated 31.1.95. Sub Para (b) of para 2 of which reads as follows:

"All SC/STs candidates who have qualified at least in two subjects of JAOs Part II Examination and three subjects of JAOs Part I Examination and secured not less than 25% marks in the 3rd or the fourth subject, as the case may be in the aggregate (without insisting upon a pass in practical) may be declared as qualified by allowing the requisite grace marks."

The applicant was not declared passed on the ground that she had failed in the practical papers. Therefore, she made a representation (Annexure A-11) dated 16.9.93. The Chief General Manager, Administration, Kerala Circle, Trivandrum, after analysing the facts and figures recommended strongly for a review of the applicant's case indicating that her case was covered by the instructions contained in Annexure-A-4 letter. Despite that recommendation, the impugned order dated 14.2.97 was issued by the Director (DE & VP) turning down the applicant's claim for grant of grace marks and for a declaration that she passed in the examination. It is under these circumstances, aggrieved by the impugned order that applicant has filed this application for the following reliefs:

- "1. Call for the records and quash Annexure A-9.
2. Declare that the applicant is entitled to be

....2/-



granted grace marks under Annexure A4 for Part II Examination held in November 1992.

3. Direct the 2nd respondent to review the case of the applicant for grant of grace marks under Annexure A2 and declare her as having qualified in Part II of the Junior Accounts Officer Examination held in November 1992.
4. Direct the 2nd respondent to carry out re-totalling and verification of the marks of the applicant for the Junior Accounts Officer Part II Examination held in November 1992 and intimate the result to her.
5. Any other further order or relief as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
6. Award the cost of these proceedings."

2. The relief claimed at sub para 4 of para 8 of the original application has now become infructuous as on recounting during the pendency of the application the marks earlier awarded to her were found to be correct. The respondents seek to justify the impugned order on the ground that the applicant did not secure the minimum qualifying marks of 33% in the practical papers and the required marks in the 3rd subject. As the issue involved in this case is quite simple the counsel agreed that the matter may be heard at this stage for a final disposal. Learned counsel for the applicant with considerable tenacity argued that the stand taken by the respondents that the applicant is not entitled to be given the grace marks and declared passed because she has failed to get the minimum

qualifying marks in the practical papers is not only opposed to the instructions contained in the letter dated 31.1.95 of the Government of India, Department of Telecommunications, Departmental Examination Section(Annexure A-4), but also inconsistent with the former part of the impugned order where it is stated that papers VII and VIII form one subject and paper IX and X form another subject. This argument has considerable force. A mere reading of the sub-para (b) of the para 2 of Annexure A-4 would make it evident that if a person qualifies in two subjects of Part II Examination and three subjects in Part I Examination and secures not less than 25% marks in the 3rd or 4th subjects as the case may be in the aggregate without insisting upon a pass in practical examination he may be declared as qualified by allowing the requisite grace marks. According to the marks obtained by the applicants in papers VII and VIII forming one subject taken together as also in papers IX and X taken together forming one subject, the applicant has qualifying marks in the aggregate. In paper XI the applicant has secured one mark less than qualifying marks but it is more than 25% of the total marks of 150. Since the applicant has passed the papers VII and VIII and IX and X taken together in accordance with the instructions the percentage of marks obtained by her in the practical papers need not be separately considered for reviewing her case for declaring her as passed. This position was well understood by the first respondent when he wrote the recommendatory letter Annexure A-5. But, unfortunately, the authority who has issued the impugned order, has failed to visualise the situation in its proper perspective and has erroneously issued the impugned order.

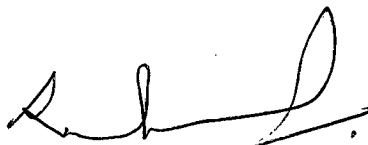
....5/-

m

4. In the light of what is stated above, we set aside the impugned order Annexure A-9 dated 14.2.97 and direct the respondents 2 and 3 to review the case of the applicant, grant her the requisite grace marks in accordance with the provisions contained in Annexure A-4 letter and declare the applicant to have passed in the qualifying examination.

5. The above exercise shall be completed and orders passed and communicated to the applicant within two months from the date of receipt of the copy of this order. No costs.

Dated the 19th day of August, 1997.


S.K. GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURES

- Annexure A-2 : Letter No.26/2/91-SPB-I dated 4.5.1981
issued by the Director General of Post
and Telegraph.
- Annexure A-4 : Order No.9-11/95-DE dated 31-1-1995
issued by second respondent.
- Annexure A-5 : Letter No.Rectt/6-7/93(a) dated 10-7-1995
issued by first respondent.
- Annexure A-9 : Letter No.10-4/97-DE dated 14-2-1997
issued by third respondent.
- Annexure A-11: Representation dated 16-9-93 submitted
by the applicant to the 2nd respondent .
.....