

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.597/94

Monday, this the 16th day of January, 1995.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

C Sukumaran,  
Liftman, Office of the  
Chief General Manager, Telecom,  
Thiruvananthapuram.

- Applicant

By Advocate Mr G Sasidharan Chempazhanthiyil

Vs.

1. The Chief General Manager,  
Telecom, Kerala Circle,  
Thiruvananthapuram.
2. Director General,  
Telecommunication Department,  
Sanchar Bhavan, New Delhi.
3. Government of India represented  
by the Secretary in the Ministry of  
Communications, New Delhi.

- Respondents

By Advocate Mr TPM Ibrahimkhan, Senior Central Government  
Standing Counsel

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant is working as a Liftman in the office of the Chief General Manager, Telecom, Thiruvananthapuram. He was appointed as a Liftman by order dated 7.6.1990 but was given a lower scale of pay. The Tribunal in O.A.1186/92 ordered that he should be paid the scale of the Liftman as prescribed in the Recruitment Rules.

2. Respondents have stated in the impugned order A5 that subsequently they have noticed a procedural error while reviewing the case of applicant and they have initiated action for conducting a fresh selection in accordance with the statutory Recruitment Rules.

3. We find that by A4 which is a notification inviting applications from eligible Group 'D' officials and so is a notification for recruitment by transfer, a qualification of VIIIth standard pass, an age qualification of not exceeding 35 years as on 20.4.1994 and experience of one year in lift operation is prescribed. A reference to the Recruitment Rules shows that these are qualifications which are required in the case of direct recruitment. The Recruitment Rules prescribe recruitment by transfer, failing which by direct recruitment. It is not the case of the respondents that they have failed in their attempt to recruit by transfer. In Column 11 of the Recruitment Rules, it is prescribed as follows:

"Transfer:

From amongst regularly appointed qualified Class IV (Test Category) employees of the Circle/District concerned subject to observance of any law relating to production of a valid certificate of registration for operation of lifts where in force."

From this, we are not able to conclude that the qualifications prescribed in Column 7 for direct recruitment would apply also in the case of recruitment by transfer. If that were the real intention of the respondents, then the Recruitment Rules require amendment to reflect that intention. Till such time as the rules are amended, all regularly appointed qualified Class IV (test category) employees as indicated in Column 11 should be deemed to be eligible for consideration for recruitment by transfer.

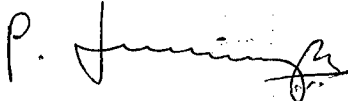
4. In this view, the impugned notification A4 cannot be sustained. The applicant who has been issued the termination notice in A5 in pursuance of the ~~xxxx~~ selection contemplated in A4 will be allowed to continue till the respondents take a decision in the

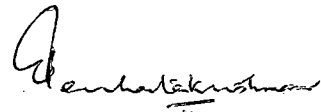
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light of our observations above. As stated by the respondents themselves in the impugned order, the applicant will also be considered for selection in case he applies for the same when it is notified in future.

5. Application is disposed of as above. No costs.

Dated, the 16th January, 1995.

  
P SURYAPRAKASAM  
JUDICIAL MEMBER

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

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List of Annexures

Annexure A IV : True copy of letter No.Rectt./59-2/92.dated 21-3-94 sent on behalf of the 1st respondent regarding the recruitment to the cadre of Liftman.

Annexure A V: True copy of Order No.STB/10-19/92/15 dated 25-3-94 issued on behalf of the 1st respondent.