CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.104/98

Monday this the Ist day of June, 1998.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

Ranjini Bai. R.
'Sithara' Thittamel,
Chengannur, working as
Telegraph Assistant,
Telegraph Office, Chengannur.   ---
                                                Applicant
(By Advocate Mr. G.D.Panicker)

                        Vs.

1.   Govt. of India represented by the
     Secretary in the Department of
     Telecommunications, Sanchar Bhavan,
     New Delhi.

2.   Director General,
     Telecommunications,
     Sanchar Bhavan, New Delhi.

3.   Chief General Manager,
     Telecommunications,
     Thiruvananthapuram.

4.   Jaya Sreekumar,
     Telegraph Assistant,
     Central Telegraph Office,
     Kayamkulam.   ...Respondents

(By Advocate Mr. James Kurien, ACGSC for R.1to3)

The application having been heard on 1.6.1998, the Tribunal
on the same day delivered the following:

                    O R D E R

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

        The grievance of the applicant who is a
Telegraph Traffic Assistant is that the respondents have in
contravention to the Rules made selection to more number of
vacancies than notified and unjustifiably relaxed the
standard in regard to selection for appointment to the
fifteen percent quota to the post of Junior Telecom

Officers (JTOs) on the basis of the limited Departmental Competitive Examination. The facts of the case necessary for the disposal of the issue involved in this case can be briefly stated thus.

2.   The Telecommunication Department by notification dated 19.9.95 (A2) notified 27 vacancies for the post of JTOS for 1993 and 50 vacancies for 1994. The break up for 1993 was 4 SC 2 ST and 21 unreserved and for 1994 was 7 SC , 4 ST and 39 unreserved. The competitive examination was held and a list of those who succeded was notified (A4). Sixteen persons were selected for the vacancies of the year 1993 and two for the vacancies of 1994. Subsequently the respondents issued a revised list of persons who have been selected for appointment. The same is dated 17.6.97 (A5) by which it is seen that on a relaxation of the standard another 63 persons were selected. (Ten for 1993 and 53 for 1994). This relaxation after the list was published was unjustified and unwarranted, according to the applicant. Taking into account the total number of candidates selected as shown in A4 as well as A5 the number would come to 81. As the number of vacancies notified under A2 was only 77 the applicant contends that the selection and appointment of 81 persons ie., in excess of the notified vacancies is unjust, irrational and opposed to the equality provisions contained in Article 14 of the Constitution of India. With these allegations the applicant has sought the following reliefs:-

(i) Quash Annexure A5 supplementary list published under order dated 17th June, 1997 of the 3rd respondent.

(ii) Declare that the department has no power to select candidates more than the number of candidates notified.

(iii) Direct the respondents to conduct the re-examination for paper III for the examination conducted in 1995 against 15% quota.

3.   On behalf of the respondents 1 to 3 a reply statement has been filed.The relaxation in standard is sought to be justified on the ground taking into account the large number of unfilled vacancies and lesser number of the persons who qualified according to the standard prescribed, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx a relaxation in the requirement of 40% marks in each subject was relaxed and this relaxed standard was applied uniformally to all those who appeared in the examination. Regarding the selection of 81 candidates against the 77 vacancies xxxxxxxxxxxxx notified, xxxxxxxxxxxxxxx the respondents contend that in continuation of A2 notification, the respondents had on 3.11.95 (R.2) notified 30 vacancies for the year 1993 and 52 vacancies for the year 1994 and therefore, the case of the applicant that more candidates than the vacancies notified have been selected is not true to fact. The respondents contend that the position being as stated in the reply statements, the applicant does not have any legitimate grievance at all.

4.   We have gone through the pleadings in this case and have heard Shri G.D.Panicker, for the applicant and Shri James Kurien, for the respondents. The case of the applicant that the relaxation in standard was unjustified and uncalled for is not tenable at all. It is for the competent authority in the department to lay down the standard for selection to a post. The authority which is vested with the power to fix the standard should naturally have the discretion to alter the standards also if situation requires such a change. It is taking into account the lesser number of candidates qualified as per the standard prescribed earlier and the requirement of the

service that the competent authority decided to relax the standard for selection and there is no case for the applicant that this relaxed standard has not been applied uniformly to all including him. Therefore, we find no force in the contention of the applicant that the relaxation was not done justifiably.

5.   Coming to the next greivance of the applicant that the selection and appointment to more number of posts than the vacancies notified is illegal and opposed to Article 14 of the Constitution of India, at the first blush the argument would appear to be very attractive and forceful but on a careful reading of the pleadings and materials available it would be evident that there is no force in the argument. Though it is true that only 77 vacancies were notified by A2 the respondents in continuation of A2 issued another notification Annexure.R.2 dated 3.11.95 notifying 82 vacancies in total. The applicant has not refuted the case of the respondents that Annexure.R2 notification was issued. Now that as against 82 vacancies notified under Annexure.R.2 only 81 persons have been selected there is no merit in the contentions that the respondents have made appointments in excess of the notified number of vacancies.

6.   Taking advantage of the statement in the reply statement in paragraph 5 that the vacancies for the year 1994 has been subsequently increased to 60 in May, 1996 with the approval of the third respondent in the relevant file, learned counsel for the applicant tried to argue that the action of the respondents enhancing the vacancies upto 60 in the year 1996 is illegal. In support of this contention the learned counsel relied on the ruling of the Apex Court in AIR 1996 SC 976. It is well settled that recruitment to vacancies more than the notified number of vacancies and more than the number of vacancies to which selection has been made is illegal and violative of Article 14 of the Constitution of India inasmuch as those who have

had a chance to apply for the remaining vacancies would be deprived of that opportunity. But in this case such a situation has not arisen. The case of the applicant himself in the application is that selection has been made to 81 vacancies while notification contained only 77 vacancies. We have seen that the respondents had notified 82 vacancies by Annexure.R.2. The statement of the respondents in para 5 of the reply statement that the vacancies have been increased to 60 for the year 1994 cannot be taken as an admission that 60 vacancies have been filled by the selection which is the subject matter in this case.

7.   In the light of what is stated above, we find no merit in this application and therefore, we dismiss the same leaving the parties to bear their costs.

Dated the Ist day of June, 1998.
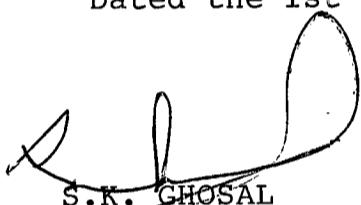
S.K. GHOSAL
ADMINISTRATIVE MEMBER

A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A2:   Letter Mo.Rectt/30.4/94 dt. 19.9.95 from
    3rd respondent notifying the vacancy position of the
    departmental competitive examination.

2. Annexure A4: List of candidates qualified in the
    departmental competitive exam(15% quota) issued by 3rd
    respondent.

3. Annexure A5: Letter No.Rectt/30.4/93-4/ dt.17th June 1997
    from the 3rd respondent containing supplimentary list of
    successful candidates(Annexure A5)

4. Annexure R2: Order No.Rectt/30.4/94 dated 3.11.1995 issued
    by Asstt. General Manager(Rectt) for CGMT TVM.

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