

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.129/2010

this the 28th day of June, 2010.

C O R A M :

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. Ben Johnson, aged 20 years, S/o. K.V. Johnson,
Residing at : Kanappilly House, Loveshore Avenue,
Pragathi Nagar, Kochupally Road, Thoppumpady,
Cochin-682 005, Ernakulam District.
2. Sebin P.J., aged 23 years, S/o P.S. Joseph,
Residing at : Padathara House, Koottumkal Parambu,
Thoppumpady, Cochin-682 005, Ernakulam District.
3. V. Sreejith, aged 22 years, S/o K.V. Vijaykumar,
No. 19/494-A, Madathil House, P.D. Road,
Palluruthy, Cochin-682 006, Ernakulam District.
4. K.R. Renoy, aged 27 years, S/o (late) K.R. Ravi,
Thuruthippilly House, Perumpilly West, Assisi Road,
Narakkal P.O., Pin 682 505,
Ernakulam District. **Applicants**

(By Advocate : Mr.T.C. Govindaswamy)

V e r s u s

1. Union of India, represented by the Secretary to the
Government of India, Ministry of Defence, South Block,
New Delhi – 110 011.
2. The Flag Officer Commanding-in-Chief, Headquarters
Southern Naval Command, Naval Base, Cochin-682 004.
3. The Chief Staff Officer (P&A), Headquarters Southern
Naval Command, Cochin-682 004. **Respondents**

(By Advocate : Mr.Sunil Jacob Jose,SCGSC)

This application having been heard on 14th June 2010 this Tribunal
on 28.06.10 delivered the following :-

ORDER

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The applicants filed this Original Application, aggrieved by a letter

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dated 29th January, 2010 of the Commander, Public Information Officer, Southern Naval Command for and on behalf of the 2nd and 3rd respondents. The said letter was addressed to the 2nd applicant and similar letters were also received by other applicants.

2. The Original Application has been admitted by this Tribunal and notices have been ordered to the respondents. In pursuance to the notices received, two reply statements have already been filed for and on behalf of the respondents.

3. We have heard the counsel appearing for the applicants Mr. T.C. Govindaswamy and Mr. Sunil Jacob Jose, learned Senior Central Government Standing counsel appearing for the respondents. The main question to be answered in this Original Application is that whether the letter impugned by which selection process for recruitment of Telephone Operators has been cancelled is correct or not. For deciding this question it is advantageous to see few facts of the case as discernible from the averments of the Original Application.

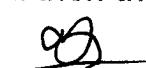
4. The third respondent, the Chief Staff Officer (P&A), Headquarters, Southern Naval Command, Cochin had invited applications for filling up of the ten posts of Telephone Operators (Gen-6, OBC-2, SC-1 & VH-1) in the pay band of Rs. 5200-20200/- with grade pay of Rs. 2000/- as per employment news dated 4-10th July, 2009, a copy of which was produced and marked as Annexure A-1 in the Original Application. The applicants along with other candidates applied for the post. In furtherance of the above notification after scrutinizing the entire applications received 160 candidates who have fulfilled the requisite qualifications were called for

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appearing for the written examination conducted on 30th November, 2009. After the written examination the applicants and other qualified candidates were invited for a practical test and interview which was held on 16/17th December, 2009. Since after the practical test and interview no information has been received regarding the finalization of the selection process the applicants submitted several representations including that of a representation dated 8.1.2010, a copy of which was marked as Annexure A-4. In response to the representation at Annexure A-4 the Public Information Officer, Southern Naval Command, issued the impugned letter Annexure A-5 and similar letters were issued to other candidates also. Hence, aggrieved by the action now taken by the respondents the applicants filed this Original Application with the following main prayers:-

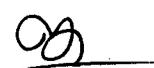
- "(i) Call for the records leading to the issue of Annexure A5 and quash the same to the extent it hold that the selection process for the recruitment of Telephone Operators has been declared null and void due to administrative reasons;
- (ii) Direct the respondents to finalize the process for appointment to the post of Telephone Operators under the 2nd respondent in accordance with the recruitment process already completed by a Board of Officers constituted for the purpose and direct further to grant appointments to the applicants there from forthwith;
- (iii) Award costs of and incidental to this applicant."

5. The learned counsel appearing for the applicants Mr. T.C. Govindaswamy challenges the legal validity of the impugned letter namely Annexure A-5 issued for and on behalf of the respondents 2 & 3. The counsel submits that Annexure A-5 does not contain any reason for cancellation of the selection process except that the selection process became null and void due to administrative reasons. What are the reasons for such cancellation is not stated in the impugned letter. This according to the counsel for the applicants is irregular and illegal as once the selection process is started and almost completed then the authorities have no right



or power to cancel the same without furnishing affordable reasons. The impugned letter only contains for declaration of the process of selection as null and void due to administrative reasons. The counsel also relies on the judgment of the Apex Court reported in 2003 SCC (L&S) 1048 – Union of India & Ors. Vs. Rajesh P.U., Puthuvalnikathu & Anr., 2006 (1) SLJ 1 – P.P. Sudanandam & Ors. Vs. The Secretary, Railway Board & Ors. and 2007 (1) SLJ 53 – John Oomen & Ors. Vs. Union of India & Anr.

6. The respondents resisted the above arguments of the learned counsel appearing for the applicants relying on their reply statement taking the stand that even though the impugned letter does not contain elaborate reasons for cancellation of the selection process but after the test and interview complaints were received from candidates appeared for the test as well as the public and a specific complaint has been received from one P.M. Sudeesh Kumar alleging certain malpractices/irregularities committed while conducting of the practical test and interview and hence an inquiry has been conducted on the basis of the complaint and it was found by the Naval Intelligence Department that few wards of the employees working under the Southern Naval Command who had appeared in the written test/practical test and interview had earlier opportunity to practice the telephone operations and other experience in Naval Telephone Exchange prior to the practical test. The said allegation was found correct. This aspect has been viewed very seriously as certain number of candidates who are wards of employees got an advantage of practical exposure before the actual practical test and selection. Under the above circumstances the authorities felt that it is justifiable to cancel the selection process though some delay occurred in intimating the decision taken by the Department to the candidates. Therefore, the impugned letters have been issued by the

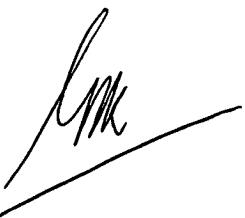


Department. According to the counsel appearing for the respondents Mr. Sunil Jacob Jose, the judgment of the Apex Court in Rajesh P.U., Puthuvalnikathu's case (cited supra) and other judgments of the Central Administrative Tribunals Benches of Hyderabad in P.P. Sadanandam's case (cited supra) and Bombay in John Oomen's case (cited supra) are not applicable to the facts and circumstances of the case in hand.

7. On anxious consideration of the rival contentions raised by the counsel appearing for the parties and on perusal of the official records which were summoned through the Senior Central Government Standing Counsel, we are of the view that the impugned letter is within the powers of the respondents. Admittedly the applicants were not having any vested right to claim an appointment only on appearing for a written test or a practical test, unless they have been selected for such appointment. Selection for appointment will be completed only the process of selection is found correct and in accordance with the general propositions of rules conducting a public test or interview by a public department. In this context the report of the intelligence department of the Southern Naval Command, on the basis of the inquiry made in pursuance to the complaints received would show that some of the candidates who appeared for the practical test and interview had got opportunity to use or have experience by using telephone exchange of Naval Base being the wards of some of the officials working in Naval Base. If so, the reason for cancellation of the test is justifiable. Even according to the judgment of the Apex Court in Rajesh P.U., Puthuvalnikathu's case (cited supra) the Court only held that such cancellations should be only on inquiry and if there are sufficient reasons to find that malpractices have been meted out it is only proper for the authority to cancel the selection process. The other two judgments of

different benches of the Central Administrative Tribunal are also not applicable to the facts of the case in hand.

8. Accordingly, we are of the considered view that the Original Application has to be dismissed as meritless. We order so. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

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