

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 179
~~XXXXXX~~

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DATE OF DECISION 4.11.92

K.K. Sudhakara Panicker Applicant (s)

Mr. T.A. Rajan Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary, Ministry of Communications,
New Delhi and others

Mr. Mathews J. Nedumpara, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S. Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Mr. N. Dharmadan, Judicial Member

Applicant is at present working as a Lineman (Phones) in the Telephone Exchange, Mankada. He is aggrieved by the valuation of the papers in the Departmental Examination held by the respondents for the ~~xxx~~ promotion to the cadre of Telephone Operator/Telephone Assistants.

2. When the second respondent invited application for the Departmental Examination for promotion to the cadre of Telephone Operator/Telephone Office Assistant, applicant applied for the post. He ~~xx~~ also appeared in the Examination held on 6.10.91. According to the applicant he passed in the examination securing the marks as shown in Annexure-III which is extracted below:

Roll No.	Name of the candidate	Marks obtained in paper(s)			
		I	II	II	IV
KT 310	K.K. Sudhakara Panicker, LM	34	22	21	42

3. When the result was published three candidates were selected, the applicant was not included in the list. According to the applicant, all the three persons who are selected were working in the office of the third respondent and they were having Hall Permit No.321,322 and 323 of 1990. He further submitted that if he got 2 more marks in any of the papers he would have come within the zone of selection and eligible for promotion. Since there is age bar, it is not possible for him to sit for the next Examination for getting further promotion before his retirement. Hence, he has filed this application under section 19 of the Administrative Tribunals' Act with the following prayers:

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- i) to call for the records leading to Annexure-IV and quash the same.
 - ii) direct the 2nd respondent to verify and retotal the marks of the applicant of the departmental examination for promotion to the cadre of Telephone Operator/Telephone Office Assistant held in October, 1990.
 - iii) grant such other reliefs which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

4. Respondents filed reply stating that the applicant's answer papers were further checked and re-totalled but the the respondents could not find any mistake in the totalling as alleged by the applicant. Hence, the proceedings, Annex.-IV passed by the Sub Divisional Officer, Telecom, Perintalmanna is legal and valid. According to them the O.A. deserves to be dismissed.

5. Applicant also filed a rejoinder. He has stated well in that he faired/the Examination with satisfaction and if the answer papers were properly valued by the competent authority he would have scored much more marks than the marks shown in Annexure-III and he would have been eligible for promotion. Since the applicant has crossed the upper age of 40, he may not be able to seek his chance for the next Examination.

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6. When the case came up for final hearing, we directed learned counsel for respondents to produce the Answer papers of the applicant. Accordingly, he produced the same on 24.8.92. After hearing the counsel and also after perusing answer papers, we felt a doubt about the valuation in regard to the selected candidates having Sl. No. 321, 322 and 323 and hence, we directed learned counsel for respondents to produce for verification the answer papers of the selected candidates having Sl. No. 321 to 323. Today when the case was taken up for further hearing, learned counsel for respondents submitted that as per the rules, answer papers cannot be retained for more than a year. Applicant's answer papers was retained, only because of his complaint about the valuation and the pendency of the Original Application.

7. Learned counsel for applicant strenuously contended that all the persons who have been selected are working under the third respondent in the same office and they were occupying the same room and according to him all of them consulted and answered for getting a success in the examination. Out of the total sixty persons who sat for the examination only three were selected. He further submitted that the applicant will be satisfied if a competent authority verifies the answer papers and takes an independent decision as to whether he is eligible for more marks than which is awarded by the original valuer of the papers.

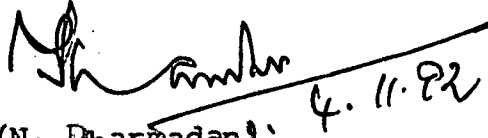
8. Having heard the learned counsel on both sides, because of the peculiar circumstances pointed out by the applicant in the matter, and due to the fact that answer papers of selected candidates are not available for ^{verification and} comparison with the answers written by the applicant, we feel that justice in the case will be met if we direct the second respondent to verify the answer book of the applicant and marks awarded

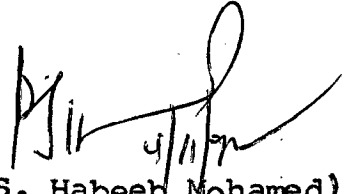
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to the same on the basis of the averments of the applicant and decide as to whether he is eligible for to be included two more marks so as to improve his position/in the zone of selection. If after verification and further consideration, the second respondent is satisfied that applicant is eligible for two more marks, he may also be considered for promotion to the post of Telephone Operator/Telephone Office Assistant. We issue the aforesaid because of the peculiar circumstances stated above direction/and make it clear that it shall be done within a period of three months from the date of receipt of a copy of this judgment.

9. The application is disposed of with the above directions.

10. There will be no order as to costs.


(N. Dharmadan)
Judicial Member


(P. S. Habeeb Mohamed)
Administrative Member

4.11.92

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