

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.224 of 1995

Monday, this the 21st day of August, 1995

CORAM

HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

- 1 Diploma Engineers Telecom Association
rep. by its Secretary Prasannakumar V R,
S/o Velayudhan Pillai,
Technician Telex Indoor, Telephone Exchange,
Kaithamukku, Thiruvananthapuram.
- 2 Jomon Kuruvilla S/o Shri M Kuruvilla,
Technician, Telephone Exchange,
Thodupuzha.
- 3 M A Alaxander, S/o Shri Abraham,
Technician, Telephone Exchange,
Karimkunnam, Thodupuzha.

...Applicants

(By Advocate Mr Raju K Mathew)

Vs

- 1 Union of India rep. by its Secretary,
Ministry of Communication,
New Delhi.
- 2 The Chief General Manager Telecom,
Kerala Circle, Thiruvananthapuram.
- 3 The General Manager, Telecom,
Ernakulam.

...Respondents

(By Advocate Mr T P M Ibrahim Khan, Sr CGSC)

The application having been heard on 21st August 1995,
the Tribunal on the same day delivered the following:

O R D E R

P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants contend that the vacancies in the cadre of Telecom Technical Assistants that arose before the coming into force of Annexure A7 amendment to Annexure A2 Statutory Rules should be filled up on the basis of the rules as they stood before the said amendment.

2 The Tribunal in O.A. 1047/94 and connected cases had already held that the executive instructions amending the Statutory Rules would be followed only after the amendments are notified and the Statutory Rules are amended according

to rules. Review Applications filed against that decision have also been subsequently dismissed.

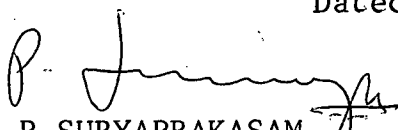
3 The question here is whether the vacancies which arose before the amended rules came into force are to be filled up on the basis of the Statutory Rules as they stood prior to the amendment. Learned counsel for applicants produced an order of the Tribunal in O.A. 1000-PB/94 of the Chandigarh Bench. This forms part of the record. We find this question has been examined by the Chandigarh Bench. The Tribunal held in that case:


"The recruitment rules have been modified by order dated 13.12.94 which have been notified in the official gazette on 31.12.94. The applicants have rightly urged that Statutory Rules notified under Article 309 of the Constitution, cannot be amended by executive instructions. Moreover, recruitment to vacancies has to be governed by Recruitment Rules then applicable and not by subsequent amendments.... Respondents 1 to 4 are directed to fill up the vacancies in the cadre of Telecom Technical Assistant which occurred on 30.12.94 or earlier, in accordance with the Recruitment Rules framed under Article 309 of the Constitution, notified on 22.7.91. Vacancies occurring on 31.12.94 and thereafter, will be governed by the amended rules notified in the gazette on 31.12.1994."

4 We are in respectful agreement with the views expressed by the Chandigarh Bench. We accordingly direct the respondents to fill up the vacancies in the cadre of Telecom Technical Assistant which occurred on or before 30.12.94 in accordance with the Statutory Rules as they stood prior to the amendment on 31.12.1994.

5 Application is allowed as aforesaid. No costs.

Dated the 21st August, 1995.


P SURYAPRAKASAM
JUDICIAL MEMBER


P V VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

LIST OF ANNEXURES

1. Annexure A2: A true copy of the Telecom Technical Assistant Recruitment Rules 1991 of the 1st respondent.
2. Annexure A7: A true copy of the draft of the Telecom Technical Assistant Recruitment (Amendment) Rules 1994 issued by the Dept. of Telecom, New Delhi vide No.7/58/90 N.C.G. dated 13.11.1994.

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