

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos.194/2002 & 239/2002

Monday this the 5th day of August, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

OA 194/2002:

1. E.Abu, Employee No.4336, Sub Inspector (Phones)
Office of the SDE(External), Nadakkavu.
2. Lohithakshan E, Employee No.7211, Sub Inspector
Phones, Office of SDE, Malaparamba, Calicut.
3. M.Govindan, Employee No.7119, Sub Inspector
(Phones), Office of SDE Feroke, Nallam Exchange.
4. S.M.Mukundan, Sub Inspector (Phones)
Employee No.7271, Telephone Exchange, Thamarassery.
5. Raju M. Employee No.7265, Sub Inspector (Phones)
Office of SDE, Malaparamba.
6. Gopalan Nair, Employee No.7233,
Sub Inspector (Phones), Office of SDE
Kunnamangalam.
7. Chandran K II Employee No.7203, Sub Inspector
(Phones), Telephone Exchange, Elathur.
8. Suresh V. Employee No.4349,
Sub Inspector (Phones), Office of SDE
Palayam, Calicut.
9. K.Chandrakanthan, Sub Inspector (Phones)
Employee No.4308, Office of SDE(External II)
Vellappil, Nadakkavu, Calicut.
10. Premanand K.C. Employee No.4344,
Sub Inspector (Phones), Office of SDE (External)
Palayam, Calicut.
11. Sukumaran K.V. Sub Inspector (Phones)
Employee No.4329, Office of th SDE
(External) West Hill, Calicut.
12. Bhaskaran K.K. Employee No.4307,
Sub Inspector (Phones) Office of the SDE (External)
West Hill, Calicut.
13. Krishnankutty M.I. Employee No.7204,
Sub Inspector (Phones), Telephone Exchange,
Elathur, Calicut.
14. Jayaprakashan K. Employee No.7120
Sub Inspector (Phones), Office of the SDOT
Calicut.

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15. Mohan Babu K Employee No.7153,
Sub Inspector (Phones)
Telephone Exchange, Atholi, Calicut.
16. Moideen K.P. Telecom Mechanic (Officiating)
Employee No.2621, Office of the SDE
Ponmeri, Telephone Exchange,
Palayada Nada Vadakkara.
17. K.Velayudhan, Sub Inspector (Phones)
Employee No.4351, Office of the SDE
(External) Nadakkavu.
18. Abdul Majeed C.P. Sub Inspector (Phones)
Employee No.7221, Telephone Exchange, Palayada Nada
Vadakkara.
19. P.Viswanathan, Employee No. 7209,
sub Inspector (Phones)
Office of the SDE(Phones) Feroke.
20. Ibrahim A. Employee No. 7270
SI (Phones), Telephone Exchange,
Cherooppa.
21. Chandran C.P. Employee No.7158, Telecom Mechanic
(officiating), Telephone Exchange,
Champala, Vadakkara.

...Applicants

Vs.

1. Chief General Manager, Telecommunications,
BSNL, Thiruvananthapuram.
2. General Manager, Telecommunications,
BSNL, Calicut.
3. General Manager, Telecommunications,
BSNL, Malappuram.
4. Union of India, represented by Secretary,
Ministry of Communications,
Sanchar Bhavan, New Delhi.

..Respondents

O.A.No.239/2002:

1. K.P.Basheer, Sub Inspector (Phones)
Employee No.4341,
Office of the SDE, Mankavu.
2. V.Gopalan, Sub Inspector (Phones)
Employee No.4314, Office of the SDE
(External), Malaparamba, Calicut.
3. E.Janapalan, Sub Inspector (Phones)
Employee No.2624, Office of the DE
Malaparamba, Calicut.
4. V.Mammali, Sub Inspector (Phones)
Office of the SDE, Panniyankara.

Contd.....



5. M.Sami, Sub Inspector (Phones)
Employee No.4322, Malaparamba, Calicut.
6. K.Gangadharan Nair, Sub Inspector (Phones)
Employee No.4312, Office of the SDE
(External), West Hill, Calicut.
7. M.Radhakrishnan, Telecom Mechanic
(officiating), Employee No.4248,
Office of the SDE(External)Calicut.
8. K.Sudhakaan, Sub Inspector (Phones)
Employee No.7243, Telephone Exchange,
Chelannur, Calicut.
9. K.Nalinakshan, Sub Inspector (Phones)
employee No.7187, Office of the SDE
(IPhones)Quilandy.
10. P.P.Sasi, Sub Inspector (Phones)
Employee No.4325, Office of SDE Malaparamba.
11. P.Krishnankutty, Sub Inspector of Phones,
Employee No.4342, Office of the SDE Calicut.
12. I.K.Ajayakumar, Sub Inspector (Phoens)
employee No.4303, Office of the SDE(External)
III Nadakkavu, Calicut.
13. A.P.Chandran, Sub Inspector (Phones)
Employee No. 7178, Office of the SDE, Kunnammangalam,
Calicut.
14. E.Sudhakaran, Sub Inspector (Phoens)
employee No.4253, Office of the SDE (External)
Panniyankara.
15. P.J.George, Sub Inspector (Phones)
employee No.7213, Telephone Exchange,
Puduppadi.

..Applicants

V.

1. Union of India, represented by Secretary
Ministry of Communications, Sanchar Bhavan,
New Delhi.
2. Chief General Manager, Telecommunications,
BSNL, Thiruvananthapuram.
3. General Manager, Telecommunications,
BSNL Calicut.
4. General Manager, Telecommunications,
BSNL, Malappuram.

..Respondents

(By Advocate Mr.G.D.Panicker (for applicants in both cases)
Advocate Mr.C.Rajendran, SCGSC (counsel for respondents in
both cases)

The application having been heard on 5.8.2002, the Tribunal on
the same day delivered the following:

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ORDER

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

The facts, circumstances and point of law involved in both these cases being almost identical, these two cases are being heard and disposed of by this common order.

The applicants in both these cases were Line Inspectors/Sub Inspectors (Phones). On the basis of cadre restructuring a screening test was held in the year 1994 for being screened and appointed as Telecom Mechanics. The applicants at that time were drawing the same pay as Telecom Mechanics did not opt for the screening. Subsequently in the year 1998 when another opportunity was given to the applicants, they opted and they also were screened in. Those who appeared in the first screening test were trained and were appointed in their respective SSAs without any transfer and not waiting for creation of new posts being absorbed on personal upgradation basis. However, the applicants who were seniors to many of those who had been screened in the year 1994 on completion of training were by the impugned orders Annexures.A2 dated 28.2.2002 in both these cases posted in Malappuram SSA. Aggrieved by their posting in Malappuram SSA, the applicants have jointly filed these application seeking to set aside the order dated 28.2.2002 to the extent it related to the applicants declaring that the transfers of the applicants from Calicut SSA to Malappuram SSA are discriminatory and unsustainable



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and for a direction to the respondents to post the applicants in Calicut SSA itself against the vacancies available in Calicut SSA.

2. The applicants assail the impugned orders mainly on three grounds, firstly that they are senior in the cadre of Line Inspector/Phone Inspector, secondly that simply because a screening test was held in the year 1994 and the applicants did not appear in that they should not be pushed down to another SSA and thirdly that those who belong to the cadre of Line Inspectors/Phone Inspectors who appeared in the first screening test having been given posting in their station pushing the applicants to another SSA is arbitrary and discriminatory.

3. The respondents seek to justify the posting of the applicants in Malappuram SSA on the ground that those who were considered in the year 1994 were posted in the places where they were working, when the applicants were considered and sent for training Calicut SSA was a larger unit which got subsequently bifurcated into Malappuram SSA and Calicut SSA and that for deployment of staff where requirement is there, the applicants are being posted in Malappuram SSA which does not violate any rule or instruction on the subject.

4. We have heard the learned counsel on either side. Shri Panicker with considerable vehemence argued that Annexure.A7 order issued from the Directorate cuts at the



route of the respondents' contention that the posting of the applicants in Malappuram SSA was valid and justified. According to the learned counsel as per the instructions contained in the order Annexure.R.7 without waiting for new posts, the Telecom Mechanics are to be posted in their own SSAs.

5. A mere scrutiny of Annexure.R.7 issued on 11.9.2000 would show that this was issued prior to the bifurcation of the Calicut SSA and that therefore, Calicut and Malappuram as two different SSAs had not come into existence on that date. Learned counsel then invited our attention to Annexure.A3 dated 1.4.2002 which took away the distinction between the regular Phone Inspectors and Line Inspectors and Line Inspectors and Phone Inspectors (O). This also does not advance the applicants' case. Annexure.A3 order was issued after the issue of Annexure.A2 order in both these cases. The deployment of staff in their control and command to places where their services are required is the absolute privilege of the administrative head of the department unless total arbitrariness or malafides is noticed the



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Courts and Tribunals would not interfere with the routine administrative functions. Hence prima facie we do not find any occasion for interference as there is neither malafide nor arbitrariness. The applications fail and the same are dismissed leaving the parties to bear their own costs.

Dated the 5th day of August, 2002.

Sd/-
(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER

Sd/-
(A.V.HARIDASAN)
VICE CHAIRMAN

(s)



- 8 -
A P P E N D I X

Applicants' Annexures:

O.A.194/2002

1. A-1: A true photocopy of the order No.SDC 3049/MRX/2001-2002/1 dated 24.10.2001 issued by the 2nd respondent.
2. A-2: A true photocopy of the order No.SDC 3049/MRX/2001-2002/8 dated 28.2.2002 issued by the 2nd respondent.
3. A-3: A true photocopy of the BSNL Order No.250-74/01-PERS dated 1.4.2002
4. A-4: A true photocopy of Order No.SDC-3067/1999-2000/88 dated 23.10.2000 of the 2nd respondent.

Respondents' Annexures:

1. R-1: True copy of Presidential order No.27-1/KRL/Kozhikode/563/2001 dated 5.2.2002 (Applicant No.2)
2. R-1a: True copy of Presidential order No.27-1/KRL/Kozhikode/933/2001 dated 11.2.02 (Applicant No.4)
3. R-1b: True copy of Presidential order No.27-1/KRL/Kozhikode/565/2001 dated 5.2.02 (Applicant No.5)
4. R-1c: True copy of Presidential order No.27-1/KRL/Kozhikode/1594/2001 dated 13.2.02 (Applicant No.6)
5. R-1d: True copy of Presidential order No.27-1/KRL/Kozhikode/1636/2001 of 13.2.02 (Applicant No.7)
6. R-1e: True copy of Presidential order No.27-1/KRL/Kozhikode/1167/2001 of 12.2.02 (Applicant No.8)
7. R-1f: True copy of Presidential order No.27-1/KRL/Kozhikode/1168/2001 of 12.2.02 (Applicant No.10)
8. R-1g: True copy of Presidential order No.27-1/KRL/Kozhikode/596/2001 of 5.2.02 (Applicant No.12)
9. R-1h: True copy of Presidential order No.27-1/KRL/Kozhikode/1667/2001 of 13.2.02 (Applicant No.14)
10. R-1i: True copy of Presidential order No.27-1/KRL/Kozhikode/1844/2001 of 14.2.02 (Applicant No.15)
11. R-1j: True copy of Presidential order No.27-1/KRL/Kozhikode/898/2001 of 11.2.02 (Applicant No.19)



Respondents' Annexures:

12. R-1k: True copy of Presidential order No.27-1/KRL/Kozhikode/2424/2001 of 15.2.02 (Applicant No.21)
13. R-2: True copy of clarification letter No.250-74/2001-PERS III of 1.4.02 issued by Asst. Director General (PER III), BSNL.
14. R-3: True copy of letter No.27-4-/87-TE-II(2) dated 16.10.90 issued by Department of Telecommunications.
15. R-4: True copy of letter No.Rectt/77-1/Rlgs/91 dated 2.8.91 issued by the 2nd respondent.
16. R-5: True copy of letter No./SRT-7114/20 of 6.5.94 issued by the 3rd respondent.
17. R-6: True copy of letter No.7.27/94-NGC dated 3.4.96 issued by the 2nd respondent.
18. R-7: True copy of letter No.15-16/98-TE-II 5.9.2000 Dept. of Telecom.

O.A.239/2002

Applicants' Annexures:

1. A-1: A true photocopy of the order No.SDC 3049/MRX/2001-2002/1 dated 24.10.2001 issued by the 2nd respondent.
2. A-2: A true photocopy of the order No.SDC 3049/MRX/2001-2002/6 dated 28.2.2002 issued by the 2nd respondent.

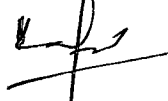
Respondents' Annexures:

1. R-1: True photocopy of clarification letter No.250-74/2001-PERS III dated 1.4.2002 issued by Assistant Director General (PERS III), BSL.
2. R-2: True copy of clarification letter No.250-74/2001-PERS III of 1.4.02 issued by Asst. Director General (PER III), BSNL.
3. R-3: True copy of letter No.27-4-/87-TE-II(2) dated 16.10.90 issued by Department of Telecommunications.
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7. R-7: True copy of letter No.15-16/98-TE-II 5.9.2000 Dept. of Telecom.

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29.8.02

CERTIFIED TRUE COPY

Date 2. 09. 02



Section Officer (Judl.)

