

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 03 of 2009

Thursday, this the 7th day of January, 2010

CORAM:

***HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER***

Sreekanth V.K.,
S/o. V.K. Raveendran,
Vayakkara,
Post Padiyottuchal,
Via. Payyannur.

... **Applicant.**

(By Advocate Mr. P.V. Mohanan)

v e r s u s

1. The Deputy General Manager,
Bharat Sanchar Nigam Limited,
Office of the Chief General Manager Telecom,
Kerala Circle, Trivandrum.
2. The General Manager, Telecom,
Bharat Sanchar Nigam Limited,
Kannur.

... **Respondents.**

(By Advocate Mr. N. Nagresh)

The Original Application having been heard on 07.01.2010, this Tribunal on the same day delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant, who has at his credit Diploma in Applied Electronics (Three year Course) of the State Board of Technical Education conducted in Model Polytechnic College, Vadakara, which qualification has been held to be equivalent to the corresponding course of Electronics/Power Electronics conducted in General Polytechnic Colleges, vide Annexure A-1 and A-2 respectively, has been an aspirant for the post of Telecom Technical Assistant in the Bharat Sanchar Nigam Limited, which had notified certain vacancies vide Annexure A-3. His candidature was

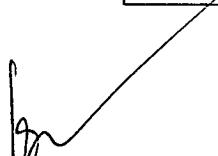
rejected on the ground, "No required educational qualification" vide Annexure A-4.

On the strength of an interim order passed by the Tribunal, the applicant was provisionally admitted to participate in the selection examination and according to the applicant, he is stated to have qualified in the same.

2. The contention of the applicant is that the aforesaid qualification is covered as the requisite qualification for the said post, whereas, the contention of the respondents is that the applicant does not fulfill the requisite qualifications both as per the Recruitment Rule as well as the consolidated instructions,

3. Recruitment Rules as well as the notification vide Annexure R-1(a) filed by the respondents and the consolidated instructions vide Annexure R-1(f) filed by the applicant stipulate the qualification requirements as under:-

<i>As per Recruitment Rules</i>	<i>As per consolidated instructions</i>
Three years Engineering Diploma in Telecommunications Engineering/ Electronics Engineering/ Electrical Engineering/ Radio Engineering/ Computer Engineering/ Instruments Technology/ M.Sc (Electronics) from a recognized Institution/University.	<p>(a) Three years Engineering Diploma in Telecommunications Engineering/ Electronics Engineering/ Electrical Engineering/ Radio Engineering/ Computer Engineering/ Instruments Technology</p> <p>(b) M.Sc (Electronics) from a recognized Institution/University.</p> <p>Note: (a) Only such qualification and streams as proscribed in the Recruitment Rule of TTA 2001 may be allowed. There is no equivalence provided.</p> <p>(b) Candidates possessing higher qualification in the eligible stream are allowed to appear in the examination.</p> <p>(c) Candidates possessing Three year Diploma Certificates are eligible to appear in the Exam irrespective of percentage of marks obtained by them.</p> <p>(d) In case a candidate is possessing requisite educational qualification, irrespective of having entered the course in the 2nd year through lateral entry level after 10 + 2, he/she will be eligible to appear in the examination.</p>



4. Counsel for the applicant laid emphasis upon note No. (C) above and contended that as per the above note the applicant does fulfill the qualification and he having qualified in the examination conducted by the respondents (under the strength of the interim order), he should be selected for the post of Telecom Technical Assistant.

5. Counsel for the respondents submitted that an identical issue arose in another case before the Hon'ble High Court and the High Court dismissed the writ petition vide Judgment dated 6th December, 2007 in Writ Petition (c) No. 35742 of 2007, wherein it has been held as under:-

"7. In the statement filed by the respondents, reference is made to the Recruitment Rules Ext. R1 (a). The qualification prescribed for the post of Telecom Technical Assistant reads as follows:

"3 years Engineering Diploma in Telecom Engineering/Electronics

Engineering/Electrical Engineering/Radio Engineering/Computer

Engineering/Instrument Technology/M.Sc. (Electronics) from a recognised Institution/University."

8. The Recruitment Rules did not contemplate any equivalent qualification to the prescribed qualification, nor does it vouchsafe any power with the BSNL or any other authority to declare any other qualification, as is conferred on the State Government under Rule 13 of Part II Kerala State and Subordinate Rules, in relation to appointments in the State service. In the circumstances, according to the Standing Counsel, unless the applicants possess the notified qualification, they cannot be treated as qualified in terms of the notification. The petitioners have referred to a clarification issued by the Director of Technical Education, Ext. P5 Government Order G.O. (MS) No. 5/94/H.Edn. Dated 7.1.1994 by which the Government has declared that the courses conducted in Model Polytechnic, Vadakara as equivalent to the corresponding courses conducted in Regular Polytechnics. Thus, the Diploma in Computer Hardware Maintenance undergone in the Model Polytechnic is declared as equivalent to the diploma in electronics in a regular Polytechnic.

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Reference is also made to Ext.P6, certificate of equivalence issued by the Principal of the Model Polytechnic, Vadakara. Therefore, it is contended that since the authority, which has issued the certificate of Diploma in Computer Hardware Maintenance to the petitioners has declared that it is equivalent to Diploma in Computer Engineering, the same should have been treated as and adequate qualification in terms of the notification.

13. xxxxxxxx xoooooooo. Firstly, the post in question is one in the BSNL and the selection thereof is governed by the Recruitment Rules in force in the BSNL. Any perception of the Department of Technical Education, Government of Kerala would not be binding on them. Significantly, there is no provision either in the Recruitment Rules or in the notification enabling even the appointing authority to declare any qualification other than other than prescribed qualification as equivalent. In such circumstances, the appointing authority would be disabled from even considering whether a qualification, other than the notified qualification, is an equivalent qualification as such. xooooxx xooooxx .

14. Insofar as the second petitioner in W.P.(C) No. 35819/07 is concerned, he possesses a Diploma in Applied Electronics. A perusal of Ext.P1 would show that a Diploma in Applied Electronics is not one of the prescribed qualifications in clause (IV) of the notification. Thus, for the same reason, as is mentioned above, the second petitioner also cannot be considered as qualified in terms of the notification.”

6. Counsel for the applicant argued that the above decision has not specifically dealt with Note (C) and hence, this case is distinguishable.

7. The case has been considered. The qualification requirements as per the Recruitment Rules are specific without providing for any equivalence. Hence, unless an individual possesses any of the prescribed qualifications as per the Recruitment Rules, he cannot be held to be eligible to apply to the post. The Rules both define as well as confine the requisite qualifications. The consolidated instructions too specify the same. Note (a) ousts those having equivalent qualifications from the field. In so far as Note (C) is concerned, all that is to be interpreted is that whereas in the qualification requirement, the stipulation is Three

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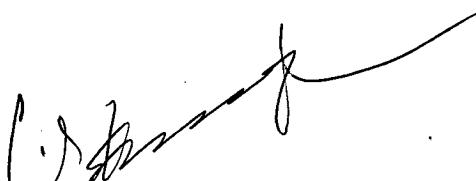
years Engineering Diploma, if any individual possesses Three year Diploma Certificates (of course, in the relevant faculty), then again, he could be admitted. Nothing less; nothing else! That there is no equivalence provided has been emphasized in the High Court Judgment relied upon by the counsel for the respondents.

8. In view of the above, the applicant not fulfilling the qualifications, he is not eligible for the post. The O.A. is therefore, dismissed. No costs.

(Dated, the 7th January, 2010)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(Dr. K B S RAJAN)
JUDICIAL MEMBER

CVR.