

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 311 1990
T. A. No.

DATE OF DECISION 24.1.1991

M. Venkateswaran and 2 others Applicant (s)

Mr. Sasidharan Chempazhanthiyil Advocate for the Applicant (s)

Versus
Union of India and 2 others Respondent (s)

Mr. A A Abul Hassan Advocate for the Respondent (s) 1 & 2

CORAM:

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

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

SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicants are officers working in the Telegraph Engineering Service Group 'B' under the second respondent. Before becoming officers in TES Group 'B', all of them were Engineering Supervisors, now designated as Junior Telecom Officers. According to Rule 206 of the P & T Manual Vol. IV all Engineering Supervisors after serving for five years will have to pass a Departmental Qualifying Examination before being considered for promotion to TES Group B. All the applicants passed the Departmental Qualifying Examination earlier than the Respondent No. 3 and were promoted to TES Group B earlier than him and the seniority was also fixed accordingly in 1985.

2. The present grievance of the applicants is that in the subsequent Gradation List, the seniority of the third respondent was fixed above the applicants and when they objected to it by filing representation Annexure-VIII and similar representations, no action was taken by respondents 1 & 2 to correct the error. Hence they have filed this application with the following reliefs:

- "i) Declare that the fixation of seniority of the third respondent above the applicants as appearing in the 1989 Gradation List (Blue Book Annexure-V as invalid;
- ii) Direct the respondents 1 and 2 to place the third respondent below the applicants in the seniority in the cadre of TES Group 'B';
- iii) Declare that the applicants are eligible for promotion and consequential benefits earlier than the third respondent to the cadre of TES Group 'B' as well as to the J.T.S. Group 'A' in the Telecom Department under the second respondent;
- iv) Any other further reliefs that the Hon'ble Tribunal may deem fit and proper having regard to the facts and circumstances of the case
- v) Allow the applicants the cost of these proceedings."

3. Though the ACGSC took notice on behalf of the respondents, no counter affidavit has been filed on behalf of respondents 1 & 2 despite several adjournments. Today when the case came up for final hearing the learned counsel for the respondents 1 and 2 submitted that in spite of repeated letters he is not getting any response or instruction from the respondents 1 & 2. He also stated that he has no instruction and this case can be decided without any reply from the respondents 1 & 2. There was no appearance for the third respondent.

4. The learned counsel for the applicant submitted that similar matter has already been heard and decided by the Tribunal in O.A. K. 112/88. The operative portion is extracted below:

"In view of what is stated above, we allow the application, quash the Annexure Ext. A-5 order of Director (ST), Telecommunications dated

23.12.1987 to the extent of promoting the fourth respondent who has passed the Departmental Qualifying Examination only in the year 1985 i.e. subsequent to the date on which the applicant passed the Examination before promoting the applicant and direct the respondents to promote the applicant with effect from the date prior to a date of promotion of any Junior Engineer to Telegraph Engineering Group 'B' Service who passed the Departmental Qualifying Examination subsequent to the date of passing of the Examination by the applicant (1977) and adjust the seniority accordingly and to pay him pay and allowances accordingly with effect from the said date. There will be no order as to costs."

5. After considering the matter we follow the judgment in O.A.K. 112/88 and allow the application to the extent of quashing Annexure A-5, 1989 Gradation List, in so far as the promotion of the third respondent. We also direct the respondents 1 & 2 to place the third respondent below the applicants in the seniority list in the cadre of TES Group B. The applicants should be given all consequential benefits. The application is allowed. There will be no order as to costs.

N. Dharmadan
(N. Dharmadan) 24.1.91

Judicial Member

S. P. Mukerji
(S. P. Mukerji) 24.1.91

Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

R.A. 60/91 in

O.A. No. 311/90

T.A. No.

109

DATE OF DECISION 12.11.91

Union of India represented by Applicant (s)
Secretary, Ministry of Communications
New Delhi and another

Mr. K. Prabhakaran Advocate for the Applicant (s)

Versus

Mr. Venkateswaran & 2 others Respondent (s)

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

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
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4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

In this application, filed for review of our judgment dated 24.1.91, the respondents 1 & 2 in the original application, state that the Tribunal has committed an error in holding that Rule 206 of P & T Manual Vol. IV is applicable in the case of the applicant.'

2. The respondents, the review applicants, did not file any reply statement or raise any such contention at the time of hearing. They were unable to distinguish the judgment of the Allahabad High Court and this Tribunal in

10

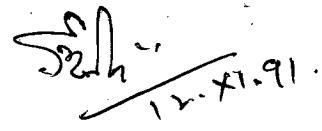
O.A.K. 112/88 and hence we followed them and allowed this case.

3. Now the respondents cannot raise the above issue for reviewing our judgment. The failure of the respondents to contest the case compelled us to follow our own judgment in O.A.K. 112/88 and pass orders in this case.

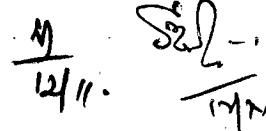
4. Under these circumstances there is no error or mistake warranting a review of the judgment in this case. Hence, it is to be rejected. We do so.


(N. DHARMADAN)
JUDICIAL MEMBER

12.11.91


(S. P. MUKERJI)
VICE CHAIRMAN

kmm


12/11. 1991

Agreed in the open Court.