

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 313/90
~~T. A. No.~~

DATE OF DECISION 29.5.91

~~Merly.K.J. and another~~ Applicant (s)

Mr.M.R Rajendran Nair Advocate for the Applicant (s)

Versus

Union of India, represented by Secretary Respondent (s)
to Government, Department of Communication,
New Delhi and another

Mr.N.N.Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM:

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

The Hon'ble Mr. A.V.HARIDASAN, 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? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT
(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 18.4.90 filed under Section 19 of the Administrative Tribunals Act, the two applicants who are Science Graduates and have been candidates for the post of Junior Telecom Officers (JTO) have prayed that they should be declared to be entitled to be considered for selection and appointment as JTO on the basis of the marks obtained by them in Part III of B.Sc. Degree Examination and that the second respondent, i.e., the Chief General Manager, Telecommunications, Kerala Circle directed to consider the applicants alongwith others in preference to those who have lesser marks than the applicants.

2. According to the applicants, in April 1989, the second respondent issued notification inviting applications for the post of Junior Telecom Officers in which it was indicated that the selection would be strictly according to the order of merit on the basis of aggregate marks obtained in the Degree Examination to the extent of the ^{number of} vacancies. The first appli-

cant had 96.8% marks in Part III of B.Sc. while the second applicant 96.2% marks. The applicants grievance is that candidates with lesser marks have been invited for the interview whereas they have been excluded. The respondents' case is that candidates were called for the interview strictly on the basis of the order of merit based on the aggregate percentage of marks obtained by them in the Degree Examination. This was in accordance with the Recruitment Rules. They have also referred to the clarification issued by the Director General, P&T at Annexure-1 produced by the applicants in amplification of the earlier letter dated 16.2.74 which stated that the marks in all the Parts, i.e., Parts I, II and III etc. or in all the semesters which are conducted in the Universities and are reckoned for determining the Divisions or merit in the awarding of the final Degree/Diploma should be reckoned for determining the inter se merit. They have clarified that the 60% marks in Part III of the B.Sc. course is only for eligibility but selection is based on the aggregate marks in all the Parts of the Degree Examination. The respondents have referred to the decision of this Tribunal in O.A 149/90 at Annexure R4 delivered by this very Bench, in which it was laid down that 60% marks in the aggregate in Part III of the Degree Examination is an eligibility criterion whereas ^{the} percentage of aggregate marks obtained in all the Parts is the selection criterion.

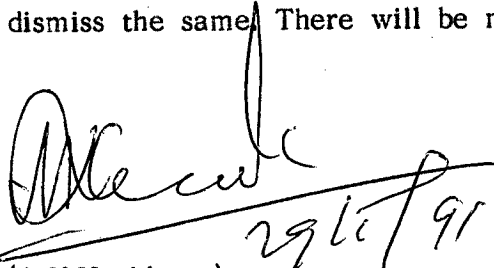
3. We have heard the arguments of the learned counsel for both the parties and gone through documents carefully. The application O.A 149/90 was filed by two applicants who were Science Graduates under identical circumstances. They had prayed that the marks obtained by them in Part III of the Degree Examination, i.e., on the main subjects alone should be considered for selection. After elaborate discussion in that case we observed as follows:-

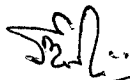
"The Recruitment Rules as they stand, as also the Advertisement and Instructions to the Candidates clearly distinguish between the eligibility and selection criteria. For ordinary Science graduates the eligibility criterion is at least "60% marks in the aggregate obtained in Part-III of the Degree examination of recognised University". For selection it is clearly laid down that the basis would be "the order of merit on the basis of the aggregate marks obtained in the Degree examination to the extent of vacancies". Thus, it will be a violation of the Recruitment Rules and the advertised criteria if at this stage the selection criterion is changed from aggregate

marks to marks in Part III of the Degree examination for ordinary Science graduates.

8. So far as the administrative instructions dated 15.9.81 and 28.8.82 are concerned, we do not find anything in them which would persuade us to recognise marks in Part III paper to have been laid down as the criterion for selection. These instructions referred to 60% of the marks in Part III of the B.Sc course as relevant for eligibility and not for selection."

In view of the above, we see no force in the application before us and dismiss the same. There will be no order as to costs.


(A.V. Haridasan)
Judicial Member


29.5.91
(S.P. Mukerji)
Vice Chairman

29-05-1991.