

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.328 of 1995

CORAM Monday, this the 21st day of August, 1995.

HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

- 1 C Lakshmy Narayanan,Technician,
Telephone Exchange, Panampilly Nagar(Ernakulam Dist)
- 2 M K Radha, Technician,
Central Telegraph Office,
M G Road, Ernakulam.
- 3 Santhosh Babu Jacob,Technician,
Remote Line Unit,Telephone Exchange,
Boat Jetty, Ernakulam.
- 4 Salomy S Babu, Technician,
Cross Bar Exchange, Telephone Exchange,
Boat Jetty, Ernakulam.
- 5 Mohandas, Technician, Telephone Exchange,
Alathur, Palghat District.
- 6 C Sreekumar, Technician,
Auto Telephone Exchange, Palghat.
- 7 N M Suresh, Technician,Telephone Exchange,
Koduvayur, Palghat.Applicants

(By Advocate Mr V R Ramachandran Nair)

Vs

- 1 Union of India rep. by the Director General,
Department of Telecommunication,
New Delhi.
- 2 The General Manager,
Telecommunications Ernakulam,
Cochin- 682 036.
- 3 The Telecom District Manager,
Palghat- 678 014.
- 4 C Sreekumar, Technician,
Telephone Exchange, Palarivattom.
- 5 K Ammini, Technician,
Telephone Exchange, Kalamassery.
- 6 T P Lakshmana Gupthan, Technician,
Telephone Exchange, Mannarcad,
Palghat District.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

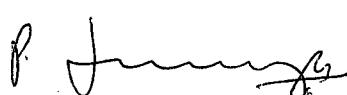
P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants pray for a declaration that A2 order is in conformity with Rule 9 of Annexure A1. They also pray that they be sent for training in accordance with A4 and A5, as a consequence.

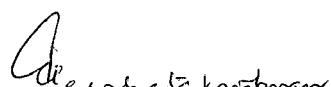
2 The Tribunal in O.A.1047/94 and connected cases had already held that the executive instructions amending the Recruitment Rules would be followed only after the amendments are notified and the Statutory Rules are amended according to rules. Review applications were filed against that decision contending inter alia that the A2 order in this O.A. was issued under Rule 9 of A1 herein, which is the prayer (i) here. The Review Applications were dismissed, stating inter alia, that it cannot be accepted that A2 was issued under Rule 9 of A1. Thus the Tribunal has already rejected prayer(i). Prayer (ii) also fails as a consequence.

3 The application is dismissed. No costs.

Dated the 21st August, 1995.



P SURYAPRAKASAM
JUDICIAL MEMBER



P V VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

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(S.A.T. (PROCEDURE) RULES

RA No.18/95 in OA 741/94, RA No.37/95 in OA 741/94
RA No.27/95 in OA 1047/94, RA No.38/95 in OA 917/94
and RA No.43/95 in OA 790/94.

Friday, this the 4th day of August, 1995

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

....

RA 18/95 in OA 741/94

1. C Lakshmy Narayanan, Technician, Telephone Exchange, Panampilly Nagar, Cochin--682 036.
2. Santhosh Babu Jacob, Technician, Remote Line Unit, Telephone Exchange, Boat Jetty, Ernakulam.
3. C Sreekumar, Technician, Auto Telephone Exchange, Palghat.
4. B Malini, Technician, Trunk Maintenance, Trivandrum.
5. K Ramachandran Nair, Technician, Crossbar Power Room, Main Telephone Exchange, Trivandrum.
6. G Gopinathan Nair, Technician, OKI Exchange, Trivandrum.
7. V Parameswaran Nair, Technician, Office of the Divisional Engineer, Transmission Project, Chenthitta, Trivandrum.
8. VK Suresh Kumar, Technician, Telephone Exchange, Neyyattinkara.
9. MK Radha, Technician, Central Telegraph Office, MG Road, Ernakulam.
10. Salomy S Babu, Technician, Cross Bar Exchange, Boat Jetty, Ernakulam.
11. Mohandas, Technician, Telephone Exchange, Alathur, Palghat District.
12. NM Suresh, Technician, Telephone Exchange, Koduvayur, Palghat.
13. PK Murali, Technician, Telephone Exchange, Panampilly Nagar.
14. KA Rajamma, Technician, Office of the Sub-Divisional Engineer, Pulse Code Modulation Repair Centre, Panampilly Nagar, Cochin
15. CR Dileep Kumar, Technician, Digital Tax, Ernakulam, Cochin
16. C Surendran, Technician, Telephone Exchange, Alathur, Palghat.

....Review applicants

By Advocate Shri VR Ramachandran Nair.

vs.

contd.

1. Union of India represented by Secretary, Department of Telecom, New Delhi.
2. Assistant Director General (TE), Ministry of Communications, New Delhi.
3. The Chief General Manager, Telecom, Kerala Circle, Thiruvananthapuram.
4. The General Manager, Telecom, Ernakulam, Cochin-16.
5. The Chairman, Telecom Commission, Sanchar Bhawan, New Delhi.
6. The General Manager, Telecommunications, Trichur.
7. James Kuruvilla, Technical, Telephone Exchange, Thodupuzha.
8. MA Alexander, Technician, Telephone Exchange, Karimkunnam, Thodupuzha.
9. PR Gopalakrishnan, Group D Telephone Exchange II, Thodupuzha.
10. P David, Group D Stored Programme Control, Telephone Exchange, Ernakulam.
11. KR Ajithan, Technician (Installation), Telephone Exchange, Trichur.
12. TP Lakshmana Guptan, Technician Telephone Exchange, Mannarkkad, Palghat Dist.
13. KV Usha, Technician, Telephone Exchange, Palakkad.
14. K Sankarankutty, Technical Supervisor, Telephone Exchange, Chalissery, Palakkad.
15. Sebi Louis, Technician, D Tax (Digital Tax), Telephone Exchange, Palakkad.
16. U Ramanand, Technician, D Tax, Telephone Exchange, Palakkad.
17. KE Rachel, Technician, Telephone Exchange, Mannarkkad, Palakkad.
18. K Lakshminarayanan, Technician, Telephone Exchange, D Tax, Palakkad.
19. Indu P, Technician, Office of the Sub Divisional Officer, Telephone, Palakkad.
20. M Bharathi, Technician, Telephone Exchange, Kollengode, Palghat Dist.
21. Saji Uthup, Koppazhayil House, SH Mount, PO Kottayam-6.
22. PR Vijayan, Purathel House, Kidangoor PO, Kottayam.
23. KV Johnkutty, Kizhakkekara, Kallekulam, Poonjar South PO.
24. Jose Thomas, Methiramparampil, Kanjirathanam PO, Kottayam District.
25. Joemon P Kurian, Technician, Puliakkunnel House, Nalunnakal PO, Vakathanam, Kottayam.
26. T Sunil Kumar, Technician, Lakshmipuram House, Kumarakom, Kottayam.

contd.

27. Biju Abraham, Technician, Kaduthattu House, Chamampattel PO, Kottayam.
28. TS Manoj, Technician, Thokathottathil, Kadappattoor PO, Pala.
29. Cyriac Sebastian, Technician, Kulathinal House, Narianganam PO, Pala.
30. Marykutty Joseph, Technician, Edayodiyil, Poonjar South PO, Kallekulam.
31. Thomas MM, Technician, Cherukizhangil, Vallichira PO, Palai.
32. Prince J Paruvanany, Technician, Paruvanany, Kozhuvanal PO.
33. Shaji Mathew Srampickal, Technician, Srampickal, Njandupara PO, Poovarany.
34. OK Haridasan, Technician, Orakanamkuzhi, Karikode PO, Peruva Kottayam District.
35. Manoj G Varma, Technician, Thekkumcore Palace, SHM PO, Nattassery, Kottayam.
36. Santhosh Kumar B, Technician, Ushus, Eruthikal Junction, Kottayam—3.
37. Sabu M Yohannan, Technician, Maravanthuruthu PO, Vailom, Kottayam.
38. Saji VS, Technician, Telephone Exchange, Madathara.
39. S Suseelan Pillai, Technician, Telephone Exchange, Ayoor PO.
40. Rajamohan R, Technician, PCM(J) o/o SDE PCM Construction, Vadayattukotta, Kollam.
41. R Muraleedharan, Senior Technical Supervisor, Telephone Exchange, Kalamassery.
42. K Gopalakrishnan, Senior Technical Supervisor, Unit I Telephone Exchange, Kollam.
43. KK Baby, Senior Technical Supervisor, AC and Power Plant, Central Telephone Exchange, Thiruvananthapuram.
44. C Narayanan kutty, Senior Technical Supervisor, Telephone Exchange, Palakkad.
45. K Krishnandan, Senior Technical Supervisor, Trunks, Telephone Exchange, Ernakulam, Cochin.
46. MK Sudhakaran, Technician, Auto Exchange, Punalur.
47. R Rajam, Technician, Auto Exchange, Kottarakkara.
48. Santhosh Kumar G, Kolanji Kompil House, Nellippally PO, Punalur.

....Respondents

By Advocate Shri Raju K Mathews.

contd.

RA 37/95 in OA 741/94

TP Girijakshan, Technician, Cross Bar Exchange,
Ernakulam.

....Review applicant

By Advocate Shri VR Ramachandran Nair.

vs.

1. Union of India represented by Secretary,
Department of Telecom, New Delhi.
2. The Assistant Director General (TE),
Ministry of Communications, New Delhi.
3. The Chief General Manager, Telecom, Kerala Circle,
Thiruvananthapuram.
4. The General Manager, Telecom, Ernakulam, Cochin-16.
5. Jomon Kuruvilla, Technician, Telephone Exchange, Thodupuzha.
6. MA Alaxander, Technician, Telephone Exchange,
Karimkunnam, Thodupuzha.

....Respondents

By Advocate Shri Raju K Mathews.

RA 27/95 in OA 1047/94

PP Mohandas, Technician, Telephone Exchange,
Alathur, Palghat District.

....Review applicant

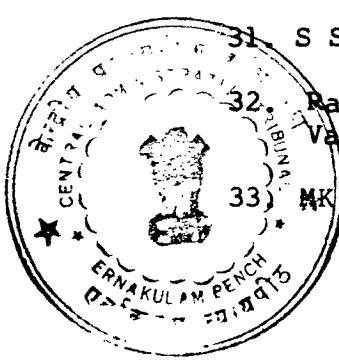
By Advocate Shri VR Ramachandran Nair.

vs.

1. The Assistant Director General (TE),
Ministry of Communications, New Delhi.
2. The Chairman, Telecom Commission, Sanchar Bhawan, New Delhi.
3. Union of India represented by Secretary,
Department of Telecom, New Delhi.
4. TP Lakshmana Guptan, Technician, Telephone Exchange,
Mannarkkad, Palghat District.
5. KV Usha, Technician, Telephone Exchange, Chalissery, Palakkad.
6. K Sankarankutty, Technical Supervisor, Telephone Exchange,
Chalissery, Palakkad.
7. Sebi Louis M, Technician, Digital Tax,
Telephone Exchange, Palakkad.

contd.

8. U Ramanad, Technician, D Tax, Telephone Exchange, Palakkad.
9. KE Rachel, Technician, Telephone Exchange, Mannarkad, Palakkad.
10. K Lakshminarayanan, Technician, Telephone Exchange, D Tax, Palakkad.
11. Indu P, Technician, Office of the Sub Divisional Officer, Telephone, Palakkad.
12. M Bharathi, Technician, Telephone Exchange, Kollengode, Palghat District.
13. Saji Uthup, Koppazhayil House, SH Mount, Kottayam-6.
14. PR Vijayan, Purathel House, Kidangoor PO, Kottayam.
15. KV Johnkutty, Kizhakkekara, Kallekulam, Poonjar South PO.
16. Jose Thomas, Methiramparambil, Kanjirathanam PO, Kottayam District.
17. Joeamon P Kurian, Technician, Puliakkunnel House, Nalunnakal PO, Vakathanam, Kottayam.
18. T Sunil Kumar, Technician, Lakshmipuram House, Kumarakom, Kottayam.
19. Biju Abraham, Technician, Kaduthattu House, Chamampattel PO, Kottayam.
20. TS Manoj, Technician, Thokathottathil, Kadappattoor PO, Pala.
21. Cyriac Sebastian, Technician, Kulathinal House, Narianganam PO, Pala.
22. Marykutty Joseph, Technician, Edayodiyil, Poonjar South PO, Kallekulam.
23. Thomas MM, Technician, Cherukizhangil, Vellichira PO, Palai.
24. Prince J Paruvanany, Technician, Paruvanany, Kozhuvanal PO.
25. Shaji Mathew Srampickal, Technician, Srampickal, Njandupara, Poovarany.
26. OK Haridasan, Technician, Orakanamkuzhi, Karikode PO, Peruva Via, Kottayam District.
27. Manoj G Varma, Technician, Thekkumcore Palace, SHMPO, Nattassery, Kottayam.
28. Santhosh Kumar B, Technician, Ushus, Eruthikal Junction, Kottayam.
29. Sabu M Yohannan, Technician, Maravanthuruthu PO, Vailom, Kottayam.
30. Saji VS, Technician, Telephone Exchange, Madathara.
31. S Suseelan Pillai, Technician, Telephone Exchange, Ayoor PO.
32. Rajamohan R, Technician PCM(J), O/o SDE PCM Construction, Vadayattukotta, Kollam.
33. MK Sudhakaran, Technician, Auto Exchange, Punalur.



contd.

34. R Rajam, Technician, Auto Exchange, Kottarakkara.
35. Santhosh Kumar G, Kolanji, Kompil House, Nellippally PO, Punalur.
36. R Muraleedharan, Senior Technical Supervisor, Telephone Exchange, Kalamassery.
37. K Gopalakrishnan, Senior Technical Supervisor, Unit I Telephone Exchange, Kollam.
38. KK Baby, Senior Technical Supervisor, AC & Power Plant, Central Telephone Exchange, Thiruvananthapuram.
39. C Narayananakutty, Senior Technical Supervisor, Telephone Exchange, Palakkad.
40. K Krishnandan, Senior Technical Supervisor, Trunks, Telephone Exchange, Ernakulam, Cochin.

....Respondents

By Mr MHJ David J, Addl Central Govt Standing Counsel.

By Advocate Shri K Ramakumar.

By Advocate Shri MR Rajendran Nair.

RA 38/95 in OA 917/94

1. Union of India represented by Secretary, Department of Telecommunications, New Delhi.
2. The Assistant Director General, Department of Telecommunications, New Delhi.
3. The Chief General Manager, Department of Telecommunications, Kerala Circle, Thiruvananthapuram.
4. The General Manager, Department of Telecommunications, Ernakulam, Kochi.

....Review applicants

By Mr TPM Ibrahim Khan, Senior Central Govt Standing Counsel.

vs

P David, Gr 'D', Telephone Exchange, Ernakulam.

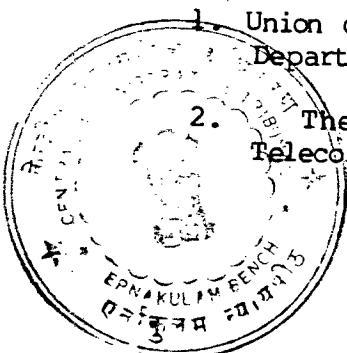
....Respondent

By Advocate Shri MR Rajendran Nair.

RA 43/95 in OA 790/94

1. Union of India represented by Secretary, Department of Telecommunications, New Delhi.
2. The Assistant Director General, Department of Telecommunications, New Delhi.

contd.



3. The Chief General Manager, Department of Telecommunications, Kerala Circle, Thiruvananthapuram.
4. The General Manager, Department of Telecommunications, Ernakulam, Kochi.

....Review applicants

By Shri TPM Ibrahim Khan, Senior Central Govt Standing Counsel.

vs.

PR Gopalakrishnan, Group 'D',
Telephone Exchange II, Thodupuzha.

....Respondent

By Advocate Shri Raju K Mathews.

The application having been heard on 04th August, 1995,
the Tribunal on the same day delivered the following:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Review applicants in all these Review Applications pray for a review of the common order of the Tribunal in OA 741/94 and connected cases dated 21.12.94. The grounds for review are as follows:-

(i) The impugned orders were issued in exercise of the powers to relax under Rule 9 of the Recruitment Rules and not an amendment of the Rules; and

(ii) though the impugned order does not specifically state that it is issued in exercise of powers under Rule 9, it should be presumed to have been issued in exercise of that power in the light of the decision in S Nagaraj & Ors vs State of Karnataka & Another, 1993 (5) SLR 1, paras 18 & 19 and M/s Pine Chemicals Ltd and Others vs Assessing Authority and Others, (1992) 2 SCC 683, para 9.

2.

In the reply statement at page 28 in OA 790/94, respondents

contd.

therein, Union of India (one of the review applicants herein) have stated:-

"About the averments in para 5A to D it is submitted that Annexure A2 statutory rules have been partially modified to replace competitive aptitude test by a qualifying screening test with a view to make it more effective and reasonable... Regarding its constitutional validity it is stated that, by this time, the revision of recruitment rules might have been rectified by the competent authority as indicated in the last sentence in the Annexure B orders."

[Emphasis added]

3. In the impugned order, it is stated (clause 5):-

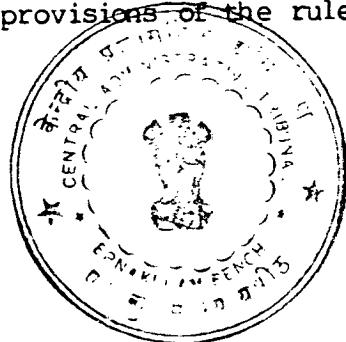
"Recruitment Rules of the restructured cadres,... will be prepared/amended to incorporate the criterion mentioned above."

4. It is also noticed that according to Rule 9, when a relaxation is made, the reasons therein have also to be recorded in writing. Rule 9 states:-

"Power to relax: Where the Central Government is of the opinion that it is necessary or expedient so to do, it may by order for reasons, to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons."

The impugned orders, apart from not recording any reasons for which respondents are stated to have relaxed the rules also do not state with respect to which class or category of persons relaxation of which provisions of the rules was done.

contd.



5. In the light of this, it is difficult for us to presume that what was really an amendment of an Article 309 Rule was done under Rule 9 of the Recruitment Rules. Learned standing counsel for Government, one of the review applicants, pointed out that an amendment has subsequently been notified on 31.12.94. He also stated that what has been done prior to the notification was saved by a clause in the notification. Be that as it may, it would only strengthen the contention that what was sought to be done was an amendment to the statutory rules and not a relaxation under Rule 9 in respect of any class or category of persons. A relaxation under Rule 9 does not require any statutory notification.

6. The Review Applications are without merit and are dismissed. No costs.

Dated the 4th August, 1995.

Sd/-
P SURYAPRAKASAM
JUDICIAL MEMBER

Sd/-
PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

CERTIFIED TRUE COPY
Date 11.8.95

Deputy Registrar

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