

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.375/2000

Friday this the 1st day of November, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.A.Rajan
Telecom Technical Assistant
RLU Exchange
Vellajittambalam
Kollam - 12.
Residing at Kochukizhakkathil House
Hudoyurkonam, Pandalam.

Applicant.

(By advocate Mr.Sasidharan Chempazhanthiyil)

Versus

1. Chief General Manager
Telecom, Kerala Circle
Thiruvananthapuram.
2. Director General
Telecom Department
New Delhi.
3. Union of India represented by
The Secretary
Ministry of Communications
New Delhi.

Respondents.

(By advocate Mr.C.Rajendran, SCGSC)

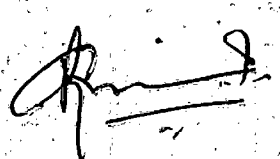
The application having been heard on 1st November, 2002,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant has filed this Original Application challenging A-9 Notification dated 8.3.2000 and A-10 letter dated 8.4.99 issued by the first respondent and Assistant Director General (STC) respectively. He is aggrieved by the respondents not permitting him to appear in the second qualifying Screening Test notified vide A-9. He sought the following reliefs through this OA:

- (i) Call for the records and quash A-9 to the extent it does not permit the applicant to participate in the screening test scheduled on 30.4.2000.



- (ii) Declare that the applicant is entitled to participate in the screening test scheduled vide A-9 for promotion to the cadre as JTO against 35% quota and direct the respondents to issue hall ticket to him.
- (iii) Call for the records and quash A-10.
- (iv) Declare that A-10 is discriminatory in as much as it classifies Rule 38 transferrers into two and direct the respondents to take action accordingly.
- (v) Grant such any other reliefs as may be prayed for and the Court may deem fit to grant and
- (vi) Grant the cost of this Original Application.

2. When the OA was taken up for final hearing on 30.10.02, both the coun~~y~~sel submitted elaborate arguments in support of their respective stands as contained in the pleadings. However, time was granted to them for checking the factual position in this case vis-a-vis the full bench order of this Tribunal in OA 47/2000 and connected cases. Today both counsel submitted that the grievance of the applicant in this OA is identical to the grievance of the applicant in OA No.418/00 in which this Tribunal had rendered order on 29.8.2000 and the order in the said OA would be squarely applicable in the case of the applicant in this OA also. It was further submitted that this Tribunal had disposed of OA No.418/00 following the dictum laid down by a Full Bench of the Tribunal in its common order in OA Nos.47, 418, 446 and 448 of 2000.

3. We have gone through the Original Application and the reply statement and have given careful consideration to the submissions made by the counsel on both sides. We find that the applicant in this OA was earlier working in West Bengal Circle and he was transferred to Kerala Telecom Circle under Rule 38 in 1994. The respondents did not permit the applicant to appear in



the Screening Test on the ground that he had not completed the required service in Kerala Circle. We find that the issue raised in this OA is identical to the one decided by this Tribunal in OA No.418/00 as submitted by the learned counsel for the parties.

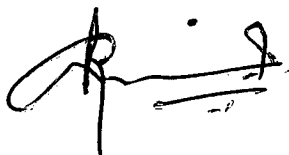
4. A Full Bench of this Tribunal interpreted and decided the issue of 6 years of regular service referred to in the Recruitment Rules as follows:

"The PI/AEA/WO/TA/TTA who possess the High School/Matriculation qualification should have completed six years of regular service in the Department in order to be eligible to appear for the Screening Test under the 35% quota as per the relevant recruitment rules."

5. In OA No.418/2000 this Tribunal held as follows:

"In this case the issue involved is whether the length of service put in by her in another Circle can be counted towards six years of regular service. As the Full Bench has decided that what is required for eligibility to appear in the screening test against 35% quota is only six years of regular service as distinct from the service in the eligible cadres, the length of service put in by her in Maharashtra Circle could not be excluded for the purpose of eligibility for appearing in the Screening Test. Further in OA 47/2000, we have held after considering the provisions of the Recruitment Rules R1(a) that for recruitment against 35% quota selection for JTO, only educational qualifications and length of service have been specified for eligibility and had not given any criteria of seniority. Therefore, even though the applicant is junior in the Kerala Circle, as the applicant has six years of service specified in the Recruitment Rules, we are of the considered view that she cannot be prevented from the Screening Test on the ground that she does not have the required service in Kerala Circle."

6. As admittedly applicant in this OA has completed 6 years of regular service and following the above dictum laid down by the Full Bench of this Tribunal and the order of this Tribunal in OA No.418/00, we are of the view that the applicant is entitled for a declaration that he is eligible to participate in the



Screening Test scheduled vide A-9 for promotion to the cadre of Junior Telecom Officer against 35% quota. Pursuant to an interim order dated 26.4.2000 of this Tribunal, the applicant was permitted to take part in the Screening Test scheduled on 30.4.2000 or on any deferred date. In the light of what we have held above, we make the interim order absolute. Respondents are directed to take follow up action as the applicant had already appeared in the Screening Test pursuant to the interim order.

7. The OA stands disposed of as above with no order as to costs.

Dated 1st November, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER

aa.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of order No.E-22/Confirmation/182 dated 24.10.1981 issued by the Sub Divisional Officer, Telegraph, Port Blair.
2. A-2: True copy of Memo No.ST/11-8/92-94 dated 12.7.1994 issued by the 1st respondent.
3. A-3: True copy of the Memo No.ST-B/TTA/Rectt/V/148 dated 17.4.1998 issued by the 1st respondent.
4. A-4: True copy of Memo No.ST-D/80-Tech/II/105 dated 15.6.1999 issued by the General Manager, Telecom District, Kollam.
5. A-5: True copy of the Junior Telecom Officer Recruitment Rule 1996 (relevant portion).
6. A-6: True copy of the representation dated 17.5.1999 to the 1st respondent.
7. A-7: True copy of the representation dated 26.11.1999 to the 1st respondent.
8. A-8: True copy of the representation dated 21.3.2000 to the 1st respondent.
9. A-9: True copy of order No.Rectt/30-6/99 dated 8.3.2000 of the 1st respondent.
10. A-10: True copy of the order No.5-17/99-NCG dated 8.4.1999 issued by the Assistant Director General.

Respondents' Annexures:

1. R-1A: Photo copy of the order No.5-17/99-NCG dated 8.4.99 issued by Asst. Director General.
2. R-1B: Photo copy of the order No.5-17/99-NCG dated 23.3.2000 issued by Asst. Director General.

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