

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 40 of 1998

Friday, this the 9th day of February, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER  
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. M. Viswanathan,  
Telephone Mechanic,  
Villiappally Exchange, Vadakara.
2. P. Rarichakutty,  
Telegraphman,  
Central Telegraph Office, Calicut. ....Applicants

[By Advocate Mr. G.D. Panicker]

Versus

1. Union of India, represented by its Secretary,  
Telecommunications, Sanchar Bhavan, New Delhi.
2. Director General,  
Telecommunications, Sanchar Bhavan, New Delhi.
3. Chief General Manager, Telecommunications,  
Vikas Bhavan PO, Trivandrum.
4. Chairman & Managing Director,  
Bharat Sanchar Nigam Ltd.,  
Sanchar Bhavan, New Delhi. ....Respondents

[By Advocate Mr. Govindh K. Bharathan, SCGSC (represented)]

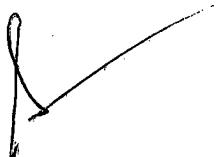
The application having been heard on 9th of February, 2001,  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants, two in number, seek to direct the respondents to restore A2 list to the extent it relates them after setting aside A3, to set aside A5, to declare that A3 list is against A1 notification and is therefore illegal in as much as there is no reservation declared for physically

..2.



handicapped persons in A1 notification, and in the alternative to direct the respondents to revalue the answer books of applicants and publish the result thereafter.

2. The 1st applicant is working as Telegraph Mechanic. The 2nd applicant is working as Telegraphman. In pursuance of the notification for conducting a departmental examination for promotion to the cadre of Telegraph Assistant/Telegraphist for the deferred recruitment of the year 1989, the applicants appeared. Results were published. As per A2, both the applicants passed the examination. A3 was subsequently issued in which the names of applicants are not seen. They submitted representation to the 3rd respondent. A5 is the reply to their representation turning down their request.

3. Respondents say that Papers I and II are common to both TOA(T) and TOA(TG) examinations. Appearance for Paper III and/or Paper IV are allowed as per option exercised in the application submitted for appearing in the examination. Candidates opting for the post of Telegraphist [TOA(T)] need to appear in Papers I, II and III, while those for Telegraph Assistant [TOA(TG)] need to write only Papers I, II and IV. Those who opt for both TOA(TG) and TOA(T) will be permitted to write all the papers, namely I, II, III and IV. Those who secure highest marks and are in the zone of consideration are required to write the dictation test.

4. In the additional reply statement, it is stated that what is stated in the original reply statement is a mistake as regards the number of papers. Telegraphists are to appear in

Papers I, II and IV and Telegraph Assistants are to appear only in Papers I, II and III. Those who opt for both are permitted to appear for Papers I, II, III and IV. Applicants opted for both Telegraphist and Telegraph Assistant posts and they appeared in all the papers.

5. The learned counsel appearing for the applicants fairly submitted across the bar that if the candidates selected for the posts of Telegraph Assistant as per A3 have obtained more marks in the examination than applicants, the applicants are to lose. At this juncture, we are constrained to say that we obtained absolutely no assistance from the learned counsel for respondents. We are at a loss to understand why the Department is engaging counsel to defend their case if the counsel could not be of any assistance to the court to put forward the Department's case. We took the trouble of going through the entire file. From the file relating to the selection produced by the respondents it is seen that the four persons shown in A3 for the posts of Telegraph Assistant are P.Rajan, A.Pradeepan, P.Sivadasan and M.P.Hashim. On a perusal of the file it is seen that the 1st applicant got 104 marks and the 2nd applicant got 103 marks in the test for the posts of Telegraph Assistant, while P.Rajan got 140 marks, A.Pradeepan got 121 marks, P.Sivadasan got 110 marks and M.P.Hashim got 109 marks. So, it is clear that all the four persons mentioned in A3 having selected for the posts of Telegraph Assistants have scored more marks than applicants. That being the position, though no argument as already stated was advanced by the learned counsel for respondents, in the light of the fair submission made by

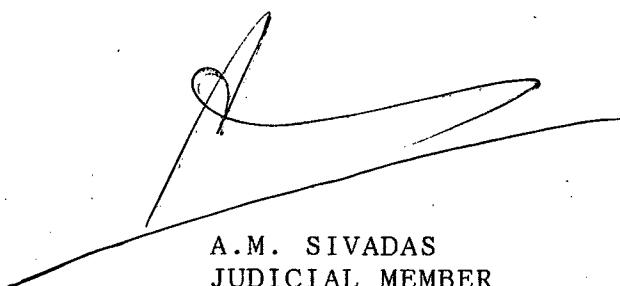
the learned counsel for applicants across the bar and what we could see from the file, this Original Application is only to be dismissed.

6. Accordingly, the Original Application is dismissed. No costs.

Friday, this the 9th day of February, 2001



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



A.M. SIVADAS  
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True photocopy of letter No.Rectt/39-4/TA/96 dated 9-12-96 from the 3rd respondent.
2. A2 True photocopy of letter No.Rectt/39-4/TA/TL/96 dated 26-9-97 from the 3rd respondent.
3. A3 True photocopy of letter No.Rectt/39-4/TA/TL/96 dated 30-9-97 from the 3rd respondent.
4. A5 True copy of letter No.Rectt/39-4/TAs/TLs/96 dated 24-11-97 from the 3rd respondent to the Senior Superintendent Telegraph Traffic, Calicut.