

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

DA.NO. 20/87

Shri N.P.Lahane,
T.O.A., % S.D.O.Telegraphs,
at Ratnagiri,
Tal/Dist. Ratnagiri-415612.

Applicant

v/s.

The General Manager
Telecommunications,
Maharashtra Circle,
G.P.O. Building,
Second Floor,
Bombay 400 001.

Respondent

CORAM: Hon'ble Vice Chairman Shri B.C.Gadgil
Hon'ble Member (A) Smt. J.A.Dayanand

Appearance :

Applicant in person

Shri J.D.Desai
for Mr.M.I.Sethna
Advocate
for the Respondent

ORAL JUDGMENT

Dated: 11.8.1988

(PER: B.C.Gadgil, Vice Chairman)

The applicant who is working as a Telecom. Office Assistant from 1979. There are certain other posts in the department, namely, (1) Repeater Station Assistant (2) Wireless Operators (3) Auto Exchange Assistants etc. The Recruitment Rules of 1979 (vide Annexure 4 to the Respondents' reply) provide eligibility clauses for such posts. There are 3-4 educational qualifications which are treated as qualification. As far as the present application is concerned, the educational qualification is passing of the first year of the 3 year-degree course of B.Sc. with Physics and Mathematics as subjects. The department issued an advertisement inviting applications for the post of Wireless Operators. The applicant responded to that advertisement and filed an application in 1984. The application was processed by the Department and on 30.3.1985 he was informed (vide Annexure 3 to the respondents' reply)

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that he was not possessing the required educational qualifications and his application was rejected on that account. It is this action on the part of the department that is challenged before us.

2. The respondents have resisted the application by filing their reply. In substance, their contention is that the applicant is not educationaly qualified and hence the application is rejected.

3. It will be very difficult for the applicant to contend that he possessess educational qualification according to the recruitment rules. The applicant has passed B.Sc.Part-I examination with Physics and Chemistry. Under the rules the candidate must pass such examination with Physics and Mathematics. In view of this legal position, we will not be able to accede to the request of the applicant to hold that he is eligible for the post.

4. The applicant has, however, mentioned in the application that one N.B.Sahasrabudhe was appointed as Repeater Station Assistant and that he did not possess the educational qualification of B.SC.Part-I examination with Physics and Mathematics. The contention of the applicant is that Sahasrabudhe has passed B.SC.Part-I examination with Chemistry, Zoology, Botany. It was, therefore, contended that this would be a circumstance to show that the applicant can as well be considered as eligible. In the reply the applicant has not explained as to how Sahasrabudhe was appointed. Mr.Desai submitted that that appointment was in 1979. He frankly stated that Sahasrabudhe does not appear to have the educational qualification e.g. passing B.Sc. Part-I examination with Physics and Mathematics. He also frankly stated that the department committed a mistake in 1979 when Sahasrabudhe was so appointed as Repeater Station Assistant. The question, therefore, is as to whether committing of mistake in the case of Sahasrabudhe would enable the applicant to claim that he should be considered as eligible to apply for the post in question.

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Ordinarily, a mistake on the part of anybody would not confer any right on another, unless it is proved that such mistake has prejudicially affected the position of the aggrieved person. In the present case, the appointment of Sahasrabudhe was in 1979 while we are considering the recruitment of 1984. We would, therefore, feel that the applicant could not be able to bank upon the mistake made by the Department (while appointing Sahasrabudhe) for the purpose of contending that he should be declared eligible to apply for the post of Wireless Operator. For these reasons, the application fails and is dismissed with no orders as to cost.

B.C.Gadgil
11-8-1988
(B.C.Gadgil)
Vice Chairman

Dayanand
(Smt.J.A.Dayanand)
Member (A)