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

Tr.A.No.456/87

Shri B.G.Bendre and others

Applicants

V/s.

Union of India and others

Respondents

CORAM: Hon'ble Member (A) Shri L.H.A.Rego
Hon'ble Member (J) Shri M.B.Mujumdar

Tribunal's Order

Dated: 26.4.1988.

The applicants had challenged some provisions of the Assistant Engineers (Akashvani and Doordarshan Group 'B' Posts) Recruitment (Amendment) Rules, 1985 by filing Writ Petition No. 1936/85. The Writ Petition was summarily rejected by a single Judge of the High Court. Against that decision, the applicants had preferred Appeal No. 892/85. That appeal was allowed and the petition was transferred to this Tribunal by an order passed on 1.10.1987.

2. By order dated 8.3.1988 we issued notice to respondents directing them to file reply on 6.6.1988.

3. On 5.4.1988 the applicants have filed Misc.Petition No. 204/88 for directing the respondents to allow the applicants and other Senior Engineering Assistants to appear for the departmental competitive examination which is to be held in first week of May, 1988 and in August, 1988.

4. We have heard Mr.Gangal, learned advocate for the applicants and Mr.M.I.Sethna, counsel for the respondents on the point of interim relief only.

5. The applicants are neither engineering graduates nor diploma-holders in engineering. They were appointed long back as technicians. Thereafter, they were promoted as senior technicians, engineering technicians and engineering assistants. At present they are working as senior engineering assistants. The next higher promotional post is that of assistant engineer.

6. By notification dated 3.5.1985, the Union Ministry of Information & Broadcasting amended the Recruitment Rules for the post of Assistant Engineers. Promotions to the post of Assistant Engineer are governed according to the provisions of the amended rules. According to these rules, 25% of the promotion quota is to be filled in by selection in accordance with the provisions in Appendix I to these rules and 75% quota is to be filled in on the basis of departmental competitive examination conducted in accordance with the provisions in Appendices II and III to these rules. One of the conditions common to both these quotas is that the individual should possess educational qualification not lower than that prescribed for direct recruits to the post of engineering assistants. According to the rules, a direct recruit to the post of engineering assistant should be either a B.Sc or Matriculate with engineering diploma of three years. The applicant has challenged the said amended rule in the Writ Petition.

7. Now it is the case of the applicants that the departmental competitive examination for the post of engineering assistant is to be held in May and August, 1988. Mr.Sethna clarifies that the examination to be held in May, 1988 is for the vacancies relating to 1986

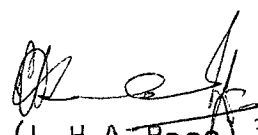
then to be held in August, 1988 is for the vacancies relating to 1987.


8. It is the grievance of the applicants that they cannot appear for that examination because they are neither science graduates nor they hold any diploma or degree in engineering. According to Mr. Gangal, we should hold that the impugned amended rules are violative of Articles 14 & 16 of the Constitution.

9. After hearing advocates for both sides, prima facie we do not think that there is anything wrong in the impugned rules. It is not possible to decide the question without full hearing. As the rules stand, the applicants cannot appear for the above examination.

10. Mr. Gangal drew our attention to Annexure 'B' to the Misc. Petition. It shows the names of 16 Assistant Engineers. None of them is either a science graduate nor he holds a degree or diploma in engineering but admittedly all these persons were promoted before the 1985 amendment rules.

11. In the result, we dismiss Misc. Petition No. 204/88. The case is already fixed for reply of the respondents on 6.6.1980 and that date stands.


(L.H.A. Rego) 28-4-88
Member (A)


(M.B. Mujumdar)
Member (J)