

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.No. XXX
T.A.No. 17

198X
1987

DATE OF DECISION 12-6-1987

Ashok Venkatrao Rakhonde Applicant/s.

Mr. Shahane Advocate for the Applicant/s.

Versus

Union of India & another Respondent/s.

Mr. M. I. Sethna Advocate for the Respondent(s).

CORAM:

The Hon'ble Hon'ble Vice-Chairman B.C.Gadgil
The Hon'ble Hon'ble Member(A) J.G.Rajadhyaksha

1. Whether Reporters of local newspapers may be allowed *yes* to see the Judgment?
2. To be referred to the Reporter or not ? *yes*
3. Whether to be circulated to all Benches? *yes*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No. 17/87

Ashok Venkatrao Rakhonde,
R.O. Station Road,
Dharmabad,
Dist.: Nanded.
PIN:431 809.

... Applicant
(Original Petitioner)

v/s.

1. The General Manager,
Telecommunications,
Maharashtra Circle,
Recruitment Section, Second Floor,
Old G.P.O. Building,
Bombay - 400 001.
2. Union of India, through
Mr. M.I. Sethna, Counsel,
Fazalbhoy Building, Second Floor,
45/47, Mahatma Gandhi Road,
Fort,
Bombay - 400 001.

... Respondents.

Coram: Hon'ble Vice-Chairman B.C. Gadgil
Hon'ble Member (A) J.G. Rajadhyaksha

Appearances:

1. Mr. Shahane
Advocate for
the Applicant.
2. Mr. M.I. Sethna,
Advocate for
the Respondents.

ORAL JUDGMENT
(Per B.C. Gadgil, Vice-Chairman)

Date: 12-6-1987

Writ Petition No. 67/84 of the file of the High Court
of Judicature of Bombay at Aurangabad is transferred to this
Tribunal for decision.

2. The only question that arises for our determination is
as to whether the applicant (original writ petitioner) is eligible
for being considered for the post of Transmission Assistant/
Telephone Inspector/Wireless Inspector. The respondents
advertised the said post in 1982 and the last date for submitting
an application was 12th June, 1983. The advertisement is at
Ex. 'A' to the application. It prescribes the age limit as
18 to 24 years on 1-7-1982. However, the employees of the
Post and Telegraph department can claim relaxation of the age

.... 2/-

upto 35 years. The advertisement has prescribed the minimum educational qualifications. For deciding this application the relevant qualification is "Intermediate Science or Equivalent Examination with Physics and Mathematics". The applicant has passed Higher Secondary Certificate (HSC) Examination with 61.33% marks with Physics and Mathematics as the subjects which he offered at that examination. The applicant has made an application for one of the posts. However, that application was rejected on the ground that he did not possess the above mentioned prescribed educational qualifications. The applicant's grievance is that the said rejection of the application is bad inasmuch as the Govt. of India has on 28-4-1978 issued an Office Memorandum accepting equivalence of certain other educational qualifications with Intermediate (12 Years). Under that memorandum Higher Secondary Certificate is equivalent to the Intermediate (12 years). The applicant's contention is that on account of this equivalence he is eligible to apply and his application has been wrongly rejected.

3. The respondents have filed the reply. They relied upon certain orders of 1980 (annexure R-2 to their reply) and contend that passing of the HSC examination would not be sufficient. In substance, their contention is that the candidate must pass his First Year Science examination in the Three Year degree Course and the said examination must be held by a University.

4. We have heard Mr. Shahane for the applicant and Mr. Sethna for the respondents. In our opinion the contention of the respondents does not deserve any consideration. We have already observed that the Govt. of India itself has prescribed certain educational qualifications that would be

equivalent to the Intermediate Science examination. The said equivalence shows that passing of the HSC examination would be equivalent to Inter Science Examination. In the face of such equivalence prescribed by the Govt. it would be very difficult for the Govt. to contend that merely passing the HSC Examination would not do. Of course Mr. Sethna tried to rely upon EX. R-2 for the purpose of contending that passing of the First Year Science examination is a must. We are afraid, such position cannot be spun out of the document R-2. On the contrary, it supports the contention of the applicant. This can be clearly seen if we go through the contents of R-2. The relevant portion of the said communication dt. 11.4.1980 reads as follows:

" ... the Board shall select candidates in the order of merit determined on the basis of the marks obtained by the candidates in the Intermediate Science or equivalent examination. However, in the case of a candidate who after passing the Higher Secondary or equivalent examination has successfully completed with Physics and Mathematics as subjects, the first year course of the three year degree course as prescribed in the rules, the marks of the 1st year examination will be acceptable only if the examination is conducted by the University,..."

The above mentioned portion of the communication would itself indicate two positions. A person who has passed the Intermediate Science or equivalent examination can also apply, even after passing the First Year Science Examination. Secondly, in such a case he can claim the percentage of marks in the First Year Science examination, provided that the examination is held by a University. In our opinion, the above mentioned circular/communication reinforces the position that the person passing the Intermediate Science would also be eligible. We have already observed that HSC

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examination is equivalent to Intermediate Science. In view of this legal position it would be very difficult for the respondents to contend that the applicant's application has been rightly rejected. Hence we pass the following order:-

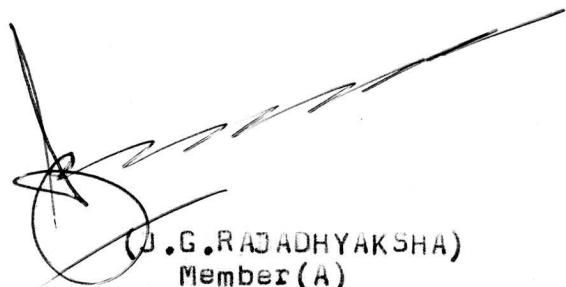
O R D E R

The rejection of applicant's application for recruitment dated 1-11-1983 (Annexure 'B' to the application) is quashed. The applicant is eligible for being considered for the post/s for which he has applied. The respondents are directed to consider the said application on merits and further directed that they should select the applicant if he is found on the basis of the marks obtained by the applicant, eligible for such selection. If the applicant is so eligible for selection the respondent should select him and and issue appropriate orders for the appointment in question. It is specifically made clear that the condonation of age of the applicant will have to be decided on the basis of the said advertisement. Thus the applicant will be entitled to condonation of age if he is below 35 years of age on 1-7-82. These directions are to be complied with expeditiously, say within a period of 3 months from today.

Parties to bear their own costs of the application.



(B.C. GADGIL)
Vice-Chairman



D.G. RAJADHYAKSHA
Member (A)