

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 819
~~T.A. No.~~

1988

DATE OF DECISION 08.10.1991

Shri H.P.M. Desai Petitioner

D.V. Gangal Advocate for the Petitioner(s)

Versus

Director General Telecom, New
~~Delhi and others~~ Respondent

Sri P.M. Pradhan Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. Mr. M.Y. Priolkar, A.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether in needs to be circulated to other Benches of the Tribunal ? ✓

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IN THE CENTRAL ADMINISTRATION TRIBUNAL, BOMBAY BENCH.

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Registration O.A. No. 819 of 1988

Shri H.P.M. Desai Applicant.

Versus

Director General Telecom, New Delhi
and others Respondents.

Coram:- Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. M.Y. Priolkar, Member (A)

Appearance :-

Applicant by Sri D.V. Gangal.
Respondents by Sri P.M. Pradhan.

Oral Judgment

(Per Mr. Justice U.C. Srivastava, Vice-Chairman) Dt. 8.10.1991

The applicant who started his career as Class-IV~~th~~ employee in the Telephone Department at Solapur was allowed to appear in the examination for the post of Telephone Operators which took place on 25.9.1984. The result was declared but the name of the applicant was not found in the qualified list but when the applicant got his mark-sheet, he submitted a representation and thereafter a supplementary list was issued ~~and~~ in which the name of the applicant was also found place in the list of surplus candidates to be absorbed and the surplus candidates were also required to give their choices which was done with the applicant also and the applicant was also sent for training. His grievance is that notwithstanding ~~that~~ he has completed the ^{theoretical} ~~theoretical~~ and practical training but he was asked to work as a Class-IV employee only. The other candidates were given appointment but the applicant's grievance is that he was not given appointment to the post of Telephone Operator. The applicant made a representation against the same and notwithstanding, reminders, he could not get any relief that is why he approached to this Tribunal for such promotion. The respondents have opposed the application filed by the applicant and subsequently, it has now been admitted that the

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applicant is getting the training of technician. The training of technician, the grade of which is equal to that of operator, a post for which the applicant is claiming in this application and according to the respondents, the technicians are better than operators in as much they get more allowances and as such, according to the respondents, the applicant has got no cause of action and his application, which is otherwise, barred by time, is dismissed. We have heard the learned counsel of the parties on the matter of condonation of the delay and accordingly condoned the delay. Now from the pleadings, it appears the examination was conducted to fill up 63 departmental vacancies distributed over all divisions of Maharashtra circle and no vacancy was ^{available in} ~~along with~~ Solapur ~~Post~~ Division. The selection for each division is made amongst the most meritorious candidates of the division of marks secured in the examination. The applicant, thus, ^{there was} ~~as no~~ vacancy in the Solapur Division was not entitled to get appointment in Solapur Division. 41 Officers were selected and were sent for training and there were 22 vacancies ~~were~~ still remaining in other divisions of the circle. Hence 22 of the total vacancy out of 66 has to be filled up by the surplus qualified candidates from other divisions and surplus candidates who were not meritorious were not come within the selection range. The applicant was one of the 71 surplus qualified candidates and his number was at Sl. No. 40 and as such he was not entitled for promotion to the said post amongst the first 22 candidates. Eventhough, there were 22 vacancies, options were called for from all the candidates as a matter of ~~rotation~~ ^{rotation} so that ^{if any of the} originally selected 41 candidates ^{who} are most meritorious, ^{are not available or of} 22 surplus candidates are not willing to the promotion, the department can go further down. The applicant could not come up for promotion even after the above exercise and accordingly the application is not maintainable. These facts make it clear that even though the applicant was successful but he was much below in the list, ^{Merely} because he was given training, ~~and~~ that will not entitle him to appointment as

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there were no posts, and further the applicant can not jump over those who were higher in the merit list. Even otherwise, now the applicant has got no cause of action, he having now been pushed^{up} to the position of technician. ~~Now as~~ the applicant has failed to make out any case against the respondents. In the result, the applications of the applicant ~~is~~ deserves to be dismissed with no order as to costs.


Member (A)


Vice-Chairman

Bombay Bench
(n.u.)