

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 620/96.

Date of Decision: 22.7.97.

R.P.Rulsamudra

.. Applicant

.. Advocate for  
Applicant

-versus-

Chief General Manager, MTC,

.. Respondent(s)

Shri P.M.Pradhan.

.. Advocate for  
Respondent(s)

CORAM:

The Hon'ble Shri B.S.Hegde, Member(J),

The Hon'ble Shri M.R.Kolhatkar, Member(A).

(1) To be referred to the Reporter or not ? *x*

(2) Whether it needs to be circulated to *x*  
other Benches of the Tribunal ?

*B.S.Hegde*  
(B.S.HEGDE)  
MEMBER (J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 620/1996.

22, this the Tuesday of July 1997.

Coram: Hon'ble Shri B.S.Hegde, Member(J),  
Hon'ble Shri M.R.Kolhatkar, Member(A).

Rajaram Panditrao Rulsamudra,  
C/o. Telecom District Engineer,  
Anvikar Building,  
Aurangabad.

... Applicant.

V/s.

1. Chief General Manager,  
Maharashtra Telecom Circle,  
Bombay - 400 001.

2. General Manager Telecom,  
Marathwada Area,  
Bhagya Laxmi Building,  
Somesh Colony,  
Nanded.

3. Telecom District Manager,  
C.T.O. Building,  
Aurangabad.

... Respondents.

(By Advocate Shri P.M.Pradhan)

O R D E R

(Per Shri B.S.Hegde, Member(J))

Neither the applicant nor his counsel appeared. Shri P.M.Pradhan, counsel for the respondents appeared and submitted that though the pleadings were complete for the last four occasions none have appeared on behalf of the applicant. He submitted that the applicant is seeking promotion with immediate effect and pay should be fixed under FR-22 w.e.f. 2.7.1985 and direct the respondents No.2 to give him benefit of notional date of seniority with retrospective effect i.e. from 2.7.1985.

2. The facts are undisputed. The applicant was working as a Peon in Aurangabad Division and had appeared for competitive examination for promotion

...2.

*PK*

of lower grade official to the cadre of Telephone Operator held on 20th May, 1984. The applicant was not found successful in the said examination and therefore he could not find a place in the merit list of surplus candidates which was circulated by the GMT letter dt. 29.9.1984, in which the applicant's name stood at Sl.No.6 in the surplus qualified candidates of Aurangabad Telephone District. As there was no vacancy ~~was~~ available in other Divisions, options were called from all the surplus qualified officials to indicate the division in which they desired to be promoted in order of their preference in the said surplus qualified candidates. However, while calling options, it was made clear that the allotment will be restricted to the number of vacancies arranged in the order of merit. Thereafter, posting order of 22 surplus qualified candidates was issued against the short fall vacancies of various Divisions in Maharashtra Circle as per merit list vide letter dt. 2.7.1985 and in the said posting order only 4 candidates were selected out of 8 candidates of Aurangabad Telecom District. All the 8 candidates mentioned in the list of surplus qualified candidates were trained and the applicant's name was also included with a view that he may be absorbed in future when vacancy occurs. Since the departmental examination conducted by the Department is of competitive nature and the candidates who are not selected on the basis of their overall performance and on the basis of the number of vacancies available against the particular examination year of each Division, the remaining candidates were specifically

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advised that they were not finally selected against the departmental quota of vacancies for the year 1984 for which the examination was conducted and as such they will have to appear for the examination as and when the examination is notified for the future vacancies. Accordingly, the applicant was intimated to appear for the examination again as and when the examination would be notified in future. As a matter of fact, the applicant again appeared for the examination to the cadre of Telephone Operator held on 20.12.1987 and again he was declared fail. He also appeared for the DLG Examination held on 18.12.1988 and as per the results none of the candidates had qualified. The applicant had again appeared for the next examination of Telephone Operators held on 10.12.1989, 6/7.10.1990, the applicant was not successful in that examination also. In the light of the above, he cannot take advantage of his being sent on training on the basis of <sup>his</sup> selection in surplus quota unless he passess the examination and hence he cannot be adjusted against the vacancies in any of the divisions in Maharashtra Circle. Though the applicant has appeared for all the examinations right from 1987 to 1990 he has not passed in the said examination, the decision was conveyed to the applicant way back in 1987. Therefore, the respondents further submitted that they cannot give him any ground for filing any application before this Hon'ble Tribunal which is hopelessly barred by time. Since the applicant has already been intimated way back in 1987 and he has not come with clean hands and suppressed the material facts

and there was no cause of action to prefer, this O.A. before the Tribunal. As stated earlier since he has not passed the examinations held, the question of his selection as Telephone Operator does not arise. Therefore, the repeated representation preferred by the applicant do not confer on him any right or ground for condoning delay which is reiterated in S.S.Rathod's case by the Apex Court.

3. In the light of the above, we are of the view that the O.A. is liable to be dismissed on the ground of limitation, even otherwise on merits also there is no scope to entertain the same since the applicant has not passed the competitive examination which is essential for further promotion. In the result, we do not see any merit in the O.A., the same is dismissed at the admission stage itself. No order as to costs.

*M.R. Kolhatkar*  
(M.R. KOLHATKAR)  
MEMBER (A)

*B.S. Hegde*  
(B.S. HEGDE)  
MEMBER (J).

B.