

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.870/99

Dated this the 18<sup>th</sup> day of June 2003.

CORAM : Hon'ble Shri V.K.Majotra, Member (A)

Hon'ble Shri Shanker Raju, Member (J)

Vijay Shankarrao Labhane,  
Junior Telecom Officer,  
Amaravati Camp,  
Amaravati.

...Applicant

By Advocate Shri K.R.Yelwe

vs.

1. Union of India  
through the Secretary,  
Ministry of Communications,  
Dept. of Telecommunications,  
New Delhi.

2. The Chief General Manager,  
Telecom Maharashtra Circle,  
Mumbai.

3. The General Manager  
Telecom, Amravati.

4. Shri N.B.Mate,  
Offg.Sub.Divisional Engineer,  
Telecom, Amravati.

5. Shri S.K.Gajbhiye,  
Offg.Sub-Div.Engineer,  
Telecom, Amravati.

... Respondents

By Advocate Shri V.S.Masurkar  
for Official Respondents.  
None for Private Respondents

..2/-

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O R D E R

{Per : Shri V.K.Majotra, Member (A)}

Applicant has challenged order dated 24.3.1999 whereby certain persons have been approved for promotion from the post of JTO to the post to TES Gr.B on a purely temporary and local officiating basis for a period of 180 days w.e.f.24.3.1999 to 19.9.1999 (Annexure-A-I). He has also challenged order dated 14.7.1999 whereby applicant's juniors are stated to have been promoted on temporary basis to TES Gr.B Cadre superseding the applicant (Annexure-A-II).

2. According to the applicant, while working on the post of Repeater Station Assistant, he appeared in the examination held in February,1990 for promotion to the cadre of JTO. He failed in the examination. He appeared in the next examination in February,1992 and was declared successful in the same on 21.10.1992. He was appointed as JTO in December,1993. It has been submitted on behalf of the applicant that as he belongs to Scheduled Caste, he was entitled to application of relaxed standard in terms of O.M. dated 23.12.1970, O.M. dated 21.1.1977 issued by Department of Personnel, Ministry of Home Affairs and para 6.3.2 of the consolidated instructions circulated by O.M. dated 10.4.1989. According to him, while he was not given benefit of relaxed standard, various other SC/ST candidates who had failed in the examination held in February,1990 and whose supplementary result was declared on 30.1.1995 were applied

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relaxed standard and declared successful. According to the learned counsel of the applicant 41 candidates who had been declared successful in 1995 in relation to examination held in 1990 have been made senior to those who have been successful at the subsequent examination held after 1989 including the examination held in March, 1992. He has pointed out one particular candidate, viz. D.M.Kenger who appeared and failed in 1990 examination and who like the applicant has subsequently appeared in March, 1992 and was declared successful in October, 1992 and appointed in 1996 as JTO was deemed to have been declared successful in 1990 examination vide Annexure-'A-4' dated 30.1.1995. He was given seniority over those who had passed subsequently. However, the applicant has been discriminated against not having been accorded the similar benefit as a SC candidate. He had made several representations from May, 1997 to March, 1998 Annexure-'A-5'(Colly) which have remained unresponded. Applicant submits that he has completed three years service as JTO. Applicant sought direction to respondents to treat the applicant as promoted to the post of TES Group 'B' from the date his immediate junior was promoted with consequential benefits.

3. On the other hand, the learned counsel of the respondents stated that the decision to relax the standard and review the cases of failed SC/ST candidates of examination held in February, 1990 was taken vide letter dated 17.10.1991 and accordingly the review was conducted in 1994. Applicant's name was dropped as he had already been appointed as JTO. Learned counsel also submitted that applicant's representations pertaining to fixation of seniority in the cadre of JTO w.e.f. 1989 are under consideration of the Department of Telecom, New Delhi.

4. Just because respondents conducted the review regarding application of relaxed standards in terms of their letter dated 17.10.1991, after the applicant had already been appointed as JTO, is not a good reason for not reviewing applicant's case for application of relaxed standard as SC candidate who appeared in examination held in 1990. The issue here is that of seniority to be accorded to the applicant as a SC candidate on application of relaxed standard vis-a-vis similarly situated SC candidates who had appeared in supplementary examination of 1990 and whose results were declared on 31.1.1995.

5. As the respondents have themselves admitted not to have decided applicant's representations as stated above, this OA. is disposed of with the direction to the respondents to consider applicant's representations (Annexure-'A-5' colly) seeking extension of benefit of deemed date of passing the departmental examination held in February, 1990 by application of relaxed standard, applicant being SC candidate, so as to accord seniority over similar candidates and particularly Shri D.M.Kenger. In case, respondents' decision is not favourable to the applicant, they should pass a detailed, reasoned and speaking order within a period of three months from the date of communication of these orders. No costs.

*S. Raju*  
(SHANKER RAJU)

MEMBER (J)

*V.K. Majotra*  
(V.K. MAJOTRA)

MEMBER (A)

mrj.