

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:217/2001
DATED THE 29TH DAY OF AUG, 2001

CORAM:SHRI JUSTICE ASHOK C AGARWAL, CHAIRMAN
SMT. SHANTA SHAstry, MEMBER(a)

Shri Dnyanoba N Rachmale,
Sub-Divisional Engineer Telecom,
Office of the Divisional Engineer Telecom,
Optical Fibre Cable Project,
Beej Bhavan, 681 690, Market Yard,
Gultekdi, Pune-411 037. Applicant

By Advocate Shri S.P.Saxena

V/S.

1. Union of India, through
The Secretary,
Department of Telecom,
Sanchar Bhavan, Ashok Road,
New Delhi - 110 001.
 2. The Chief General Manager,
Maharashtra Telecom Circle,
8th Floor, Fountain Telecom Building-II,
Mahatma Gandhi Road, Fort,
Mumbai - 400 001.
 3. The Divisional Engineer Telecom,
Optical Fibre Cable Project,
Beej Bhavan, 681 690, Market Yard,
Gultekdi, Pune-411 037.
 4. The Principal,
Regional Telecom Training Centre,
Chinchwad,
Pune (Maharashtra) ... Respondents

By Advocate Shri V.S.Masurkar

(ORAL) (ORDER)

Per Smt. Shanta Shastry, Member (A)

Shri S.P.Saxena, Counsel for Applicant and Shri V.S.Masurkar, Counsel for Respondents.

2. The applicant's main grievance in this case is that he was not allowed to appear in the Telecom Engineering Service Group 'B' Competitive Examination held on 27th and 28th November, 2000

though he was entitled to appear in the said examination. the applicant has therefore sought direction to the respondents to conduct a special competitive examination for the applicant for promotion to the higher post.

3. The applicant has been working as Sub Divisional Engineer in the cadre of Telecom Engineering Service Group-B since 23/10/1988 in the office of the Divisional Engineer Telecom, Optical Fibre Cable Project, Pune. According to the recruitment rules for promotion to the cadre of Telecom Engineering Service, (Group-B Posts) Recruitment Rules, 1981, the recruitment is through two methods. Namely, (i) selection of eligible officers passing the departmental qualifying examination based on seniority cum fitness and (ii) the selection of eligible officers through a Limited Departmental Competitive Examination, based on merits, in the ratio of 2/3rds and 1/3rd of the vacancies respectively. The candidates have the option to take both the examinations together or to take Departmental Qualifying Examination initially and the Limited Departmental Competitive Examination in subsequent years.

4. The applicant was promoted as Sub Divisional Engineer on 23/10/1998 against the quota of 2/3rd vacancies on the the basis of above qualifying examination held in 1990. For both Limited Departmental Examination as well as promotion, the qualifying examination is obligatory.

5. The applicant wanted to appear for the Limited Departmental Examination in the 1/3rd quota for promotion to Group 'B' post. He therefore applied to appear in the competitive examination scheduled to be held from 20/4/99 to 23/4/99. The Hall permit of the applicant was received vide

letter dated 15/4/99 for appearing in the same examination. However, this examination was postponed due to administrative reasons and the same was held on 27th and 28th November, 2000. Applicant did not get the Hall Ticket to appear in the said examination. However, Divisional Engineer, Telecom, Pune requested the Principal of the Regional Telecom Training Centre, Chinchwad, Pune vide letter dated 25/11/2000, i.e. two days before the examination to allow the applicant alongwith some others to appear in the aforesaid examination provisionally as he had already cleared the qualifying examination. When the applicant went for the examination, he was not allowed to appear in the examination despite the letter dated 25/11/2000, While the remaining candidates have been allowed to appear.

6. The reason given for not allowing the applicant to appear in the said examination was that the applicant was to appear from the Mumbai Centre and in the list of candidates available with the Principal of Pune Centre, the applicant's name was not shown. Thus, the applicant was denied the permission to appear in the Limited Departmental Examination. This has affected his future prospects. The learned counsel for the applicant submits that even the results of the examination held in November 2000 have not been declared so far and there is therefore still scope to allow the applicant to appear for the examination by holding a special competitive examination for him.

7. The applicant also contends that he had applied from Pune and his centre should have been Pune. He was not aware that his name was in the list of candidates appearing from Bombay and he also did not receive Hall permit. Infact, the signature of the applicant should have been obtained on that permit. The Hall

Permits was to be delivered to the applicant and his signature was to be attested. This was so communicated on 15/4/99. The applicant's name was at Sr.No.2 in this letter. The applicant however claims that he never received the Hall Permit and he was not aware whether his centre was Pune or Mumbai. Applicant has therefore prayed for special examination to be conducted.

8. The respondents in their written reply have stated that Hall permits were issued for the examination which was scheduled for 20 to 23/4/1999 and the applicant's Hall permit was for the centre at Mumbai. The same has been produced as Annexure A-1 to the reply of the respondents. Applicant's name is shown at Sr.No. 2 in the said list. The respondents however have not been able to produce any document to show that the applicant's signature had been attested on the Hall Permit or that it was actually delivered to him. This is the only reason why the applicant has not been allowed to appear in the examination.

9. The respondents have also raised a plea that the applicant is an employee of Bharat Sanchar Nigam Limited over which this Tribunal has no jurisdiction as it is not notified under section 14(2) of the Administrative Tribunals Act, 1985. Further the learned counsel for respondents states that if the applicant is already a Group B employee, then the question of allowing him to appear in the examination does not arise.

10. The learned counsel for the applicant submits, that though the applicant is a Group-B employee, he is at this moment not able to clarify as to how he has come to be in Group-B. For this he seeks an overnight adjournment.

List the case as partheard on 29/8/2001

Continued from yesterday:^{5:}

11. The learned counsel for applicant has clarified today that the post of Sub Divisional Engineer is a regular class-II post in Group-B. On seeking clarification as to how he is appearing again for promotion to a Group-B post, the learned counsel submits that this examination for TES Group-B, will enable the applicant to be directly promoted to Group-A i.e. Divisional Engineers post and not ^{to} Senior Sub Divisional Engineers post which is by a normal promotion. Thus the application falls within the jurisdiction of the Tribunal and therefore he may be allowed to appear for the examination.

12. In view of this clarification given by the learned counsel for the applicant, we are of the considered view that the applicant should be allowed to appear in the examination.

13. The learned counsel for the respondents has drawn our attention to para-19 of the written statement wherein it has been pointed out that it was the responsibility of the applicant to have checked the centre for the exam and the same was intimated well in advance on 31/10/2000. Therefore, the applicant himself is responsible for the same. As already discussed, the fact is that as per procedure laid down by the respondents themselves, the signature of the applicant should have been attested on the Hall permit. The respondents have not shown any material in support that such signature was attested on the Hall permit of the applicant, as far as the Mumbai Centre is concerned. It is to be noted further that the Pune Office had themselves advised that the applicant should be allowed to appear for the examination ~~at Pune~~ on 25/11/2000 and the applicant accordingly had gone for the examination but he was not allowed to appear. We

therefore cannot accept the arguments advanced by the respondents as the applicant never received the intimation stated to have been issued on 31/10/2000.

14. In the light of this observation, we direct the respondents to hold special examination for the applicant before the results of the examination already held are declared and ~~the~~ ^{and} the applicant shall be allowed to appear from the Pune Centre ^{accordingly as} as he is working in Pune. The OA is disposed of. No costs.

"DASTI"

Shanti

(SMT. SHANTA SHAstry)
MEMBER(A)

Ashok C Agarwal
(ASHOK C AGARWAL)
CHAIRMAN

abp

dt 29/10/2000
order despatched
to respondent(s)
on 10/10/01

MS