

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE NINTH DAY OF DECEMBER 1986

Present : Hon'ble Shri Justice K.S. Puttaswamy

...Vice-Chairman

Hon'ble Shri L.H.A. Rego

...Member (A)

APPLICATIONS NO.1 AND 2/85

Sri S.N. Joshi  
Telephone Inspector,  
Telephone Exchange,  
Ballupet, Hassan.

Sri K.G. Bhuvanendra,  
Telephone Inspector,  
Telephone Exchange,  
Chickmagalur,  
Chickmagalur Distt.

... Applicants

(Shri S.M. Babu .. Advocate)

V.

The Director General of  
Telecommunication,  
Sanchar Bhavan,  
Parliament Street, New Delhi.

The General Manager,  
Telecommunication,  
Karnataka Circle,  
Bangalore-9.

Divisional Engineer Telegraphs,  
Hassan Engineering Division,  
Hassan.

R.V. Rajagopal,  
Transmission Assistant,  
Telephone Exchange,  
Sakleshpur.

K.A. Anthony,  
Transmission Assistant,  
Telephone Exchange,  
Kudremukh.

... Respondents

(Shri D.V. Shailendra Kumar, Advocate)

This application has come up for hearing before this  
Tribunal today, Hon'ble Vice-Chairman made the following:

O R D E R

In these transferred applications received from the High

Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985, the applicants have sought for a direction to the Respondents 1 to 3 to include them in the list of successful candidates in the departmental competitive examination for promotion to the cadre of Junior Engineers (15% and 10%).

2. Shri D.V. Shailendra Kumar, learned additional standing counsel appearing for Respondents 1 to 3 has placed before us an authenticated copy of letter No.R&E/1-17/84/V dated 28.1.1986 written by the Assistant Director General (DE-T) which discloses that the applicants have been declared successful. In pursuance of the said order as also the interim order made by the High Court of Karnataka the applicants have been deputed for training.

3. We are satisfied that the authorities themselves have granted all the reliefs sought by the applicants in these applications and, therefore, the applications no longer survive for consideration. We, therefore, dismiss these applications as having become unnecessary. But in the circumstances of the cases we direct the parties to bear their own costs.

*Ms. P. M. S. S.*

VICE CHAIRMAN

9-12-86

*[Signature]*

MEMBER (A)

9.12.86

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CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
MADRAS

CAMP AT BANGALORE

Monday, the 30th day of December, 1985

Present

Justice Shri G.Ramanujam, Vice-Chairman

M.P. No.1 of 1985

in

Transferred Application Nos 1 & 2 of 1985

(W.P.Nos.10540 and 10541 of 1985, of High Court, Karnataka)

1. Shri. S.N.JOSHI,  
S/o Narayanjoshi,  
Telephone Inspector,  
Telephone Exchange,  
Ballupet, Hassan.

2. Shri.K.G.Bhuvanendra,  
S/o K.Gopala Rao,  
Telephone Inspector,  
Telephone Exchange,  
Chickmagalur,  
Chickmagalur Distt.

Petitioners  
(Applicants)

Versus

D.G. of Telecommunications, Sanchar Bhavan, New Delhi  
( Respondents )  
and 4 others.

PRAYER : to direct the Respondents 1 & 2 to depute the petitioners  
for training to the Posts of Junior Engineers.

READ: (i) Petition and Affidavit filed in support of M.P.No.1 of 1985.

(ii) Petition and documents annexed thereto in Transfer Application  
Nos.1 & 2 of 1985.

HEARD:

Shri.S.K.Vankataranga Iyengar  
for Shri.S.M.Babu

Advocate for Petitioner

Shri.V.R.Jennu, Assistant Dire-  
ctor (Recruitment) attached to  
Respondent No.2 - the General  
Manager, Telecommunications

for Respondents

Contd.....2/-

ORDER

In this case the applicants have prayed for an interim order directing the respondents 1 to 3 to depute the applicant for training as has been done in the case of Respondents 4 and 5. The request for interim direction is opposed by the respondents 1 to 3. Notice of this application was served on the respondents 1 to 3 and as the services of the counsel appearing for them could not be procured, the matter was presented by Mr. V.R. Jenu, Assistant Director (Recruitment) attached to Respondent No.2 - the General Manager, Telecommunication.

According to the learned counsel for the applicant, the applicants had been selected and their names have been shown in the select list dated 12.3.1985 for further promotion as Junior Engineers, their names have been unilaterally deleted by the respondents and as such the said unilateral deletion of their names from the select list has been challenged in the Main application and that similar deletion of names from the select list has been successfully challenged before the High Court of Karnataka in W.P. 7681 of 1976 and as such the order impugned in the main application is prima facie illegal. The applicants are entitled as an interim relief to a direction to the respondents 1 to 3 to send them for training as has been done in the case of Respondents 4 and 5. According to the learned counsel for the applicants, if the applicants were to ultimately succeed in the main application they will be losing the benefit of the present training and they have to wait till the next period of training unnecessarily and that is likely to cause them hardship.

On the question of grant of interim relief, the contention put forward on behalf of respondents 1 to 3, by the officer referred to above, is four-fold. One is that there has been an initial mistake in admitting the applicants for the competitive examination in that their names have wrongly been considered as against 15% quota and that, if respondents 4 and 5 are considered in that quota the applicants will have no place and because of that initial mistake which led to the wrong inclusion of their names in the select list they have been deleted by the Directorate and once their names have been deleted from the select list they cannot seek a direction to the respondents 1 to 3 to send them for training. The second is that even if the applicants succeed in the main application they could be sent for training at that stage and that will not result in any prejudice to them. Thirdly, it is stated that the select list prepared is subject to revision by the Directorate and in this case the Directorate having deleted the applicants' name from the list it is the final list that has to be taken to confer rights on the parties and not the select list and therefore the applicants cannot base their right on the basis of the tentative select list which has not even been communicated to them directly. Fourthly, it is ~~xxxxxx~~ said that a similar request was made before the High Court and the said request was rejected by the High Court.

After due consideration of the submissions put forward by either side, I am satisfied that in this case the interim direction sought for has to be granted in the interest of justice. It is not in dispute that the applicants' names were actually found in the select list and in the select list, produced before me, under the Karnataka Telecommunication Circle as against the 10% quota the applicants names do find a place as



Item No.9 and 10. Though the admission of the applicants<sup>1 and 2</sup> to the examination is claimed to be due to a mistake, the applicants, whose names find a place in the select list, are entitled to be heard before their names are deleted from the list, whatever be the mistake that resulted in their names being ~~xx~~ included. That is the view taken by the High Court of Karnataka. The fact that the select ~~xx~~ list was not communicated to the applicants will not ~~xxxxx~~ deprive them of their right to be heard before their names are removed, once it is admitted that their names found a place in the select list before its variation. Since that question arise in the main application, it is not necessary to express ~~any~~ any final opinion on that at this stage. Any opinion expressed here is to be taken only as tentative for the purpose of disposal of this interim application. Therefore, the question whether there was any mistake initially which led to the admission in the examination is left open for decision in the main application. The question whether the power to correct the mistake referred to in paragraph 3 of the Select List dated 12.3.1985 will apply to the mistakes of the kind referred to by the respondents is also a question which has to be decided in the final stage. As regards the disposal of the interlocutory application filed by the applicant before the High Court at an earlier stage, which has been relied strongly on behalf of respondents 1 to 3, the request made before the High Court in the interlocutory application is for promoting the petitioner as Junior Engineer pending the writ petition and the Court very rightly, if I may say so with respect, rejected that request saying that such a direction should follow the ultimate success in the writ petition. But here the request of the petitioner in the interlocutory matter is not for promoting them to the higher post but to have the training so as to enable him to get the benefit of the orders of the promotion as and when they succeed in the main application. It is not in dispute that respondents 4 and 5 took the place of the applicants in the select list and they are, in fact, sent for and are undergoing training. Having regard to the fact that the applicants names found a place in the select list and it is only after the removal of their names there has been a substitution of names of respondents 4 and 5, and if the applicants are sent for training alongwith respondents 4 and 5 no prejudice will be caused to the Department especially when they are not paid any extra remuneration. It is no doubt, true that during the period of training the services of the applicants in the station they are employed may not be available to the Department. But that cannot be helped as the applicants by virtue of their admission to the competitive examination and passing the same and their names having been included in the select list the benefit of such inclusion cannot be taken away without ~~xxxxx~~ giving an opportunity of hearing to them.

In this view of the matter Respondents <sup>1 and 2</sup> 1 to 3 are directed, by way of an interim order, to permit the applicants 1 to 3 to have the training for the usual period for the post of Junior Engineers immediately. The place of training is to be decided by the concerned authority.

Given under my hand and the seal of the Tribunal.



*[Signature]*  
REGISTRAR 11/1/1986

To

1. Shri S.N. Joshi,  
S/o Shri Narayanajoshi,  
Telephone Inspector,  
Telephone Exchange,  
Ballupet, Hassan.
2. Shri K.G. Bhuvanendra,  
S/o Shri K. Gopala Rao,  
Telephone Inspector,  
Telephone Exchange,  
Chickmangalur,  
Chickmagalur Distt.  
Karnataka.
3. The Director General of Telecommunications,  
Sanchar Bhavan, Parliament Street,  
New Delhi-1100001.
4. The General Manager, Telecommunications,  
Karnataka Circle, Bangalore-9.
5. Divisional Engineer, Telegraphs,  
Hassan Engineering Division,  
Hassan.
6. Shri R.V. Rajagopal,  
Transmission Asstt.,  
Telephone Exchange,  
Sakleshpur.
7. Shri K.A. Anthony,  
Transmission Asstt.,  
Telephone Exchange,  
Kudremukh.
8. The Central Government Standing Counsel for  
Posts & Telegraph Department,  
Karnataka High Court Building,  
Bangalore.

Regd post/AD

Issued on 11/1/86  
Gdy 11/1/