

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE 11TH SEPTEMBER 1986

Present

HON'BLE SHRI CH. RAMAKRISHNA RAO : MEMBER (JM)

HON'BLE SHRI L.H.A. REGO : MEMBER (AM)

Tr. Application No.1276/1986(T)

Shri V.Y. Donnoony,
Permanent Mazdur,
Subhash Nagar Section,
A.E.C.M.X Outdoor West,
Bangalore Telephones,
Bangalore-560001.

.. Applicant

(Shri Ravivarma Kumar, Advocate)

The General Manager,
Bangalore Telephones,
Chamber of Commerce Buildings,
Kempe Gowda Road,
Bangalore-560009

.. Respondent

(Shri N. Basavaraju, Advocate)

The application has come up for hearing before Court-II
on 11.8.1986. Shri L.H.A. Rego, Member (AM), pronounced the following:

O R D E R

This is a writ petition filed under Article 226 of the
Constitution of India, which has been transferred to this Bench
under Section 29 of the Administrative Tribunals Act, 1985, and
renumbered as Application No.1286 of 1986, wherein the petitioner
prays for a direction to the first respondent to appoint him as a
Wireman after the prescribed training and to grant him consequential
relief to which he is entitled from the day on which he became
eligible for appointment as Wireman.

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2. The petitioner as on the date of this writ petition had worked as a casual mazdoor for over 9 years under the first respondent with the intention of qualifying himself ^{for} to recruitment as Wireman. On acquiring the prescribed eligibility, he applied for the post of Wireman. The Divisional Engineer (Administration) (DE for short), Office of the General Manager, Telephones, Bangalore (GMT, for short) through his letter dated 17.7.1976 informed the petitioner, (who was a casual mazdoor) and 10 other casual mazdoors (both departmental and outsiders), that he was considered eligible for recruitment as Wireman and therefore, directed him to appear before the Selection Board of the RTTC at Bangalore, for an aptitude test on 2.8.1976. Having acquitted himself in this test, the petitioner, among 19 other casual mazdoors, was directed by the GMT on 18.7.1977, to be relieved from the work parties, as they were selected for the post of Wireman, so that they could join the Wiremen's Training Class at the District Telecom Training Centre, Bangalore, with effect from 21.7.1977. Pursuant to this, the petitioner attended the training class for nearly 10 days. However, thereafter, the petitioner is said to have been informed by the officer in charge of the above Training Centre, that owing to dearth of equipment at the Training Centre, another training class would be conducted and therefore, the petitioner and about 10 others, were asked to discontinue the training and were given to understand that they would be soon deputed for the next training class. Accordingly, the petitioner and others discontinued their training and were awaiting communication from the respondent to attend the next Wiremen's Training Class. However, no such training was arranged subsequently and the petitioner does not seem to have received any communication to that effect.

The petitioner is on the date of this writ petition
had worked as a casual labourer for over 9 years under the first
respondent with the intention of qualifying himself for appointment
as a permanent employee. On attaining the prescribed eligibility, he applied
for the post of Assistant Engineer (General) in the
(1) for service, Office of the General Manager, Hyderabad, and
(2) for appointment through the letter dated 17.7.1977. He obtained the
petitioner, (who was a casual labourer) and 10 other casual labourers
(both domestic and outside), that he was of eligible status.
The respondent's witness and therefore, directed him to appear
before the Selection Committee of the State of Hyderabad, for an interview
held on 17.7.1977. Having satisfied himself in this regard, the
petitioner, who, after the interview, was directed by the
Committee on 17.7.1977, to be relieved from the work of a casual labourer, as they
were selected for the post of Assistant Engineer, and that they could join the
Hyderabad Electric Class at the Hyderabad Electric Training Centre,
the same, with effect from 17.7.1977. Pursuant to this, the
petitioner attended the training class for nearly 15 days, however,
thereafter, the petitioner is said to have been informed by the
officer in charge of the above Training Centre that owing to death
of a member of the Training Centre, another candidate of the same
class had to be selected, the petitioner and about 10 others,
were taken to discontinue the training and were given no consideration
that they would be soon deputed for the same training class.
Accordingly, the petitioner and other disappointed candidates
and were waiting for consideration from the respondent to attend the
next training class. However, the respondent was extended
subsequently and the petitioner does not seem to have received any
communication to that effect.

3. The petitioner repeatedly represented (the last representation being dated 4.2.1983) to the concerned authorities to depute him for the training but to no avail.

4. Instead of deputing the petitioner for the training, he was issued with a Hall Permit, to acquit himself in the written as well as the aptitude tests once again, to qualify for selection to the post of Wireman. The petitioner contends, that as he was deputed for the training for the post of Wireman, after having acquitted himself in the prescribed qualifying tests, he should not have been subjected to these tests again, which have no authority of law.

5. During the intervening period, the petitioner who was working as ^a casual mazdoor, was appointed as a permanent mazdoor with effect from 8.11.1981 under the provisions of the Central Civil Services (Temporary) Rules, 1965. The petitioner states that he was not given due opportunity of a hearing, as to why he should not be deputed for the training to qualify him for appointment as Wireman, especially when his name had appeared in the list of candidates, selected for this training. He, therefore, pleads that the respondent is duty bound, to depute him for this training without subjecting him anew to the prescribed tests, as he had completed them successfully earlier.

6. We have duly examined the pleadings of both the parties and the material placed before us. According to the Posts & Telegraphs (Wiremen) Recruitment Rules 1982 (Rules for short) casual mazdoors are eligible for direct recruitment within the 25 per cent quota earmarked for the post of Wiremen, if they have been recruited through the Employment Exchange and have

worked for a minimum period of not less than 240 days inclusive of broken service in each of the two consecutive years. In the event of suitable casual mazdoors not being available, the candidates shall be sponsored through the Employment Exchange. Further, the candidates qualifying in the entrance test for the post of wiremen, are to be subjected to an aptitude test. In the instant case, the applicant is seen to have worked for over 9 years as a casual mazdoor and was considered by the DE as eligible for recruitment as wireman and had, therefore, on 17.7.1976, directed the applicant to appear before a Selection Board at RTTC Bangalore for an aptitude test. The aforesaid Rules specify that the candidates should qualify in the entrance test before being subjected to an aptitude test. This implies that the applicant had qualified himself in the entrance test and was therefore considered eligible to be directed to appear for the aptitude test.

7. The caption of the letter dated 17.7.1976 issued by the DE reveals, that this aptitude test for recruitment to the post of wiremen was meant both for departmental candidates as well as "outsiders", from among casual mazdoors. The contention of the respondents in the statement of objections, therefore, that the petitioner was offered a vacancy of wireman specifically earmarked for "outsiders" and not to departmental candidates is ~~therefore~~ at variance. The respondent states, that recruitment of certain wiremen in respect of "outside" candidates, was found to be irregular, the training programme to which the applicant was deputed was called off within 3 days and all the candidates were

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directed to resume duty as daily-rated casual mazdoors ~~at their~~ at their respective work-spots and that subsequently on review, 15 out of 20 candidates initially selected, were deputed for training for ²wiremen, according to the office memo dated 2.2.1978. According to the respondent, the remaining 5 candidates including the petitioner, were not deputed for the further reason, that there was no proof of their having worked for 480 days on muster rolls as on 31.7.1973. The respondent states that the candidates had to appear for an aptitude and not entrance test initially, under the provisions of ⁶²recruitment rules in force. The counsel for the respondent states, that 25 per cent of the vacancies were to be filled from this 'outside quota' from among the eligible daily-rated casual mazdoors, working in the department on muster roll, for a minimum period of 240 days per year, consecutively for 2 years. These candidates had to appear both for the entrance as well as the aptitude tests. Since the petitioner was considered to be in a regular post of mazdoor in 1978 and was working as such from 8.11.1978, he could not be treated as a daily rated casual mazdoor and was therefore not eligible for appointment against the "outside quota".

8. This implies that the applicant was of the status of a casual mazdoor prior to 8.11.1978. In fact, the applicant states that he was appointed as a permanent mazdoor with effect from 18.11.1981. Even taking the earlier year viz. 1978, it is apparent that when the DE considered the applicant eligible for recruitment as wireman and directed him to appear before the selection board for the aptitude test, his status was that of a

casual mazdoor. Therefore, the applicant was eligible to be considered for appointment within the 25 per cent quota as wireman, having completed the stipulated minimum period of 240 days for each of the two consecutive years on muster roll as casual mazdoor. As observed earlier, the Rules clearly state in column 7 of the Schedule thereto, that the candidates who qualify in the entrance test, shall be subjected to an aptitude test, which implies that the aptitude test follows and does not precede the entrance test as stated by the respondent.

9. The following facts emerge clearly from the foregoing:

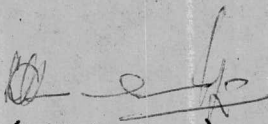
- (i) The applicant was of the status of a casual mazdoor on 17.7.1976 when he was considered eligible by the DE for recruitment as wireman and directed by him to appear for the aptitude test.
- (ii) He had served for not less than 240 days a year consecutively for 2 years as stipulated in the Rules as a condition precedent^{to} for direct recruitment against the 25% quota.
- (iii) He was actually deputed for the training of wiremen by the GMT, under his Memo dated 18.7.1977 and the applicant had actually undergone training for some days before he was recalled.
- (iv) The fact that he was directed to appear for the aptitude test reveals, that he qualified in the entrance test as stipulated by the Rules.

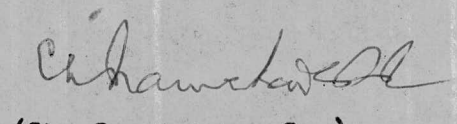
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- (v) Even though more than 9 years have since elapsed, the petitioner has not been offered an opportunity of being considered for appointment as wireman.

10. We are, therefore, convinced, that the petitioner was deprived of his legitimate opportunity, of availing of the training for the post of wireman, in accordance with the Memo issued on 18.7.1977 by the GMT, when he qualified for direct recruitment within the 25% quota, according to the mode of recruitment prescribed and that he had undergone the prescribed tests as a pre-requisite to this training. We, therefore, direct the respondent, to depute the petitioner for the prescribed training of wiremen at the earliest opportunity, without requiring him to reappear for the entrance and/or the aptitude test and grant him all consequential relief that he would have been entitled to, from the date he became eligible for appointment as wireman, pursuant to the order issued by the GMT under his Memo dated 18.7.1977.

11. In the result, the application is allowed to the extent spelt out above. No order as to costs.


(L.H.A. Rago)
Member (AM)
11.9.1986


(Ch. Ramakrishna Rao)
Member (JM)
11.9.1986