


BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE
DATED THIS THE 10TH DAY OF MARCH, 1987.

Hon'ble Mr. Justice K.S. Puttaswamy, Vice-Chairman
Present: Hon'ble Mr. L.H.A. Rego, Member (A)

APPLICATION NOS. 1802 to 1819 OF 1986.

1. Sri. N.B. Khanaganni,
Telephone Operator,
Telephone Exchange,
Belagaum. Applicant in
A. No.1802/86
 2. Sri. P.B. Patil,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1803/86
 3. Sri. I.P. Terani,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1804/86
 4. Sri. E.B. Lokande,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1805/86
 5. Sri. G.N. Bhave,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1806/86
 6. Sri. S.S. Sarapure,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1807/86
 7. Miss. P.M. Mahishi,
(Smt. V.R. Dambal),
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1808/86
 8. Sri. S.S. Gouder,
Telephone Operator,
Telephone Exchange, Applicant in
A. No. 1809/86
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9. Sri. B.B. Shaik,
Telephone Operator,
Telephone Exchange,
Belgaum Applicant in
A. No.1810/86
10. Miss. S.N. Bandekar,
(Mrs. S.R. Yadav),
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1811/86
11. Sri. N.S. Kadukar,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No. 1812/86
12. Sri. L.M. Joshi,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1813/86
13. Sri. R.B. Patil,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1814/86
14. Miss. M.N. Joshi,
(Mrs. P.G. Kulkarni),
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
A. No.1815/86

(Sri H.R. Anantha Krishnamurthy, Advocate)


v.

1. Union of India
by the Secretary,
Ministry of Communication,
NEW DELHI.
2. The General Manager,
Telecommunication,
Karnataka Circle,
Gandhinagar, BANGALORE-9.
3. The Divisional Engineer,
Telegraphs Engineering Division,
Hubli division, HUBLI.

4. Sri. S.D. Kote Gowder,
Telephone Operator,
Telephone Exchange,
HIRE KERUR.
5. Sri. S.K. Gasti,
Telephone Operator,
Telephone Exchange,
RABKAVI.
6. Smt. K.S. Parvathi,
Telephone Operator,
Telephone Exchange,
BAGALKOT.
7. Sri. S.T. Naregal,
Telephone Operator,
Telephone Exchange,
HOLE ALUR.
8. Sri.S.N. Shinde,
Telephone Operator,
Telephone Exchange,
BELGAUM.
9. Sri. K.S. Kulkarni,
Telephone Operator,
Telephone Exchange,
BELGAUM.
10. Sri. R.N. Bodke,
Telephone Operator,
Telephone Exchange,
BELGAUM.
11. Sri. A.J. Upadhye,
Transmission Assistant,
Telephone Exchange, ATHANI.
12. Sri. K. Subbanna,
Telephone Operator,
Telephone Exchange,
BELGAUM.

(Respondents No.1 to 12 are
common in A. Nos.1802 to 1815/86)

(Sri. M. Vasudeva Rao, CGSC)




~~These~~ applications having come up for hearing to-day, Vice-Chairman made the following.

O R D E R

These are transferred applications and are received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the Act').

2. All the fourteen applicants before us, joined service on different dates as Telephone Operators (TOs) in the then Hubli Division of the Telecommunications Department of Government of India which had jurisdiction over the Revenue Districts of Dharwad, Raichur, Belgaum, Karwar and part of Bellary.


3. From 1.8.1965 the Hubli Division was bifurcated into two Divisions called Hubli and Gulbarga Divisions and on the formation of these Divisions from that date, all the Telephone Operators working in the erstwhile Hubli Division were given an option for service in either of the Divisions. Admittedly from 1.8.1965, all the applicants have continued to work in Hubli Division and are deemed to have exercised their option to work in that Division only.



4. In the combined Gradation List of officials as on 1.7.1971 of 'Telephone Operators' of the 'Engineering Arm' (Annexure-F) published by the General Manager, Telecommunications, Karnataka Circle (GM), the 14 applicants, respondents 4 to 12 who are common in all these cases and other telephone operators of the Divisions have been assigned different ranks as found due, by the GM. In that list, while respondent nos. 4 to 12 have been assigned higher ranks, the applicants have been assigned lower ranks. The applicants, who were aggrieved challenged the same in W.P. Nos. 1105 to 1118/82 before the High Court, which on transfer have been registered as Applications Nos. 1802 to 1815/86.

5. But in order to examine the grievance of the applicants it is enough to notice the details in Application No.1803 of 1986 as illustrative, which is also the case of the other applicants.


6. In the impugned Gradation List, while P.B. Patil, applicant in A.No.1803/86, has been assigned rank No.1426, respondent 4, S.D. Kote Gowder had been assigned rank no.1370. The applicant claims that he joined service earlier than respondent no.4 and therefore he should have been assigned a higher rank and the latter should have been assigned a lower rank. This is also the general claim of the other applicants.



7. In their reply filed, respondents 1 to 3 have asserted that even in the earlier Gradation List prepared in 1969, on the basis of which the Gradation List as on 1.7.1971 had been prepared, respondents 4 to 12 had been assigned higher ranks and the applicants had been assigned lower ranks and all these assignments were legal and valid. These respondents have urged that these applications presented before the High Court as late as on 5.1.1982, suffer from undue delays and laches and calls for dismissal on that very ground itself.

8. Shri H.R. Ananthamurthy, learned counsel for the applicants highlighting the service particulars of each of the applicants, vis-a-vis respondent nos. 4 to 12, contends that the assignment of lower ranks to the former and higher ranks to the latter, in the impugned Gradation List, though the former had joined service earlier was grossly illegal, unjust, improper and cannot be allowed to stand on any principle. In elaboration of the same, Shri Murthy has referred to all the details touching on the formation of the two Divisions, the transfer of posts from erstwhile Hubli Division to Gulbarga Division and various other facts bearing on the same.


9. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel, appearing



for respondents 1 to 3 refuting the contentions of Shri Murthy, contends that the inter se seniority of the applicants and respondents 4 to 12 settled in 1969 had been correctly and validly reflected in the impugned Gradation List. Shri Rao also contends that on grounds of undue delay and laches this Tribunal should dismiss these applications without even examining the merits. In the very nature of things, it is necessary to examine this preliminary objection urged by Shri Rao first and then the merits if that becomes necessary.

10. In an authenticated publication of the Gradation List of Telephone Operators corrected upto 1st July, 1969, P.B. Patil, applicant in A.No.1803/86 and S.D. Kote Gowder, respondent-4 had been assigned rank nos. 1426 and 1370 respectively. In other words, in the earlier Gradation List of 1969 itself, respondent no.4 for whatever reason that be, had been assigned a higher rank. We cannot on any principle ignore the same, though Shri Murthy valiantly persuaded us to do so. As noticed by us earlier, what is true of this applicant is also true of the other applicants.


11. When the applicants had not challenged the higher ranks assigned to respondents 4 to 12 and the



lower ranks assigned to them in the Gradation List of 1.7.1969, it passes our comprehension as to how they can challenge the very same position reflected in the 1971 Gradation List. On this short ground itself we must reject the highly belated challenge of the applicants.

12. Even otherwise, in challenging the rank assigned to them and that to respondents 4 to 12, in so far as it pertains to the 1969 and 1971 Gradation List there is a delay of more than 10 and 7 years respectively. In their applications as also at the hearing, the applicants have not given satisfactory explanation for ignoring this inordinate delay. If that is so, then this Tribunal should be loathe to interfere with the 1969 and 1971 Gradation Lists, and that too, at this distance of time, in the applications presented as late as on 5.1.1982. From this, it follows that these are fit cases in which this Tribunal should decline to interfere with the impugned Gradation List on grounds of undue delay and laches.

13. When once we hold that we should decline to interfere on grounds of delay and laches, the question of this Tribunal examining the merits of the contentions does not arise. We, therefore, decline to examine the merits of the contentions urged elaborately by Shri Murthy.



CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 10TH DAY OF JUNE, 1987

Hon'ble Shri Justice K.S. Puttaswamy, Vice-chairman

Present:

and

Hon'ble Shri L.H.A. Rego, Member (A)

REVIEW APPLICATION NOS.64 to 77/87

1. N.B. Khanaganni,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in R.A. No.64/87
2. P.B. Patil,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.65/87.
3. I.P. Terani,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.66/87
4. E.B. Lokande,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.67/87.
5. G.N. Bhawe,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A. No.68/87.
6. S.S. Sarabure,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.69/87.
7. Ms. P.M. Mahishi
(Smt. V.R. Dambal)
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.70/87
8. S.S. Goudar,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.71/87.
9. B.B. Shaik,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.72/87.



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10. Miss. S.N. Bandekar
(Mrs. S.R. Yadav),
Telephone Operator,
Telephone Exchange
Belgaum. Applicant in
R.A.No.73/87.
11. N.S. Kadurkar,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.74/87.
12. L.M. Joshi,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.75/87.
13. R.B. Patil,
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.76/87.
14. Ms. M.N. Joshi,
(Mrs. P.G. Kulkarni),
Telephone Operator,
Telephone Exchange,
Belgaum. Applicant in
R.A.No.77/87.

(Shri S.A.Narayana Prasad, Advocate).

v.

1. Union of India,
By its Secretary,
M/o Communication,
New Delhi.
2. The General Manager,
Telecommunications,
Karnataka Circle,
Gandhinagar,
Bangalore-9.
3. The Divisional Engineer,
Telegraphs Engineering Division,
Hubli Division, Hubli.
4. S.D. Kote Gowder,
Telephone Operator,
Telephone Exchange,
Hirekerur.
5. S.K. Gasti,
Telephone Operator,
Telephone Exchange,
Rabkavi.
6. Smt. K.S. Parvathi,
Telephone Operator,
Telephone Exchange,
Bagalkot.

7. S.T. Naregal,
Telephone Operator,
Telephone Exchange,
Hole Alur.
8. S.N. Shinde,
Telephone Operator,
Telephone Exchange,
Belgaum.
9. K.S. Kulkarni,
Telephone Operator,
Telephone Exchange,
Belgaum.
10. R.N. Bodke,
Telephone Operator,
Telephone Exchange,
Belgaum.
11. A.J. Upadhyaya,
Transmission Assistant,
Telephone Exchange,
Belgaum.
12. K. Subbanna,
Telephone Operator,
Telephone Exchange,
Belgaum.

..... Respondents common
in all the Applications

This application having come up for hearing to-day
Vice-chairman made the following.

U R D E R

In these applications made under Section 22(3)(f)
of the Administrative Tribunals Act of 1935, the
applicants in A.Nos. 1302-1315/86, which were transferred
applications from the High Court of Karnataka have sought
for a review of our order made on 10.3.87 dismissing
their applications.

2. We dismissed the transferred applications on
substantially two grounds viz., that the applicants



had not challenged the earlier rankings assigned to them and their colleagues as on 1.7.1969 and that even otherwise in challenging the seniority list finalised in 1971 there was a delay of more than 10 years.

3. After hearing the counsel for the parties we dictated our order in the open court on 10.3.87 in their presence and the same has also been communicated to all the parties on 23.3.87. But these applications are filed before this Tribunal on 5.6.87 without any application for condonation of delay.

4. When the period of limitation for these applications is computed from the date of order as that should be as required by Rule 17 of the Central Administrative Tribunal (Procedure) Rules then they should have been presented on or before 10.4.87. Even if we compute the period of limitation from the date of communication of ^{the} order which is not the correct legal position vide Rule 17 of the Rules, then also these applications should have been presented on or before 23.4.87. But as noticed earlier, these applications have been presented before us only on 5.6.87. Thus in making these applications, there is a delay of 43 days. In the absence of an application for condonation of delay, they are liable to be dismissed as barred by time.

5. Shri S.A. Narayana Prasad, learned counsel for the applicants however prays that the delay in filing the applications be condoned and the applications considered on merits.

6. We are of the view that ^{an} oral application for condonation of delay is not maintainable. But we will also assume that an oral condonation of delay is maintainable and examine the case on that basis. Even then we are of the view that every one of the reasons pleaded before us, do not justify us to condone the delay of 43 days in making the applications. From this it follows that these applications are liable to be dismissed as barred by time.

7. We have heard Shri Prasad on merits also. We find that our order examining all the principal contentions, does not suffer from any apparent error also to justify us to review our earlier order. We do not also find any merit in these review applications.

3. In the light of our above discussion, we hold that these applications are liable to be rejected. We therefore reject these applications at the admission stage without notice to the respondents.



Sd/-
Vice-Chairman

14/6/1987

Sd/-
Member (A) 10.6.1987

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17/6/87