

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 21 Oct 87

APPLICATION NO 108 /87(F)

W.P.No. —

APPLICANT Sri Narayana Rao
Mahuli

To

RESPONDENTS Disreter General,
Telecommunications, New Delhi
and 208.

1. Sri Narayana Rao Mahuli,
Transmission Assistant,
Telephone Exchange,
Hassan.
2. Sri P.R. Walvekar, Advocate,
No. 2542, 10th Main Road,
E-Block, II Stage,
Rajaji Nagar, Bangalore-10.
3. Disreter General,
Telecommunications,
Sanchay Bhawan,
New Delhi-110 001.
4. General Manager,
Telephones, Bangalore Circle,
Bangalore.

5. Sri R.V. Rajagopal,
Junior Engineer,
Telephone Exchange,
Ramnagar.
6. Sri M. Venkata Rao,
Advocate (C&SC)
High Court Building,
Bangalore-560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/

INTERIM ORDER passed by this Tribunal in the above said application

on 16 Oct 87.

RECEIVED

Signature - 23-10-87

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Rec 246
26/10/87

Diary No. 1332/CON/10

Date: 26-10-87

Agree
SECTION OFFICER
(JUDICIAL)

Encl: as above.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 16TH DAY OF OCTOBER, 1987

Present : Hon'ble Sri L.H.A.Rao Member (A)

Hon'ble Sri Ch.Ramakrishna Rao Member (B)

APPLICATION No. 103/87(F)

Kiran Narayanan Rao Mahuli,
Transmission Asst.,
Telephone Exchange,
Hussan. ... Applicant
(Sri P.P.Jalvekar ... Advocate)

vs.

1. Director General,
Telecommunications,
Sanchay Bhawan,
New Delhi.
2. General Manager,
Telephones, Bangalore Circle,
Bangalore.
3. R.V.Rajagopal,
Junior Engineer,
Telephone Exchange,
Tumkur. ... Respondents.
(Sri M.V.Rao ... Advocate)

This application has come up before the court
today. Hon'ble Sri L.H.A.Rao, Member (A) made the following :

O R D E R

The applicant prays in this application, that
Annexure-C which embodies letters dated 30.5.1985 and 10.6.1985
from respondents (R) 1 and 2, relating to the results of the
competitive examination for recruitment to the cadre of Junior
Engineers ('JEs', for short) held in July 1984, against the quota
of vacancies reserved for departmental officials, be set aside,
in so far as it concerns R-3 and that an order be issued,



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declaring that the applicant is selected to the cadre of JE, in place of R-3 or in the alternative, a direction be given to the effect, that the applicant be also deputed for training and that he be treated as senior to R-3, in the cadre of JEs and that he be granted consequential relief.

2. The salient facts giving rise to this application are as follows : The applicant was recruited as a Telephone Operator on 16.7.1973, in the pay scale of Rs.260-480, in the Indian Posts and Telegraphs Department, Karnataka Circle, Bangalore. He was appointed as a Transmission Assistant on 27.12.1980, in the pay scale of Rs.380-660, after passing a competitive examination and undergoing successfully the prescribed training.

3. Promotion of the departmental candidates, to the higher cadre of JEs, in the pay scale of Rs.425-740 is based on the results of a competitive examination, circumscribed by the percentage quota stipulated for the two respective group of feeder cadres. 15% of this quota is earmarked for the cadre of Telephone Operators, Technicians, and Lower Division Clerks, which we may designate as F1A, for ease of reference, while 10% of the posts, is reserved for the cadre of Wireless Operators, Transmission Assistants, Auto Exchange Assistants and Telephone Inspectors, which for like reason, we may identify as F1B. The Telephone Operators, are eligible for selection to the cadre of Wireless Operators, Transmission Assistants, Auto Exchange Assistants and Telephone Inspectors, through a competitive examination.

4. The following is the relevant extract of Schedule-I to the Junior Engineers (Recruitment) Amendment Rules, 1981

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(Rules, for short) in regard to the method of recruitment, to the post of JE's:

- "(i) 65 percent by direct recruitment
- (ii) 15 percent by promotion of departmental candidates through a competitive examination; and
- (iii) 10 percent by promotion of Transmission Assistant, Telephone Inspectors, Auto Exchange Assistants and Wireless Operators through a competitive examination.
- (iv) 10 percent by promotion of Transmission Assistants, Telephone Inspectors, Auto-Exchange Assistants and Wireless Operators on seniority-cum-fitness basis through a separate qualifying Test, the Inter seniority of the officials being decided on the basis of length of service in the grade."

5. Against the quota ~~10%~~ referred to in Item(iii) in para-4 above, the incumbents in the cadres referred to therein, who have put in at least five or three (as the case may be) years of continuous satisfactory service, in any of these cadres, on 1st July of the year of recruitment, would be eligible to appear for the competitive examination for promotion to the cadre of JE (vide S.No.2 of that Schedule).

6. Further, the term "departmental candidates" referred to in Item(ii) in para 4 above, has been explained as below, in the aforementioned Schedule :

- "(i) Group 'C' employees who have put in at least five years service or three years of service in case of those who possess qualifications prescribed in column 7, as on the 1st July of the year of recruitment, borne on the regular establishment and working in the Telegraph Engineering Branch of the Department and in the office of the General Managers Telecommunications Circles and Telephone Districts whose scale of pay is less than of Junior Engineers other than :



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- (a) Transmission Assistants, Wireless Operators, Auto Exchange Assistants and Telephone Inspectors;
- (b) Group 'M' employees of the Telegraph Traffic Branch of the Department; and
- (c) Dispensary staff like Compounder/Nurses/Medical Stores Keepers/Laboratory Technicians/ Plumbers/Sanitary Inspectors/Conservancy Inspectors/Family Planning Extension Educator/Family Field Workers;"

7. The applicant applied for permission to appear for the competitive examination for the cadre of JE, in respect of the 15% quota of posts earmarked for KNA, as he had completed more than 5 years of service as Telephone Operator. He was accordingly allowed to appear for this examination in terms of the above rules and allotted Hall ~~✓~~ Permit No. KNA 259. He was not eligible for the 10% quota of posts, reserved for KNB, as he had not completed 5 years of service in any of the posts included in this group.

8. R3 entered service as a Telephone Operator in the same Department on 23.10.1973, and was later, on 23.11.1979 promoted as a Transmission Assistant. He had rendered 5 years and 4 months of service, as on 1.7.1984 (inclusive of the training period of 9 months for Transmission Assistants as laid down in Circular dated 27.7.1983 of R1) i.e. on the date, relevant to the competitive exam. proposed to be held, for promotion to the cadre of JE, ~~the~~ while the applicant had put in service, of only 4 years and 2 months as on that date, in the said post. Thus while R-3 was eligible to appear for this competitive examination, in respect of the 10% posts earmarked for KNF, the applicant was not. In his application for permission to appear for this competitive examination, R3 had clearly indicated, that he intended



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availing of the avenue of promotion, within the 10.6 quota reserved for KNA. R1 and R2 state, that R3 was inadvertently allotted a Hall Permit, bearing No.263 in the KNA series and his name included within the 15.6 quota earmarked for KNA.

9. When the results of the said competitive examination were announced by R1, in his letter dated 12.3.1985 (Annexure-B), certain discrepancies were noticed, ostensibly, owing to jumble of the KNA and KNB quota, as above. Besides R3, certain others were involved in this mix-up. These results were therefore revised by R1 on 30.5.1985 (Annexure-D), under which, R3 was declared as selected within the 10.6 quota, earmarked for KNB. R1 and R2 state, that the merit list in regard to the above competitive examination, was drawn up separately for KNA (15.6 quota) and KNB (10.6 quota).

10. The applicant states, that in the results of the competitive examination held in 1984, declared by F1 on 12.3.1985 (Annexure-B), neither his name nor that of R3, appeared in the list of successful candidates in KNA or KNB.

11. He asserts, that R1 had on 27.3.1985, communicated to him (Annexure-C), the marks scored in the above examination by him, in each of the 4 Papers, the aggregate of which, worked out to 65.56. He avers, that R3 on the other hand, secured only 63.56 in this examination and was therefore lower in merit than he, in the competitive examination, for which both of them had appeared, for the 15.6 quota earmarked for KNA.

12. The applicant alleges, that in the result notified by F2 on 10.6.1985 (Annexure-D), in respect of the very same



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examination, R3 who was allotted Hall Permit No.KNA 263, was for the first time, included in the list of successful candidates in the 10½ KNB quota, but was not included either in this or the KNA (15½ quota) list, even though he had scored higher percentage of marks than R3. Aggrieved thereon, he submitted a written representation to R2, on 5.8.1985 (Annexure-E), but was not satisfied with the reply given to him by R2 on 6.9.1985 (Annexure-F), elucidating the matter.

13. In the hope that he would ultimately secure justice, the applicant submits, that he addressed a series of representations to R1 and R2, the last of which was on 17.11.1985 (Annexure-G) but to no avail. The applicant has therefore approached this Tribunal for redress.

14. At the outset, Sri M.Jasudeva Rao, learned Counsel for R1 and R2, raised the plea of limitation, on the score, that the order impugned by the applicant was dated 15.6.1985. The applicant had initially represented thereon to R2, on 5.6.1985 (Annexure-E), to which he was given a reply on 6.9.1985 (Annexure-F). Thereafter, counsel for the applicant submits, that he pursued the matter till 17.11.1985, but there was no response. Even though we are aware, that the applicant could not surmount the bar of limitation, merely by repeated representation, once a final reply was given to him, by the concerned authority, we had taken a sympathetic view, in admitting this application in the peculiar facts and circumstances of this case, with a view to advancing substantial justice. We, therefore, overrule the preliminary objection raised by Sri Rao in regard to limitation.

15. Sri P.R.Jalvekar, learned counsel for the applicant contended, that R1 and R2 had overlooked the merit of his client



in the above competitive examination, for the cadre of JE, as compared to R3, even though both had appeared for the 15½ vacancies earmarked for the KNA Group and allowed R3 to supersede him, which action he alleged, was illegal, arbitrary and discriminatory. He therefore pleaded, that Annexure-D be struck down or in the alternative, the applicant be deputed for training as JE and thereafter, on successful completion of this training, be placed over R3, in the cadre of JE, by virtue of his higher merit in the 1934 competitive examination, for promotion to this cadre.

16. Sri M. Vasudeva Rao countered the above pleading of Sri Javelkar on the score, that R3 had actually applied for permission to appear for the competitive examination in 1934, in respect of the 10½ posts earmarked for KNE and not KNA. He stated, that R1 and R2 had rectified the initial patent error of having considered R3, as a candidate for the 15½ KNA quota. The merit lists for KNA and KNE in respect of this examination he said, were drawn up separately, as hitherto and R3 appeared in the list of successful candidates, within the 10½ quota earmarked for KNE, when the result was revised and announced according to Annexure-D in May-June 1935, strictly in accordance with the rules. The applicant he said, did not qualify for Group KNE, (as he had not completed 5 years of service in any of the cadres listed therein, as on the relevant date) for the competitive examination. He clarified, that even though the applicant secured higher percentage of marks in the aggregate, in the same examination, as compared to R3 (though marginally), he could not get into the 15½ quota meant for KNA, as there were others who had secured a higher percentage of marks than he, within the prescribed quota, in that group. The percentage quota



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between FNA and FNB, for promotion to the cadre of JE he explained, was apportioned, with due regard to size of the feeder cadres in the above respective groups, with a view to prevent stagnation. He said, that the FNA cadre was larger than FNB, commensurate with which, the percentage quota for promotion to the cadre of JE, was determined for each of these groups.

17. We have examined carefully, the statements of both sides and the material placed before us. We are convinced, that F1 and F2 rectified a patent error in the results declared earlier on 12.3.1985 (Annexures E and D). The applicant could by no means claim parity with F3, in regard to his service, as F3 had completed more than 5 years of service in one of the feeder cadres included in FNB, on the relevant date, which was a pre-requisite, for promotion to the cadre of JE, according to the Rules then current, whereas the applicant did not fulfil this condition. Besides, F3 had explicitly sought in his application, permission to appear for the competitive examination held in 1984 and he desired to avail of the 10% quota earmarked for FNB and not FNA. He is thus in no manner responsible for the initial patent error committed by F1 and F2, in considering him as falling in the FNA group, while declaring earlier on 12.3.1985, the results of the competitive examination held in 1984. It would therefore be unfair, to make F3 suffer vicarious punishment, on account of this lapse on the part of F1 and F2. However, F1 and F2, soon after in May-June 1985, rectified the obvious error, by revising the results of the above examination and giving due justice to F3, by including his name in the list of successful candidates in FNB group, with due regard to his merit and the percentage quota reserved for this group.



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13. In the light of the above facts and circumstances we are convinced, that no injustice has been caused to the applicant on this account. The application therefore fails and is liable to be dismissed. We, therefore dismiss the same accordingly but with no order as to costs.



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MEMBER (A) 16.10.87

Sd/-
MEMBER (J)

16.10.87

-True copy-

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SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE