

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614.

O.A. No. 491/90

1. Telecom Factories Engineers Association, Bombay Branch, Telecom Factory, Deonar Bombay 88
C/o. Shri G S Walia
Advocate
89/10 Western Railway Employees Colony, Matunga Road
Bombay 400 019
2. P N Patil, Working as Assistant Engineer
Telecom Factory Deonar
Bombay 88
3. P K Pawar
Assistant Engineer
Telecom Factory
Deonar; Bombay 88
4. J Sequeira
Assistant Engineer
Telecom Factory
Deonar; Bombay 88

.. Applicants

V/s.

1. Union of India
through Secretary
Ministry of Communications
Department of Telecommunication
(TFS Section)
Sanchar Bhavan; 20 Ashok Road
New Delhi 110001.
2. General Manager
Telecom Factory
Deonar Bombay 88

.. Respondents

CORAM: HON. JUSTICE SHRI U C SRIVASTAVA, V.C.
HON. SHRI M.Y. PRIOLKAR, MEMBER (A)

APPEARANCE

Shri G S Walia
Advocate
for the applicant

Shri V S Masurkar
Counsel for the
Respondents

ORAL JUDGMENT

DATED: 21.6.1991

(PER: U C Srivastava, Vice Chairman)

The Telecom Factory Engineers Association, has approached this Tribunal praying that the proceedings in its Employment News dated 15.6.1990 be quashed and a direction may be issued to Respondents not to fill up the vacancies by transfer on deputation of the officers holding analogous posts in the Central Government but to

fill up the vacancies in accordance with the Recruitment Rules. According to the Recruitment Rules 50% of the posts are for promotees and 50% of the posts are for Direct Recruits. The Association represents the promotees. The grievance of the Association is that 50% direct quota instead of appointing the promotees on ad hoc basis so long as the direct recruit is appointed, is being proposed to be filled on transfer on deputation for which the advertisement has been issued. The advertisement reads that the deputation is initially for a period of one year which may be extended by one more year. The contention of the applicants is that the advertisement is not contemplated under the recruitment rules and that by amending the rules the deputationists cannot be taken in service, even in direct quota and that too in preference to the promotees.

On behalf of the respondents it has been stated that the Government has used its power as per clause 9 of Recruitment Rules i.e., *'Power to Relax' which reads as under:

"9. Power to relax:- Where the Central Government is of opinion that it is necessary for expedient so to do it may, by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the ~~xx~~ provisions of these rules with respect to any class or category of persons or posts".

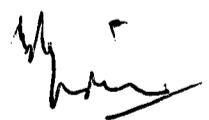
The rules permit relaxation in recruitment rules but the clause does not permit denial or ~~denial~~ of promotion ^{which} on ad hoc basis is not contemplated in the rules. According to the Central Government counsel the provision of relaxation ^{and} in the guidelines relating to the recruitment

(a)

are issued by the Government under its Office Memorandum dated 8.6.1988. In the Telecom Factory there is no direct recruitment available and hence ^{it} has decided to invoke the relevant clause in the Recruitment Rules to recruit persons on transfer on deputation basis till such time the Direct Recruits are available. The orders of the Central Government in this behalf are produced before us and the relevant portion reads as under:

"(c) However, in cases where direct recruitment is the only method provided in the Recruitment Rules, Ministries/Departments have been advised vide O.M.No.14017/8/84-Estt. (R.R.) dated 19th June, 1986, that the Rules may be amended to provide for transfer on deputation as an alternative method to fill short-term vacancies in the direct recruitment quota. In case the rules have not been amended, the Ministries/Departments may take steps to do so immediately so that the shortage of qualified candidates against the D.R. quota, may be met by filling the vacancies through transfer on deputation for short periods. "

In our opinion the necessary condition for relaxation of recruitment rules has to be done according to the rules recruitment. Unless the rules are amended it is not proper to bring people on transfer on deputation which will hamper those who are in the department. Accordingly this application deserves to be allowed. The application succeeds. *✓*


(M Y PRIOLKAR)
MEMBER (A)


(U C SRIVASTAVA)
VICE CHAIRMAN