

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
Bangalore-560 038.

Dated:- 22 JUN 1994

APPLICATION NUMBER: 883 of 1994.

APPLICANTS:

Sri. Abdul Majid Khan  
To.

RESPONDENTS:

v/s. Secretary, Deptt. of Telecommunication,  
New Delhi and Others.

1. Sri. M. Narayanaswamy, Advocate,  
No. 844, Upstairs, Fifth Block,  
Rajajinagar, Bangalore-560010.

Subject:- Forwarding of copies of the Orders passed by the  
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above  
mentioned application(s) on 14-06-1994.

gm\*

*S. Shanmugam*  
For DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

*Issued*

*S. Shanmugam*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH : BANGALORE

APPLICATION NO.883/1994

DATED THIS THE FOURTEENTH DAY OF JUNE, 1994

Mr. Justice P.K. Shyamsundar, Vice Chairman

Mr. T.V. Ramanan, Member(A)

ABDUL MAJID, KHAN  
S/o. Abdul Waris Khan  
Aged about 41 years  
Junior Telecom Officer  
Office of the Chief General Manager  
Karnataka Telecommunication Circle  
No.1, Old Madras Road, Ulsoor,  
Bangalore - 560 008.

... Applicant

(By Shri M.N. Swamy, Advocate)

Vs.

1. The Government of India rep.  
by its Secretary to Govt.,  
Department of Telecommunication  
Sanchar Bhavan, New Delhi-110 001.
2. The Chief General Manager  
Karnataka Telecommunication Circle  
No.1, Old Madras Road, Ulsoor  
Bangalore-560 008.
3. Shri M.V. Angadi, Major  
Assistant Engineer (TES GROUP-8)  
Office of the General Manager  
C.A.C.T., Dooravani Nagar  
Bangalore - 560 016.

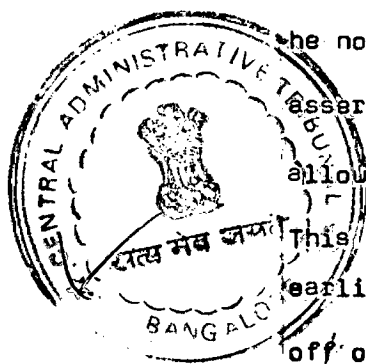
... Respondents

(By

O. R. D. E. R

(Mr. Justice P.K. Shyamsundar, Vice  
Chairman),

This is a second round litigation, the first round  
having concluded very much against the applicant on all sides but  
he now seems to project a new dimension into the controversy  
asserting that somebody who had secured less marks had been  
allowed to steal a march over him for promotion to the TES Group 'B'.  
This is an aspect to which we were not exposed to on the  
earlier occasion, which came up in O.A. No.441/1992 disposed  
off on 16th August, 1993. While disposing off that application,

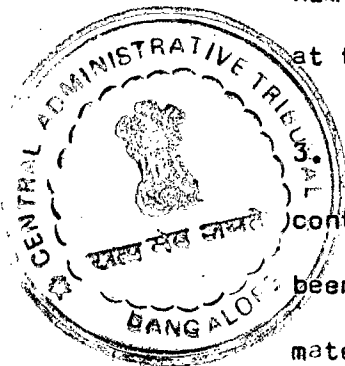


we made the following observations:

" It being a simple question of ascertaining the facts from the records, we called for the records and found therefrom the marks obtained by the applicant and respondent 3 and 4. We find that respondents 3 and 4 have secured more marks than the applicant and consequently their selection ahead of the applicant was justified. The position does not alter or differ even on the basis of construction suggested by Narayanaswamy is placed on the Rules under which counsel submits that vis-a-vis the allotment of marks in regard to assessment of confidential records it being one of four parameters making up the scheme of competitive examination, even then the position does not improve so far as the applicant is concerned. The maximum available for awarding marks in regard to the assessment of confidential records is 75 marks and for a pass the requirement is only 50 per cent not merely with reference to the aforesaid topic but in regard to the other papers as well. Mr. Narayanaswamy says when the man has passed he is eligible for maximum marks in respect of confidential records. Assuming so and accepting the argument on the basis thereof, if the marks secured by each of the persons namely the applicant and respondents 3 and 4 are again computed, respondents 3 and 4 are still in the lead and consequently their selection cannot be faulted at all. We, therefore, see no substance in this application which fails for the reasons stated above. Accordingly, it is dismissed. No costs. "

2. We see from the above that we did actually make an investigation that took us to exploring the records with particular reference to the marks obtained by the party respondents in that application, in the backdrop of the controversy based by the applicant that he had secured more marks than the others. On the contrary it turned out that such was not the case as the others had secured more marks than the applicant. Thus, we find that he had no tenable basis on which he could ask us to find fault with the verdict recorded by the administrative authority holding that others who had secured more marks were eligible for promotion. This

is an aspect which is no longer in dispute. It is common ground that the applicant did not prefer an appeal from that judgement with the result it has become conclusive and is binding on him. He now however, seeks to inject a new dimension into this controversy that had been disposed off earlier as mentioned above by suggesting that somebody who is now a party respondent had secured less marks than him but even then had secured promotion, whereas he had been denied promotion although eligible. This application is made <sup>about</sup> one year after we disposed off the earlier application. We were however a little curious to ascertain the basis on which the applicant asserts that he had secured more marks than somebody etc., and the applicant was asked to file an affidavit in this regard. The applicant has now filed an affidavit in which he says all this material was supplied to him by an official of some Union of which probably he is a member. The person who supplied this information is not a deponent of this affidavit. In that situation, the information passed on to the applicant must be a hear say as the applicant himself does not have any personal knowledge about all that. We cannot possibly act on such tenuous material. What is more, it is too late in the day for the applicant to endeavour, after having failed to establish his claim for promotion on the earlier occasion, to re-open the same issue again by suggesting that somebody else who had secured less marks than him had been given promotion, this argument we cannot accept at this belated stage.



In Law there should be some finality to any controversy. If the applicant thought that his claims had been negated unjustly he should have produced the necessary material on the earlier occasion. He cannot come back to us

in instalments and ask us to investigate his case over and over again. We must therefore hold this application is clearly barred by res judicata and we therefore dismiss the same at the admission stage itself. We may also observe that by all standards this application is hopelessly belated.

It comes now nearly after one year after the judgement we had rendered in disposing of O.A. 441/1992 and if we go back little more, we find <sup>against select</sup> a list of promotion made in August and December, 1989. It means his grievance is as old as 5 years. We do not think it appropriate for us to enliven this issue once again.



Sd/-  
(T.V. RAMANAN)  
MEMBER(A)

Sd/-  
(P.K. SHYAMSUNDAR)  
VICE CHAIRMAN

TRUE COPY

mr.

*P. Shankar*  
SECTION OFFICER 22/6  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE