

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.1062/94

Dated: 28-10-79

P.N.Nandanwar

Applicant.

Mr. H.Y.Deo with Mr.D.V.Gangal

Advocate

Applicant.

Versus

Union of India & Ors.

Respondent(s)

Mr.S.S.Karkera on behalf of Mr.P.M.Pradhan

Advocate for

Respondent(s)

CORAM :

Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri B.N.Bahadur, Member (A).

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

(3) Library?

R.G.Vaidyanatha
(R.G.VAIDYANATHA)
VICE-CHAIRMAN

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.1062/94.

this the 28th day of Oct. 1999.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri B.N.Bahadur, Member(A).

P.N.Nandanwar,
E-1/5, Shri Balamal Chawl,
Behind Nav-Maharashtra Vidyalaya,
Pimpri,
Pune - 411 017. ...Applicant.
(By Advocate Mr.H.Y.Deo with
Mr.D.V.Gangal)

Vs.

1. Union of India through
The Chairman Telecom
Commission,
Telecommunication Department,
Sanchar Bhavan,
Ashoka Road,
New Delhi - 110 001.
2. The Chief General Manager,
Maharashtra Telecom Circle,
G.P.O. Building,
Bombay - 400 001. ...Respondents.
(By Advocate Mr.S.S.Karkera on behalf
of Mr.P.M.Pradhan)

: ORDER :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of the Administrative Tribunals Act, 1985. The respondents have filed their reply opposing the application. We have heard Mr. D.V.Gangal and Mr.H.Y.Deo, learned counsels for the applicant and Mr.S.S.Karkera on behalf of Mr.P.M.Pradhan on behalf of the respondents.

2. The applicant is now working as Junior Accounts Officer on officiating basis. He is entitled to be promoted as Junior Accounts Officer on regular basis. A departmental examination

has to be passed if one has to get regular promotion as Junior Accounts Officer. The applicant had earlier applied for Part-I examination, but could not succeed. Then he filed previous O.A. where a direction was given to reconsider the result of the examination of the applicant after applying relaxed standards for SC / ST candidates in pursuance of the 1981 Government Order. The applicant has since passed Part-I examination. He has now appeared for Part-II examination, but he has not yet been declared successful in the examination. It is also stated that Accountancy paper which was earlier in Part-I examination, which the applicant has already passed, has since been included in Part-II of the examination and the applicant had to appear even for the said paper. The applicant's performance in Part-II has not been considered by applying relaxed standards for SC/ST candidates, inspite of representation made by the applicant. It is stated that the applicant belongs to ST community. It is stated that the respondents are bound to give grace marks to enable the SC/ST candidates to pass in the examination. Hence, a direction is sought to respondents to given necessary grace marks to the applicant and then declare him having passed the Part-II examination held in October-November 1992 and consequently to permit him on regular basis as Junior Accounts Officer with all consequential benefits.

3. It is admitted in the reply that the SC/ST candidates are entitled to relaxation standards. It is stated that for the examination 40% is the qualifying marks for general candidates and 33% for SC/ST candidates, both for Part-I and Part-II. While admitting the 1981 circular regarding relaxation standards of SC/ST candidates, it is now stated that the rules have been

revised in 1992. Now, the Competent Authority has taken a conscious decision that since the post of Junior Accounts Officer is a varied and complicated job dealing with Accounts and Finance matters, the candidate in such an examination who passes at least in two subjects in Part-II examination and secure at least 30% marks, which is since reduced to 25% marks, before he can be treated as passed. It is stated that inspite of the said relaxation up to 25% the applicant has not passed in the examination in Part-II and hence he could not be declared successful. It is therefore stated that the applicant is not entitled to any other reliefs.

4. At the time of arguments an important question was canvassed before us. The learned counsel for the applicant contended that SC/ST candidates are entitled to relaxation standards and referred G.Renuka's case reported in (A.I.R. 1997 SC 2138) and other cases. On the other hand, the learned counsel for the respondents by relying on the recent judgment of the Supreme Court in Vinod Kumar reported in (1996 SCC (L&S) 1480) contended that relaxation standards cannot be applied in the case of promotion of SC/ST employees. Though number of authorities have been referred to on both sides, we feel that in the facts and circumstances of the case, we need not give any finding on the question whether SC/ST candidates are entitled to relaxation standards in the case of promotion.

5. In the present case, in the reply, it is admitted that in view of the revised guidelines, applicant could not get through Part-II examination even after applying relaxation standard up to 25% and therefore he could not be declared successful. If that is the position, then we need not go to the larger question whether in view of the latest decision relaxation standard should be applied to SC/ST candidates in case of promotion or not.



6. It may be noticed that even Article 335 of the Constitution which mentions about appointments of SC/ST candidates, it is clearly stated that they can be appointed "consistently with the maintenance of efficiency of administration".

In the present case, the applicant is relying on the 1981 circular which does not speak about any minimum qualifying marks. But the respondents say that the administration has modified the rules in 1992 having regard to the nature of the post.

The respondents have clearly stated in the reply that the post of Junior Accounts Officer is varied and complicated and the Officer has to deal with Accounts and Finance matters. Therefore, the Competent Authority viz. the Member (Finance) has taken conscious decision that in respect of this particular post the minimum qualifying marks for ST candidates should be at least 25%. It may be noted that for general candidates the minimum qualifying marks is 50%, then for SC/ST candidates it had been kept as 40%, now it has been reduced to 25%. Therefore, this is a case where there is relaxation standard applied by the administration for SC/ST candidates by relaxing the standard from 50% to 25%. Therefore, this is not a case where the administration has not applied relaxation standard to SC/ST candidates. Having regard to the nature of this post and the duties attached to the post, the Competent Authority has taken a conscious decision that even SC/ST candidates should at least get 25% of the marks (as against 50% marks for the general candidates) to be qualified for getting promotion. We do not find that there is any illegality or irregularity in the



conscious decision taken by the administration limiting the qualifying marks for SC / ST candidates to 25% in view of the nature of the post and the duties attached to it. Hence, in the circumstances, this Tribunal cannot give any further direction to the administration to still lower the qualifying marks for SC/ST candidates. It is a policy decision to be taken by the administration as to how much minimum qualification marks or how much relaxation should be given to SC/ST candidates for the purpose of promotion having regard to the nature of a particular post, the duties attached to it and other circumstances into consideration.

7. After perusing the materials on record, we are satisfied that the respondents have applied relaxed standards even in the case of the applicant, but since he did not secure even 25% of the marks (as against 50% marks for general candidates), the administration has declared him as fail^{ed} in the qualifying examination and has not considered him fit for promotion. In view of the reasons stated above, we cannot give any direction to the administration to still lower the relaxation standards in favour of the applicant since it is purely a policy matter to be decided by the administration taking into consideration various factors including the nature of the post, duties attached to it etc. In the circumstances, we hold that the applicant is not entitled to any of the reliefs prayed for in the application.

8. In the result, the application fails and is hereby dismissed. There will be no order as to costs.

B.N.Bahadur
(B.N.BAHADUR)

MEMBER(A)

B.

R.G.Vaidyanatha
25/10/99
(R.G.VAIDYANATHA)

VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P. NO.55/99 IN O.A.NO. 1062/94.

Dated this Thursday, the 16th day of December, 1999.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

P. N. Nandanwar

... Review
Petitioner.

VERSUS

Union of India & Another

... Respondents.

TRIBUNAL'S ORDER ON CIRCULATION :

This is a Review Petition filed by the applicant seeking the review of our order dated 28.10.1999. We have perused the contents of the Review Petition, the documents produced alongwith it and the entire record.

2. In our order we have clearly held that respondents have applied the rules of relaxed standards and having regard to the particular post, a conscious decision is taken to grant relaxation only upto 25% as against the normal requirement of 50% of the marks. After going through the materials on record, we do not find that any apparent error is made ^{out} on the record. The whole issue cannot be reopened after the judgement is pronounced. If the applicant is aggrieved by the order of the Tribunal, their remedy is elsewhere but certainly not by way of review. Hence, we do not find any merit to admit the review petition.

3. In the result, the review petition is rejected by this order on circulation.

B. N. Bahadur

(B. N. BAHADUR)

MEMBER (A).

R. G. Vaidyanatha

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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order/Judgement despatched
to Applicant Respondent(s)
on 24/12/99

22/12/99