

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 187/1998.

Tuesday, this the 26th day of February, 2002.

Hon'ble Shri Justice Ashok Agarwal, Chairman,
Hon'ble Smt. Shanta Shastray, Member (A).

1. B.P.Tiwari,
TL, CTO, Mumbai.
2. Smt. A.C.Kelkar,
TL, TO, Kalbadevi.
3. Smt. P.P.Ladsavangikar,
TL, CTO Mumbai.
4. Smt. Jessy Joy,
TL, TO, Khar.
5. Smt. M.G.Hegde,
TL, TC, Airoli.
6. Smt. S.K.Dixit,
TL, CTO, Mumbai.
7. N.F.Choudhary,
TL, TO, Dadar.
8. S.G.Subramanian,
TL, CTO, Mumbai.
9. V.N.Ankaram,
TL, CTO, Mumbai.
10. S.K.Patil,
TL, CTO, Mumbai.
11. Smt. V.V.Salvi,
TL, T.C. Parel.
12. C.R.Yadav,
TL, CTO, Mumbai.
13. S.B.Misal, TM (O) CTO, Mumbai.
14. M.R.Deshpande, -do-
15. R.R.Yadav, -do-
16. B.P.Deoghare, -do-
17. S.R.Agnihotri, -do-
18. P.L.Meshram, -do-
19. C.N.Deshmukh, -do-
20. D.M.Prasade, -do-
21. B.M.Kosare, -do-
22. Smt. A.S.Chitale, -do-
23. P.I.Deshmukh, -do-
24. Smt. K.A.Naranje, TM (O), TO, Byculla.
25. K.J.Madavi, SR. TM, CTO, Mumbai.
26. O.R.Mishra, -do-
27. Smt.V.V.Patil -do-
28. Smt. Asha Singh, TA, TO, Dadar.
29. J.L.Kanojia, TA, CTO, Mumbai.
30. S.B.Singh, SS (O), TO, Dadar.
31. H.M.Khan, SS (O), Western CTO.
32. S.Thangamuthu, SS (O), TO, Dadar.
33. S.P.Singh, TA, CTO, Mumbai.

34. R.M.Prajapati, TA, CTO, Mumbai.
35. B.L.Maurya, TA, TO, Byculla.
36. Y.K.Gajbe SS (O), CTO, Mumbai.
37. A.A.Godase,
The Divisional Secretary,
All India Telegraph Traffic
Employees Union, Class - III,
Mumbai District.

The applicants are presently
working as Telegraphists and
Telegraph Assistants at various
local telegraph offices under the
over all administrative jurisdiction
of the Chief Superintendent Central
Telegraph Office, Mumbai.

(By Advocate Shri G.S.Walia)

...Applicants.

v.

1. Union of India, through
Chief General Manager,
Telecommunications,
Maharashtra Circle,
Fountain Telecom Building No.II,
Fort, Mumbai - 400 001.
2. Chief Superintendent,
Central Telegraph Office,
Mumbai - 400 001.

(By Advocate Shri V.S.Masurkar)

...Respondents.

: ORDER (ORAL) :

Smt. Shanta Shastry, Member (A).

Applicants Nos.1 to 27 belong to the cadre of Telegraphists and Nos. 28 to 36 to the cadre of Telegraph Assistants. The Department of Telecommunication on 16.10.1990 introduced the scheme of cadre re-structuring for the Operating Staff in order to handle computerised jobs and new technologies. A new cadre of Senior Telecom Operating Assistant was introduced in the pay scale of Rs. 1320-2040 and the Educational Qualification prescribed was minimum 10 + 2 standard. In terms of the Duty Order No.27-4/87-II/(3) dt. 16.10.1990 the feeder cadres possessing the educational qualification of 10 + 2 standards were required to qualify in the Aptitude Test and the

...3.

rest by Competitive Examination. According to the applicants, no Aptitude Test or Competitive Examination was conducted in the Maharashtra Telecom Circle till August, 1993. The Respondent No.1 had announced an Aptitude Test to be held in the month of September, 1993. It was conducted on 10.10.1993 and according to the applicants' it was subsequently cancelled. Thereafter, the Department of Telecommunication exempted all officials in the feeder cadres possessing the minimum educational qualification of 10 + 2 from Aptitude Test and they were allowed to form a Walk-in-Group to move into the restructured cadres without any test. A notice was displayed on 16.1.1994 by Respondent No.2 calling for options from those willing for absorption in the restructured cadres of Senior Telecom Operating Assistants and Senior Telecom Assistants in the prescribed form on or before 27.5.1994. According to the applicants', the time limit fixed for the option was very short and they could not exercise their options within the stipulated time. The Respondents issued a second notice calling for options again and thereafter ~~they~~ on the options received from about 310 Telegraphists and 155 Telegraph Assistants ^{they's} _^ were placed in the eligibility lists meant for recruitment to the cadre of Senior Telecom Operating Assistants. The applicants' came to know about the second option in the month of December, 1995 through their Circle Branch. In fact, the time limit for submission of the options had been extended upto 20.6.1996. It is the contention of the applicants' that Respondent NO.2 had not exhibited the circular of Respondent No.1 regarding extension of time limit in any of the Telegraph Offices, at

relevant point of time and therefore the applicants could not exercise their option and they missed the bus. Some time later, in 1997 the applicants' qualified for being absorbed in the re-structured cadre. The relief now sought by the applicants is to declare that they had exercised their options during the extended period from 27.5.1994 to 20.6.1994 and to direct the Respondents to include the applicants in the main eligibility list for recruitment to the re-structured cadres with financial benefits from the date their juniors got it. It has also been prayed that the applicants be deputed to the prescribed pre-appointment induction training immediately and to give them appointments in the re-structured cadre posts from the date their juniors got it. The applicants have also prayed for consequential seniority in the feeder' cadres and further officiating promotions.

2. The Respondents have filed their written statements and submit that the applicants have failed to exercise their options in time. Even assuming that the notification regarding the first option was received belatedly, nothing prevented the applicants from exercising the option the second time within the extended period. The Learned Counsel for the Respondents argued that the notice regarding the option had been displayed very well and while several others in the Maharashtra Circle from different places could exercise their option, it is un-believable that the applicants' did not know about the extended date of option.

3. The Learned Counsel for the applicants strongly denied that the applicants' had been aware of the notice regarding the

extension of the option date. Further, the Learned Counsel contends that even the extended option was given to the Non-Walk-in-Group and not to the Walk-in-Group and thus discriminated amongst the officials. ^{walk in group to which applicant belonged} Therefore, the applicants are entitled to have been deemed to have exercised their option w.e.f. 27.5.1995 to 20.6.1994. Even the Respondents have admitted in para 18 of the written statement that the letter dt. 17.6.1994 extending the date of submission of option upto 20.6.1994 was received in the office of the Respondents only on 22.6.1994 i.e. on expiry of the extended date of submission of option.

4. We have considered the arguments advanced by the Learned Counsel on both sides. It is seen that the Respondents themselves have admitted that the notice for exercising of option was received belatedly in the office of the respondents. Therefore, it cannot be accepted of the applicants to have known ^{expected to} about the ^{extension for} option. Further, there is no satisfactory explanation as to why discrimination was made between the Walk-in-Group and Non-Walk-in-Group. In the circumstances, we have to hold that the applicants were entitled to be considered for recruitment to the re-structured cadres deeming that they had exercised their option in time. We, therefore, direct the respondents to treat the applicants as having given their option within the extended period from 27.5.1994 to 20.6.1994 i.e. dates from which their juniors had sought the option. We make it clear that the applicants' shall get notional pay for the period from the date their juniors have got it till the applicants got their regular absorption in the re-structured cadre. However, the arrears

shall be payable to the applicants for the period from one year prior to the date of making of the application. However, the applicants shall not be entitled to get benefit of seniority on account of this, as it would amount to unsettling the settled position of a large number of officials. The OA is disposed of in terms of the above directions. No costs.

Shanta Shastri
(SHANTA SHASTRY)
MEMBER (A)

Abhok Agarwal
(ABHOK AGARWAL)
CHAIRMAN

S.