

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:503/98

DATE OF DECISION: 4.1.2001

Shri D.P. Singh and others. Applicant.

Shri G.S. Walia Advocate for
Applicant.

Versus

Union of India and others Respondents.

Shri V.S. Masurkar Advocate for
Respondents

CORAM

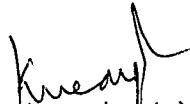
Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, 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.


(Kuldip Singh)
Member (J)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:503.98

THURSDAY the 4th day of JANUARY 2001.

CORAM: Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, Member (A)

1. D.P. Singh
Residing at
Laxman Bhavan, Brahmin Ali
Dahanu Fort, Dahanu
Thane Dist.
2. Shivanand Ram
Residing at
Mahavir Complex "D" Building
"A" Wing, Flat No. 204,
2nd floor, Near Golden Park
Hospital, Vasai Road (W).
3. L.D. Singh
Residing at
Asok J - Chawl, Room No.3
Amba Wadi, Kurar Village
Daftary Road, Malad, Mumbai.
4. S.K. Singh
Residing at
Nava-Anand Housing Society
Flat No. C-6, 2nd floor,
Namdeo Path, Dombivli (E)
5. Sivdani
Residing at
P -11/F-11 P & T Quarters,
Sahar, Andheri (E) Mumbai.Applicants.

By Advocate Shri G.S. Walia.

V/s

1. Union of India through
Director (DE & VP)
Dak Bhavan, Sandsad Marg.,
New Delhi.
2. General Manager
Maharashtra Telecom Circle
Mumbai.Respondents.

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

{Per Shri Kuldeep Singh, Member (J)}

This is a joint application filed by 5 applicants. They are working against the posts which are feeder cadre for the post of Junior Telecom Officer (JTO) and are entitled to appear for the Competitive Examination against 15% quota reserved for them as per Recruitment Rules.

2. An examination was conducted for this purpose on 10/11 February 1996. The results were declared on 23.10.1997 and none of the applicants was declared to be successful to have passed the examination.

3. The applicants further allege that vide letter dated 17.7.1971 respondents had framed and adopted a policy regarding qualifying standards of such examinations. According to the policy there would be difference of 2% marks in the qualifying standards of SC/ST candidates and other community candidates.

4. The grievance of the applicant is stated to have started when after the declaration of results, the respondents vide letter dated 5.6.1997 changed the standards and margin between SC/ST categories and other category candidates ^{which} ~~have~~ been increased to 10%. Thus the applicants alleged that they have been deprived whereas SC/ST candidates have been sent for training.

5. The act of the respondents is stated to be highly discriminatory unjustified, arbitrary etc. The applicants further alleged if the difference of 2% is maintained then applicants also stand to qualify along with SC/ST candidates who have been declared pass with much lower^{marks} ~~marks~~ than the qualifying standard.

6. Respondent contested the petition and submitted that there was shortage of officers at the level of JTO. The quota for SC/ST candidates was not being filled for several years. Relaxation given to SC/ST candidates vide letter dated 5.6.1997 is only a one time measure and was not to be treated as precedent. Article 16 of the Constitution of India permits the department to do so.

7. We have heard the counsel for the parties and have gone through the record.

8. Undoubtedly, the department has lower^{ed} down the qualifying standard for the SC/ST candidates, but in this exercise they have not caused any harm to the interest of general candidates. SC/ST candidates have not been allowed to fill up the vacancies of general candidates.

9. The Article 16 of Constitution of India permits the respondent to lay different⁵ standards of qualifications for SC/ST candidates. The candidates belonging^{ing} to general category cannot complain^{com} against this. The general category candidates are not compare themselves with the SC/ST candidates.

10. The learned counsel appearing for the applicants submitted that once the method of assessment has been declared by policy of 1971, the respondents could not have changed the same after finding that no SC/ST candidates has qualified.

11. In our view again this contention has no merits because the change/relaxation has not been done with a view to benefit any individual rather it has been done as one time ^{measure in} ~~on~~ a policy matter. Since the vacancies reserved for SC/ST candidates were not being filled. Even otherwise these vacancies could not have been filled up by general candidates.

12. Hence we are of the considered view that there is no discrimination ^{in treating} ~~imposed~~ upon the general candidate. ^{inavis SC/ST candidates for} So OA does not call for any inference. Same is hereby dismissed.

Shanta S
(Ms. Shanta Shastray)
Member(A)

Kuldip S
(Kuldip Singh
Member(J)

NS

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO:503/98

TRIBUNAL'S ORDER

DATED: 11.1.2001

Shri G.S. Walia, the learned counsel for the applicant states that the Tribunal while dictating the order had directed that the applicant may make representation and this order will ^{not} be held as an impediment for considering the representation of the applicant. This sentence does not appear in the final judgement.

2. Keeping in view the submission made by the learned counsel for the applicant we direct that Registry may issue a corrigendum as under:

"The order passed in this OA will not be held as impediment for considering the representation made by the applicant. The department shall consider the representation of the applicant"

Shanta S-
(Ms. Shanta Shastry)

Member(A)

Kuldeep S
(Kuldeep Singh)
Member(J)

NS