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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

D.A. 1493/93.

Dt. of Decision : 4-9-1994.

Mr. C. Subrahmanyam Sastry

.. Applicant.

Vs

1. The Telecom Distt. Engineer,
Warangal - 506 050.
2. The Chief General Manager,
Telecom, AP, Hyderabad-500 001.
3. The Director-General, Telecom
(representing Union of India)
Sanchar Bhawan, New Delhi-110 001. .. Respondents.

Counsel for the Applicant : Mr. C. Suryanarayana

Counsel for the Respondents: Mr. N.V. Raghava Reddy, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMIN.)

HON'BLE
AS PER/JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN I

JUDGEMENT

Heard Shri C. Suryanarayana, learned counsel for the applicant and also Shri N.V. Raghava Reddy, learned standing counsel for the Respondents.

2. The applicant joined service as Telephone operator on 2-6-1976. The applicant was one of the candidates who ~~were~~ ^{were} selected for promotion of departmental candidates as Telephone Inspectors and the training was commenced on 5-5-80 and it was over on 5-1-81. The applicant was promoted as Telephone Inspector on 3-9-81.

3. As per recruitment rules for the posts of JTOs, 10% of the posts have to be filled up by way of promotion on the basis of the selection in limited departmental competitive examination ~~open~~ ^{from among} to Transmission Assistants, Telephone Inspectors, Auto Exchange Assistants and Wireless Operators who completed 10 years of service. For the examination which was conducted in 1990 December, the cut off date for completion of 10 years of service was 1st July, 1990. The applicant, even though he had not completed 10 years of service as Telephone Inspector, applied for the said examination ~~permitted~~ and he was ~~promoted~~ ^{permitted} for the said examination and he was actually selected. As per Annexure A-6 dated 23-12-92, the applicant was requested to

show cause as to why his name should not be deleted from the select list of candidates as he has not completed 10 years of service as ~~Telephone Operator~~ as on 1-7-90. The applicant submitted his representation dated 12-1-93 (Annexure A7) wherein it is stated that he completed 10 years of service either from the year of recruitment or from the date of commencement of training. This OA was filed praying for declaration that the Respondents have forfeited ~~their rights~~ to cancel his selection ~~for~~ ^{based on} qualifying examination held on 27/28-12-90 for promotion as JTO against 10% quota of vacancies, and for a consequential direction to the Respondents to impart the necessary training to the applicants with Mathematics, Physics and Chemistry as optional subjects and graduates in Technology or atleast according to his turn in the seniority list of qualified candidates. It is ~~not~~ even contended for the applicant that 10 years of service in the lower grade of Telephone Operator includes the period of training for promotion as Telephone Inspector. As the applicant was promoted to the post of Telephone Inspector on 3-9-81, he completed only 8 years and odd of service by 1-7-90, the cut off date. Thus he was not eligible for consideration for promotion under 10% quota in 1990.

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4. There cannot be estoppel against statute when the applicant had not completed the eligibility period ~~we ought not to have applied for the~~ competitive examination held in 1990 for 10% vacancies. When without noticing the same, the applicant was permitted to appear for the said examination and when the said mistake was realised after his name was included in the selection list and when notice as per A6 was given requesting the applicant to show cause as to why his name cannot be deleted from the select list, the same cannot be held as illegal. It is manifest from the facts which are not in controversy that the applicant was not qualified for the examination referred to and hence it cannot be held that there was no basis for the show cause notice which was issued.

5. The case of the applicant is that his service of 10 years has to be reckoned from 5-5-80, the date of commencement of training. In para 7 of the reply it is stated that even if the period of training is included, the applicant has not completed 10 years of service as on 1-7-90, because the applicant actually worked as Telephone Operator from 6-1-81 till he was promoted as Telephone Inspector on 3-9-81. As such, there is no need to consider for the disposal of this OA as to whether the period of training has to be treated as service in the category of Telephone Inspector or it has to be treated as service in the category of the lower post i.e. Telephone Operator.

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To

1. The Telecom Dist. Engineer, Warangal-050.
2. The Chief General Manager, Telecom,
A.P.Hyderabad-1.
3. The Director-General, Telecom, Union of India,
Sanchar Bhavan, New Delhi-1.
4. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.N. V.Raghava Reddy, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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6. Rule 7 of the recruitment rules for JTOs 1990 is relied upon to contend that there is power of relaxation of rules and hence the case of the applicant may be considered for such relaxation as he was permitted to appear and he was already selected and as the number of vacancies and the number of candidates selected for this 10% quota in 1990 was same. The said rule empowers the Central Government to relax any of the provisions of the above rules with respect to any class or any category of persons if it is necessary or expedient to do so. We do not want to express anything in regard to the same and we merely observe that if the applicant is so advised he can address for such relaxation.

7. It is also stated for the applicant that Shri G. Parameshwara Rao at sl. No. 35 and Shri M.S.V.S. Prakasa Rao at Sl. No. 46, who were selected along with the applicant who was at Sl. No. 7, were sent for training for JTO and it will be one of discrimination if the name of the applicant alone will be deleted from the select list. If the above two candidates were not qualified and if inspite of it they were sent for training, then it is a matter for the Respondent 2 to consider the case of the applicant also and then to address for relaxation.

8. The OA is ordered accordingly. No costs.

Abayya
(A.B. GORTHI)
Member (Admn.)

Neeladri
(V. NEELADRI RAO)
Vice-Chairman

Dated the 1st September, 1994
Open court dictation

NS

July 7 PM,
Deputy Registrar (J)CC

TYPED BY

CHECKED BY

COMFARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

A.B.Gosthi

THE HON'BLE MR.R.RANGARAJAN M(ELAN)

DATED 1-9-1994

ORDER/JUDGMENT

M.A.No./R.A/C.A.No.

O.A.No. ~~1493~~ 1493
(T.A.No.)

in

(W.P.NO)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

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