(61)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.507/94

DATE OF ORDER : 22-04-1998.

Between :-

1. G.Venkateswarlu
2. [illegible]
3. A.Jagannadha Rao
4. B.L.Somayajulu
5. K.Gangajala Rao
6. [illegible]
7. H.Jagannadha Rao
8. T.L.Narasimham
9. V.Laxma Reddy
10. K.S.Ramakrishna Rao
11. G.Sambasiva Rao
12. [illegible]
13. A.Narasimha Murthy
14. [illegible]
15. P.Mallikarjuna Rao
16. M.Sambasiva Rao
17. V.Eswara Rao
18. [illegible]
19. P.Krishna Prasad
20. P.Panduranga Rao
21. E.Sivaramudu
22. D.Sangameswara Rao
23. K.Nageswara Rao
24. D.Haribabu Prasad

... Applicants

And

1. The Govt. of India,
   Telecom Commission, rep. by its Chairman,
   Telecom Commission, Sanchar Bhavan,
   New Delhi-1.

2. The Chief General Manager,
   AP Telecom, M/o Telecommunications,
   Hyderabad, AP.

3. R.M.Kharparde
4. M.Haricharan
5. C.N.Singh
6. K.K.Srivastava
7. K.Raghavendra Rao
8. A.L.Joshi
9. Chittaranjan Halder
10. M.K.Narahari
11. Devki Nandan
12. Narendra Pratap Singh
13. U.C.Khera
14. K.P.Maurya
15. Vinod Kumar Proothi
16. Ranjan Mukherjee
17. Sham Krishan
18. Chitta Ranjan Das
19. L.M.Rathod
20. V.Sivarama Reddy
21. M.J.Motwani
22. M.M.Sharma
23. H.S.Katti Mani
24. J.P.Sharma
25. Sikandar Prasad Singh
26. S.Seshacharyulu

... Respondents

....2.

Counsel for the Applicants : Shri D.Madhava Reddy

Counsel for the Respondents : Shri V.Rajeshwar Rao, CGSC

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri P.Naveen Rao for Sri D.Madhava Reddy, learned counsel for the applicants and Sri V.Rajeshwar Rao, learned standing counsel for the respondents. Notice has been served on the private respondents but none ~~were~~ was present.

2. There are 24 applicants in this O.A. They joined the service of the respondents department as Jr.Telecommunication Officers (J.E.) and earned their next promotion of Asst.Engineer. They submit that the post of A.E. is governed by TES Group-B service rule, 1981 (herein after referred to as Rules, 1981). As per rule 15a rules, 1981, the post ~~of TES Group-B~~ A.E. can be filled up by two methods viz.,(i)by promotion after havingbeen recommended by DPC and (i)through limited departmental competitive examination. The eligibility for both the channels is five years of service in the lower post and a pass in the qualifying examination. In the above two methods in a cycle of three vacancies firsttwo vacancies are to be filled up by the method of promotion and the third vacancy by the method of LDCE Examination. The rules

also prescribe method of fixation of seniority interse between these two sources (Annexure-A to the OA).

3. The applicants submit that the rules 1981 came into force from 7-5-1981. After 7-5-81 1800 vacancies of A.E.s were notified. As per the above said two methods, 1200 vacancies were meant to be filled up by promotion and 600 vacancies meant to be filled up by limited departmental competitive examination. Further, 800 vacancies meant for 2/3rd quota were filled on 11-5-81 and balance during the course of years 1981 and 1982. Notification was issued in 1981 to conduct LDCE. However, the said examination was cancelled on the ground that malpractices alleged to have been occured and a fresh notification was issued in February, 1982 and re-examination was conducted in March, 1982. They submit that against 600 vacancies through LDCE, only 232 vacancies were filled leaving a back log of more than 350 vacancies. The applicants submit that the Director General, Telecommunications vide his letter dt.9-4-86 (Annexure-8 to the OA) had notified the vacancies for 1/3rd quota year wise as under :-

S.No.	Year	Vacancies
1.	1983	150
2.	1984	220
3.	1985	102

In terms of Rule, 1981, the corresponding vacancy position for 2/3rd quota ought to be 300, 440 and 204 for the years 1983, 1984 and 1985 respectively. The limited departmental competitive examination for the above vacancies were held in 1986 and the appointments were also made in the same year. However, again

there was a short fall in the number of successful candidates and the actual number of candidates selected for three years were 130, 149 and 89 respectively. The applicant submit that they were selected against 1983-84 vacancies.

4. The applicants submit that the seniority list of TES Group-B was prepared fixing the seniority according to Rules, 1981, but the names of the applicants were not included in the seniority list. The above seniority list of TES Group-B officers was the subject matter of OA Nos.772/89 and 611/90 of the file of this Tribunal. It is submitted in the meantime several petitions were filed before the Hon'ble High Courts and various Benches of CATs seeking the direction to fix interse seniority among the DPC candidates according to the date of passing of qualifying examination. Those petitions were allowed and directions were issued.

5. This O.A. is filed for a declaration that the seniority list of the Limited Recruitment candidates in list VII and VIII communicated in proceedings No.16-9 to 12/92-STG-II dt. January/ February, 1993 of Respondent No.1 is arbitrary, discriminatory and unconstitutional and contrary to the special rules and instructions and consequently to direct the official respondents to rix the seniority of the applicants as per quota and rota prescribed in TES Group-B, 1981 rules and assign proper place in the seniority list of Asst.Engineers TES Group-B and grant all the consequential reliefs as to notional date of promotion and pay fixation and other service benefits that follow therefrom.

...5.

6. The applicant filed MA 291/98 to bring to the notice of the Bench that a similar OA bearing No.982/95 has been filed on the file of Ernakulam Bench of the C.A.T. for a similar prayer and that OA was disposed of with certain directions. These directions are applicable in the case of the applicants in this OA also. We have gone through the judgement in OA 982/95 decided on 3-2-98 by the Ernakulam Bench. The facts of that case reads as follows :-

> 6. The applicants have referred in this connection to the notification issued by the third respondent dt.21-4-86 seen at Annexure A2, communicating the letter dt.9-4-86 from the second respondent declaring that the Competitive Examination would be held in May, 1986 and further that the vacancies to be filled up through the eligible officers, who would be making the grade under the Competitive Examination, were 150, 220 and 102 for the years 1983, 1984 and 1985 respectively. The applicants have alleged that in spite of the applicants having made the grade on the basis of the said Competitive Examination, the respondent department, while preparing the seniority lists at A4, A5 and A6, did not allocate to the applicants the positions against those vacancies fully. They have more specefically alleged that though sufficient number of eligible officers available, who have made the grade in the Competitive Examination held in 1986 referred to above, they were not accommodated against the full 1/3rd quota of vacancies, based on their ranking available for those years, i.e. 1983, 1984 and 1985. The officers, who had qualified in the qualifying Examination,(Qualifying Officers for short), on the contrary were en block placed above the officers who had qualified in the Competitive Examination (Competitive Officers for short), even though 1/3rd of the vacancies for 1983 onwards were required to be filled up only by officers qualifying in the competitive Examination held in May, 1986.
>
> 7. The applicants have further challenged the grounds mentioned in the impugned order at

Annexure A10 for rejecting their representations for a revision of the impugned seniority lists.

From the above facts , we are satified that the facts of this are also similar and a declaratory order given by the Ernakulam Bench has to be followed in this case also. The direction given by the Ernakulam Bench reads as follows :-

> 31. In the light of the detailed discussions made above, we allow the OA quashing A4, A5, A6 and A10 and issue the following directions :
>
> i)The first respondent specifically work out the vacancies representing the 1/3rd quota in the TES Group-B meant for the Jr.Engineers coming out successful at the competitive examinations after the commencement of the Recruitment Rules for shall be done year wise from 1981 till the year 1986, in which year the applicants became qualified as Competitive Officers eligible for being promoted to the TES Group-B cadre against 1/3rd quota.
>
> (ii)The first respondent is directed then to calculate year-wise how many of those vacancies belonging to the 1/3 quota were filled up with junior Engineers who had qualified at the Departmental Qualifying Examination, but not at the Departmental limited competitive examination. They shall also indicate whether at the relevant point of time when the Qualifying Officers were promoted against the 1/3rd quota of vacancies set apart for the Competitive Officers, a competitive examination had already been held and the results thereof had already been declared. They shall further ascertain the number of such Competitive Officers who came out successful in that competitive examination.
>
> (iii)The first respondent is directed thereafter to permit the carryover of the 1/3rd quota of vacancies meant for Competitive Officers from year to year till the next competitive examination was held and Competitive Officers based on such an examination became

available. The slots meant for the Competitive Officers shall then be filled up only with the Competitive Officers, though they can not be given the benefits of pay, etc., till they are actually promoted against that quota of vacancies and occupy those posts on promotion. But, they shall be given seniority over the Qualifying Officers who have so far occupied those slots meant for Competitive Officers. The slots meant for Competitive Officers which may have been filled with qualifying officers shall be vacated by the concerned qualifying officers. They will be accommodated against the slots available against the 2/3rd of vacancies in the TES Group-B cadre meant for the qualifying officers depending on their seniority in the subsequent years.

In view of the above, the following direction is given :-

The seniority of the applicants in this OA should also be re-cast on the basis of the directions given by the Ernakulam Bench of this Tribunal extracted above.

7. The time for compliance is four months from the date of receipt of a copy of this order. No order as to costs.

(B.S.JAI PARAMESHWAR)
Member (J)
27.4.98

(R.RANGARAJAN)
Member (A)

Dated: 22nd April, 1998.
Dictated in Open Court.

DR

avl/

22/5/98 (6)

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR :
M (J)

DATED: 22/4/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

O.A.NO. 507/94

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH
6 MAY 1998
Despatch
RECEIVED
विभाग/APPAL SECTION