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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1288 of 1995

DATE OF JUDGEMENT: 13th April, 1998

BETWEEN:

T.DINESH CHANDRA

.. APPLICANT

AND

1. Union of India rep by Secretary,
Ministry of Communications,
Dept. of Telecommunications,
Sanchar Bhavan,
New Delhi 110 001,
2. The Chief General Manager,
Telecom, A.P.Circle,
Hyderabad 500001,
3. The General Manager, Telecom,
Telecom District,
Hyderabad-1,
4. The Director (DE & VP),
Dept. of Telecom, Sanchar Bhavan,
New Delhi 110 001,
5. The ADG (SEA),
Dept. of Telecom, Sanchar Bhavan,
New Delhi 110 001.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.BSA SATYANARAYANA

COUNSEL FOR THE RESPONDENTS: Mr. K.RAMULOO

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (J))

None for the applicant. The applicant was also absent when the OA was taken up for hearing. Ms.Shama for Mr.K.Ramuloo, learned standing counsel for the respondents

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could not assist us properly in deciding this issue. However, we propose to decide the issue on the material on record available in accordance with the Rule 15(1) of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The respondents' department conducts a departmental examination for promotion to the post of Junior Accounts Officer which is a Group-C post. The examination is conducted in two parts i.e., Part I and II. Candidates who qualify in JAO Part.I examination are eligible to appear for JAO Part-II Examination in the Telecom Department. An employee who has put in three years of service in the Department is eligible to appear for JAOs examination.

3. There are six papers in JAO Part I examination consisting of four subjects i.e., papers II and III as one subject, Papers IV and V as another, Papers I and VI are another two independent subjects. The qualifying marks are 40% in each paper for OC and 33% marks for SC/ST candidates with an aggregate marks of 45 and 38% respectively. In addition, the candidates are also required to qualify compulsorily in papers I, III, V and VI which are practical papers and are attempted with the help of books.

4. As regards giving grace marks to the candidates belonging to SC/ST category, certain instructions were issued by the letter No.26-2/81-SPB.I dated 4.5.81 whereby a provision was made for review of the result of the SC/ST candidates in case sufficient number of SC/ST candidates

[Signature]

were not qualified by adding necessary grace marks to bring them upto the qualifying standard and that there was no limit on such marks to those candidates. However, the above instructions were further amended vide the letter NO.22-5/91-NCG dated 30.9.92 stating that the results of only those SC/ST candidates be reviewed who had secured at least 20% marks for SC candidates and 15% marks for ST

5. The applicant herein appeared for JAO Part.I examination during October, 1992. He had secured the following marks as per Annexure I at page 7 to the OA:-

87, 41, 50, 28 and 59.

On the basis of the letter dated 30.9.92, the Department reviewed the results of five SC/ST candidates vide letter dated 23.7.93 enclosed as Annexure II at page 8 to the OA.

6. The applicant submitted a representation dated 24.6.93 (Annexure IV at page 10 to the OA) praying for consideration of his case for review in the light of the letter No.26-2/81 SPB-1 dated 4.5.81 and to award him the grace marks accordingly. He submitted another representation on 12.8.93 for the same relief.

7. While his representation was under consideration, he appeared for JAO Part.I examination held in January 1994. After the examination, he submitted another representation dated 16.11.93 (Annexure VI at page 12 to the OA) for reviewing his case as per the letter dated

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4.5.81 for the examination appeared by him during October, 1992.

8. In the meanwhile, the Department issued another circular dated 31.1.95 (Annexure VIII at pages 14 and 15 to the OA). In the said circular, it was clarified that ~~an applicant who has passed in practical~~ subjects in JAO Part.I and secured not less than 25% marks in the 3rd or fourth subject, as the case may be, in the aggregate (without insisting upon a pass in practical) may be declared as qualified by allowing the requisite grace marks. He had failed in JAO Part.I examination conducted in January 1994 in one subject and he submits that even in this examination he was eligible to be declared as qualified in accordance with the letter dated 4.5.81.

9. The applicant further submitted another representation dated 22.2.95 praying for declaration that he was qualified in the October 1992 examination.

10. The applicant submits that the circular dated 31.1.95 cannot have retrospective operation insofar as the letter dated 4.5.81 is not applicable to his case.

11. Hence he has filed this OA for the following reliefs:-

i) To declare the action of the respondent Nos.4 and 5 in not declaring the applicant to be qualified in JAO Part.I in the light of the instructions contained in DG P&T letter dated 4.5.81 is illegal, discriminatory and

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arbitrary and inconsequence; and

(b) To direct the respondents 4 and 5 to declare the applicant as qualified in Jr.Accounts Officer Part.I examination held in October 1992 and allow the applicant to appear for JAO Part.II examination with all consequential benefits.

12. The respondents have filed reply stating that in October, 1992 examination the applicant had not qualified. They submit that since there was no response from the DoT regarding review of his results, he was permitted to appear for JAO Part.I examination conducted during January 1994. They submit that in January 1994 examination ^{too,} the applicant was not qualified. The respondents submit that the letter dted 4.5.81 has not been made applicable to the JAO cadre. Instead, separate parameters have been evolved for the cadre of JAOs.

13. The respondents further submit that there was confusion regarding the parameters applied for review of the results of failed SC/ST candidates and it was felt necessary to clarify the position for information of all the concerned. Hence the letter dated 31.5.95 was issued.

14. It is now to be considered whether the applicant is eligible for review as per the letter dated 4.5.81 in his Part.I examination held during October, 1992. As per the letter dated 4.5.81, the applicant was not qualified for review of the result as he had failed in papers V and VI. It may be noted that the letter dated 4.5.81 came to

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be amended by the letter No.22-5/91-NCG dated 30.9.92 wherein it was stated that only those SC/ST candidates who had secured at least 20% for SC and 15% for ST can be reviewed. In view of the letter dated 30.9.92, the applicant could not claim for review of the result on the basis of the letter dated 4.5.81. Further the respondents contend that since he was not qualified for review from the letter dated 30.9.92, they permitted the applicant to appear for JAO Part.I examination held in January 1994. The respondents in para 10 of the reply gave details of the marks secured by the applicant in January 1994 examination. Even in that examination, he could not come up to the level prescribed for reviewing the case of failed SC/ST candidates on the basis of the letter dated 30.9.92. The applicant has not chosen to file/rejoinder rebutting the said averment made by the respondents.

15. The case of the applicant could not be reviewed in view of the letter dated 30.9.92 and as per the letter dated 31.1.95 the applicant had not secured the necessary marks for considering his case in accordance with the letter dated 31.1.95. He had not obtained the requisite marks to give him the grace marks to make him qualify for JAO Part.I examination.

16. The applicant cannot claim for review of his case on the basis of the letter dated 31.1.95 ^{the basis of} on his result in the examination conducted during October 1992. The letter dated 31.1.95 is at Annexure VIII at page 14 to the OA. The parameters indicated in the letter dated 31.1.95 read as follows:-

- "a) All SC/STs who have failed for want of aggregate marks only but have passed

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in all the 3 subjects of JAOs Part.II examination and four subjects for JAOs Part.I examination may be qualified by allowing them the requisite grace marks i.e. with 33% marks.

b) All SC/STs candidates who have qualified atleast in two subjects of JAOs Part.II examination and three subjects of JAOs Part.I examination and secured not less than 25% marks in the 3rd or the fourth subject, as the case may be, in the aggregate (without insisting upon a Pass in practical) may be declared as qualified by allowing the requisite grace marks),

c) In so far as JAOs Part.II is concerned, the inter-se seniority of the candidates who qualify on these parameters will be fixed in accordance with the guidelines given in the then P&T Board letter No.26-2/81-SPB-I dated 4.5.1981."

In ~~the~~ case of the applicant, paragraphs (a) and (b) are applicable. Accoridng to the said paragraphs, the applicant had not secured 33% marks in the JAO examination held in January 1994. In January 1994 examination, the applicant had failed in papers IV and VI. He had secured only 31 and 23 marks respectively in the said papers.

17. The leter dated 4.5.81 came to be clarified by the letter dated 30.9.92. By that letter, the applicant was not qualified for review as he had not secured the requisite marks to award the grace marks.

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18. In view of the above, we feel that the applicant cannot claim for review of his result for the JAO Part.I examinations held in October 1992 or in January 1994. Hence the OA is liable to be dismissed. Accordingly it is dismissed. No order as to costs.

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

13.4.98

(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 13th April, 1998
Dictated in the open court.

vsn

M.R.

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Copy to:

1. The Secretary, Min. of Communications,
Dept. of Telecommunications,
Sanchar Bhavan, New Delhi.
2. The Chief General Manager, Telecom,
A.P. Circle, Hyderabad.
3. The General Manager, Telecom, Telecom District,
Hyderabad.
4. The Director, (DE & VP) Dept. of Telecom,
Sanchar Bhavan, New Delhi.
5. The ADG, (SEA), Dept. of Telecom,
Sanchar Bhavan, New Delhi.
6. One copy to Mr. BSA Satyanarayana, Advocate, CAT, Hyderabad.
7. One copy to Mr. K. Ramulu, Addl. CGSC, CAT, Hyderabad.
8. One copy to HBSJP, M(J), CAT, Hyderabad.
9. One copy to D. (A), CAT, Hyderabad.
10. One duplicate copy.

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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: 12/4/98

ORDER/JUDGMENT

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

in

O.A. NO. 1288/95

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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