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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A.NO.298 OF 1995.

DATE OF ORDER :- 9TH DECEMBER, 1997.

BETWEEN :

1. B. RAMPRASAD
2. A. VENKATESH
3. K. SRI RAM
4. P.V.MANGARAJU
5. M. Narendram

APPLICANTS

AND

1. Union of India, rep. by Secretary,
Telecommunications Sanchar Bhavan,
Ashok Road, New Delhi-110001.
2. The Chief General Manager, Telecom.,
Andhra Pradesh, Hyderabad-500001. .. RESPONDENTS

COUNSEL FOR THE APPLICANTS : MR. CH. JAGANNATHA RAO

COUNSEL FOR THE RESPONDENTS: MR. V. RAJESWARA RAO, CGSC.

CORAM :

HONOURABLE MR. R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

HONOURABLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDICIAL)

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O R D E R.

(Per Hon. Mr. B.S.Jai Parameshwar, Member(Judicial))

1. Heard Mr.K.Venkateswara Rao for Mr.Ch.Jagannatha Rao, the learned counsel for the applicant and Mr.V. Rajeswara Rao, the learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the on 21.2.1995.

3. There are five applicants in this O.A. The applicants 1 to 3 are working as Technicians and the applicants 4 and 5 are working as Telephone Operators in the Telephone Exchange, Karimnagar.

4. The applicants are Graduates in Science. They were appointed as Technicians/Telephone Operators in the scale of pay of Rs.260-480/975-1600/- with effect from 26.5.1984, 1980, 26.5.1984, 29.11.1981 and February, 1974 respectively.

5. The applicants submit that as per the Recruitment Rules for appointment to the cadre of JTOs, the following percentages have been earmarked to each category by open competition.

	Competitive Examination.	Qualifying Examination.	Total.
(a) P.I/TA/WO/AEAS	20%	15%	35%
(b) Clerical and allied cadres (TOAs & TOS etc)	15%	-	15%
Grand total :-		50%	-----

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5.A. According to the letter dated 29.7.1987 issued by the respondent No.1, the minimum service required for appearing for the competitive examination for the departmental candidates was 5 years while the eligibility for qualifying examination was minimum 10 years. They submit that the Clerical and allied cadres like Telecom Office Assistants, Technicians and Telephone Operators are eligible to write competitive examinations against 15% quota for promotion to the cadre of Junior Telecom Officers. They submit that the syllabus and mode of examination for both the competitive examinations for these cadres were identical.

6. A Committee was constituted for examining the restructuring of posts of PIs/AEAs/WOs/TAs and on the recommendation of the Committee, the Telecom Commission issued the order dated 18.4.1994 (Annexure-I at page 7 of the OA). The respondent No.1 informed the department that 35% quota earmarked for PIs/AEAs/WOs/TAs in the recruitment of JTOs will be filled as under :-

(a) The PIs/AEAs/WOs/TAs who hold qualifications prescribed for recruitment to the cadre of JTOs and have completed five yrs regular service in the cadre of PIs/AEAs/WOs/TAs would be treated as a walk-in group and would be sent for JTOs training.

The remaining vacancies will be filled by the PIs/AEAs/WOs/TAs through a qualifying service.

7. They are aggrieved due to the inaction on the part of the respondents in not deputing them for JTOs training for considering them for promotion to the cadre of JTOs as per the letter which is at Annexure-I. They submit that they are similarly situated like PIs/TAs/AEAs/WOs so as to appear for the competitive examination in the departmental quota of 50% of promotion to the cadre of JTOs; that although they possess the required qualification obtaining more than 60% of marks in the

aggregate, they have been unjustly denied the benefit of walk-in-group for sending them to JTOs training on par with the cadres of PIs/TAs/WOs/AEAs and they submit that this action is discriminatory and violative of the Articles 14 and 16 of the Constitution of India. Hence they have filed this O.A. praying for a declaration that the applicants are entitled to be treated as a walk-in-group along with PIs/AEAs/WOs/TAs and entitled to be sent for JTO training for promotion to the posts of Junior Telecom Officers with all consequential benefits by holding the action of the respondents in excluding them from treating as walk-in-group along with PIs/AEAs/WOs/TAs vide letter No.27-2/94/TE-III dated 18.4.1994 of the Department of Telecommunications as illegal, arbitrary, Constitution of India.

8. On 9.3.1995 this Tribunal passed an interim order to the effect that if any promotion was going to be made to the post of JTO, the same would be subject to the result of this O.A. and it is to be mentioned in the order of promotion that if any examination was to be conducted for promotion to the post of JTO, then the applicants were free to appear for the said examination without prejudice to their contentions raised in this O.A.

8.A. The respondents have filed a counter contending that the application is bad for non-joinder of necessary parties and that 35% quota for promotion to the cadre of JTOs has been extended to PIs/TAs/WOs/AEAs and that they are necessary parties to this O.A.; that the O.A. is

successful. As they can also become PIs etc, by promotion, their chances of promotion to JTOs' cadre is not hampered. The chance of technology and the type of equipments introduced has completely changed the working conditions. Hence the "Agarwal Committee" report is not of any ~~use~~ in the present day conditions.

15. The restructured cadre in Group 'C' (The scheme of which has been kept as Annexure R-7 at pages 9 to 28 to the reply) provides for Technicians to come in walk-in Group to the cadre of TTAs provided they fulfil the conditions given in Para 2(a) (Page 30 to the reply). They can also become TTAs who do not come under the walk-in group by qualifying in the screening tests as per Para 2(b). Thus the applicants also have enough promotional opportunities to the higher grades and they have no reason to nurture any grievance in regard to their promotional opportunities."

10. The Recruitment Rules have been introduced by the Government on the basis of the work involved, the nature of duty to be performed and the responsibilities to be shouldered. The feeder categories for consideration for promotion are to be done on the above classification. If there are more than one feeder categories, then it is for the departmental authorities to decide the appointment of vacancies to each group/category by earmarking certain percentage for each group/category. The departmental authorities also have got the right to fill up the vacancies then without earmarking any percentage to any particular feeder category. The decision taken in this connection has to be treated as a policy decision as held by the other Benches of this Tribunal. Hence, we refrain from making any observations or any directions in this connection. We feel that there is no arbitrariness in providing the benefit of walk-in-group to certain categories of officials who were actually in the higher cadre than the cadre in which the applicants are working.

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11. Since we have formed an opinion that there is no arbitrariness or irregularity in the impugned letter whether the O.A. is bad for non-joinder of necessary parties. In fact, this contention not has been elaborated by the learned counsel for the respondents during the arguments. We leave it at that.

12. In this view of the matter, there are no grounds to interfere with the impugned letter.

13. Hence, the O.A. is liable to be dismissed and accordingly the same is dismissed; but in the circumstances of the case, no order as to costs.



9.12.97

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

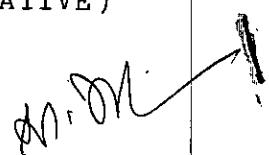


R. RANGARAJAN

MEMBER(ADMINISTRATIVE)

DATED THE 9TH DECEMBER, 1997.

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Copy to:

1. The Secretary, Telecommunications,
Sabchar Bhawan, Ashok Road,
New Delhi.
2. The Chief General Manager, Telecom,
Andhra Pradesh, Hyderabad.
3. One copy to Mr. Ch. Jagannatha Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr. V. Rajeswara Rao, Addl. CGSC, CAT, Hyderabad.
5. One copy to HBSJP, M(J), CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

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