

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A.NO.526/95.

DATE OF JUDGMENT: 19-09-95.

BETWEEN:

1. B.Venkateswara Reddy	12.P.Leela Jayasri
2. M.Venkateswararao	13.M.Rajani Kumeri
3. B.Nageswararao	14.G.V.Manumantharao
4. Y.Madhusudanarao	15.A.Anjaiah
5. K.Srihari	16.K.Venkateswararao
6. R.V.Bhanu Prasad	17.T.Kishore Kumar
7. K.Samba Murthy	18.A.Sriranga Rao
8. M.Krishna Murthy	19.K.Sambasiva Rao
9. R.Sadhana	20.Md.Abdul Khader
10.D.Manjula	21.Syed Hameed
11.T.N.D.Malleswari	.. Applicants.

AND

1. The Chief General Manager, Telecommunications, A.P. Telecom Circle, Hyderabad.	.. Respondents.
2. General Manager, Hyderabad Telecom District, Hyderabad.	
3. General Manager, Telecommunications, Warangal Area, Warangal.	
4. Telecom District Manager, Warangal.	
5. Telecom District Engineer, Karimnager	

COUNSEL FOR THE APPLICANT: SHRI P.N.A.Christian

COUNSEL FOR THE RESPONDENTS: SHRI N.R.Devaraj,
Sr/Adv. CGSC.

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

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O.A.NO.526/95.

JUDGMENT

Dt: 19.9.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri PNA Christian, learned counsel for the applicants and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicants 1 to 15 and 17 to 21 are Technicians while the applicant No.16 is Telephone Operator. All of them got Diploma in Engineering for three years after passing in Xth Standard. The post of Telecom Technical Assistant (TTA) was created at the time of restructuring which had come into effect on 16.10.1990. Rule 11 of TTA (Recruitment Rules, 1991 of the Department of Telecommunications issued as per the Gazette Notification dated 22.7.1991 states that Group 'C' employees with three years diploma in engineering after passing 10th standard are eligible for the post of TTA; failing which Group 'D' employees with above qualifications are eligible; failing which non diploma holders are also eligible. Selection to the post of TTA is on the basis of seniority-cum-fitness. The names of all these applicants were included in the select list that was prepared for the post of TTAs. As sufficient facilities are not available in the training Institute for training all the candidates selected, they are being sent in batches, and some of these who are

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above the applicants in the select list were sent for training for the post of TTAs.

3. Till ^{31/3} March 1994, 93 posts of TTAs were sanctioned for Hyderabad, while 13 and 16 posts were sanctioned for Warangal and Karimnagar. These applicants belong to Hyderabad, Warangal and Kareemnagar divisions. It is stated that sufficient number of vacancies in the posts sanctioned upto ^{31/3} March 1994 were available for appointing these applicants who are already in the select list of TTAs and the same is not denied for the respondents.

4. The Ministry of Communications, Department of Telecommunications issued the instructions dated 27.4.94 in No. 252-1/91-STN(Pt) (vide Annexure-IV) whereby Group-C employees who passed 10+2 or equivalent or higher qualifications, ITI holders, and other technicians who do not have the above qualification, if qualified in the screening test, are also eligible for the post of TTAs. ~~maximum~~ Thereafter, a fresh select list of TTAs was prepared and those who are not having three years diploma in engineering after passing 10th standard and happened to be seniors to the applicants, ~~they~~ were sent for training without sending the applicants who are in the earlier select list, for training. Being aggrieved, this OA was filed on 17-4-1995 praying for declaration that the action of the respondents auth-
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~~xities~~ in not sending the applicants for training and promotion to the post of TTAs sanctioned ^{upto} ~~after~~ 31.3.94, and sending the officials who are not in the select panel and who are not eligible to be promoted to the post of TTAs sanctioned ^{is} ~~upto~~ 31.3.1994 as improper, arbitrary and illegal being violative of Rule 11 of the Statutory Rules dated 22.7.1991 framed under Article 309 by holding that the executive instructions dated 27.4.1994 cannot control the statutory rules and for consequential direction to the respondents to send the applicants forthwith for training for promotion to the post of TTAs as per the procedure laid down in Rule 11 of the Statutory Rules dated 22.7.1991.

5. Similar pleas were raised in OA 1000/94 on the file of Chandigarh Bench of Central Administrative Tribunal. It is well settled that the executive instructions which are contrary to the statutory rules are not valid, and in case of amendment of rules, vacancies which ~~are~~ existed by the date of amendment <sup>pre-
existing</sup> have to be filled by amending rules. Keeping in view of the above well established position, Chandigarh Bench held that the vacancies sanctioned upto 30.12.1994, the date on which the amendment of statutory rules as per the executive instructions dated 27-4-1994 were notified, have to be filled in accordance with the pre-amended rules.

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To

1. The Chief General Manager, Telecommunications, A.P.Telcom Circle, Hyderabad.
2. The General Manager, Hyderabad Telecom Dist. Hyderabad.
3. The General Manager, Telecommunications, Warangal Area, Warangal.
4. The Telecom District Manager, Warangal.
5. The Telecom District Engineer, Karimnagar.
6. One copy to Mr.P.N.A.Christian, Advocate 10-3-1/3(I floor) East Marredpally, Entrenchment, Sec'bad.
7. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
8. One copy to Library CAT.Hyd.
9. One spare copy.

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S. S. S.

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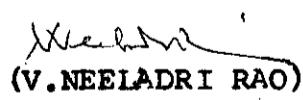
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6. The letter No.22-19/95-TE-II(Pt.), dated 23.6.1995 addressed to the Chief General Manager, UP Telecom Circle, Lucknow by the Department of Telecom was issuing the letter underlying the ~~is to follow the principle underlined by Chandigarh Bench~~ in the judgment dated 30.5.1995 in OA 1000-PB of 1994.

7. Shri N.R.Devaraj, learned standing counsel for the respondents produced the letter No.3-15/95-NCG, dated 15.9.1995 addressed to the Chief General Manager, A.P.Telcom Circle, Hyderabad whereby R-I was required to follow the judgment dated 30.5.1995 in OA 1000/94 on the file of Chandigarh Bench, for A.P.Circle also (there is a mistake in noting the OA 1006/94 instead of noting it as OA 1000/94 in the above letter dated 15.9.1995, of course, copy of the judgment dated 30.5.95 in OA 1000/94 on the file of Chandigarh Bench was enclosed to the said letter).

8. In the above view, there is no need to issue any further direction to the respondents and accordingly this OA is closed at the admission stage. No costs.//


(R.RANGARAJAN)
MEMBER (ADMN.)


(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 19th September, 1995.
Open court dictation.

vsn

Deputy Regis.

PSR

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADIRAO
VICE CHAIRMAN

AND

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

DATED: 19-9-1995

ORDER/JUDGMENT

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

in

O.A.No. 526/95

T.A.No.

(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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