

59

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 919/96

Date of Order : 24.8.98

T.Srinivasa Rao

.. Applicant.

AND

The Chief General Manager,
Telecommunications, A.P.Circle,
Hyderabad.

.. Respondent.

Counsel for the Applicant

.. Mr.N.R.Srinivasan

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBET (ADMN.)

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

O R D E R

X As per Hon'ble Shri B.S. Jai Parameshwar, Member (J) X

Mr.N.R.Srinivasan, learned counsel for the applicant
and Mr.V.Rajeswara Rao, learned standing counsel for the
respondent.

2. The applicant in this OA was appointed as a Telephone
Operator in the Telecom Department. Subsequently on passing
the departmental competitive examination for promotion to the
cadre of Telephone Inspector in the scale of pay of Rs.1320-2040,
and ^{he} underwent the training for a period of 8 months from 16.4.90
to 15.12.90. Thereafter he was appointed as Telephone Inspector
in Guntur division.

R

3. The said recruitment rules 1990 was amended in 1996. The amended rules came into effect from 8.2.96. Consequent upon the amended rules 1996 the walk-in-group exists. The applicant submits that the vacancies for the year 1995 should be filled as per the old rules and not on the basis of the amended rules dated 8.2.96. The applicant submits that even if the vacancies are not available by way of creation as the vacancies were foreseen earlier to the date of amended rules it should be deemed to have been created by 1995 and hence earlier rule 1995 will apply for filling up the post. For this the applicant relies on the Apex Court judgement reported in Y.V.Rangaiah v. J.Sreenivasa Rao (1983 SCC (L&S) 382)

4. Rangaiah's case stipulates that the vacancies available on a particular date should be filled in accordance with the recruitment rule in force on that day. The applicant submits the vacancies for the year 1995 even if created later the old rule only should apply as these vacancies have arisen for the year 1995.

5. Rangaiah's case should be read on the basis of the facts of that case. In that case sanctioned vacancies were available on the day in question and the judgement stipulated that for those sanctioned vacancies the recruitment rule in force on that day will apply. It ^{was} ~~is~~ not necessary to clarify in Rangaiah's case that the sanctioned vacancies on that basis. It is obvious. The facts of the case will prove that. In the present case it is not clear whether the vacancies for the year 1995 were sanctioned earlier to the date 8.2.96 when the rule was amended. It may be possible that the vacancies could have been contemplated for the year 1995 but they were actually sanctioned after the crucial date 8.2.96. If so then the amended rule will apply. If the vacancies were actually available by way of proper sanction earlier to the crucial

Dr

date then those vacancies should be filled in terms of the earlier recruitment rule. It is not necessary for us to see when it is sanctioned and other details as these are factual verification on the basis of the records.


6. In view of the above the following direction is given :-

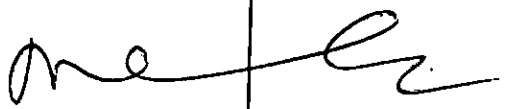
(a) If the vacancies for the year 1995 were sanctioned earlier to the crucial date then those vacancies should be filled on the basis of the ^{old} recruitment rules.

(b) If the vacancies were created after the crucial date ^{ie} 8.2.96, then the amended rule should be pressed for filling up those vacancies.

(c) The respondents should examine the dates as indicated above and reply the applicant suitably within the period of 2 months from the date of copy of this order.

7. The OA is ordered accordingly. No costs.

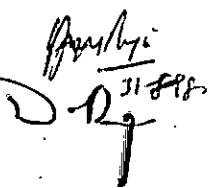

(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGARAJAN)
Member (Admn.)

Dated : 24th August, 1998

(Dictated in Open Court)

sd


31.8.98