

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.691/96

DATE OF ORDER : 21-08-1998.

Between :-

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|---------------------|------------------|
| 1. G.Rajeswara Rao | 8. D.Polayya |
| 2. M.Narayana Rao | 9. S.Threenadulu |
| 3. K.Syamala Rao | 10.G.Ananda Rao |
| 4. S.Narayana Rao | 11.N.Tavitayya |
| 5. U.Ananda Rao | 12.M.Appa Rao |
| 6. Y.Malleswara Rao | 13.D.Rama Rao |
| 7. B.K.Das | 14.P.Ranga Rao |

.... Applicants

And

1. The Union of India,
rep. by the Director General,
Telecommunications, New Delhi-110 001.
2. The Chief General Manager,
Telecommunications, Andhra Circle,
Hyderabad-500 001.
3. The General Manager,
Telecommunications, V.M.Area,
Visakhapatnam.
4. The Dist. Telecom Engineer,
Srikakulam.

.... Respondents

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Counsel for the Applicants : Shri J.V.Lakshmana Rao

Counsel for the Respondents : Shri V.Bhimanna,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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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

Heard Sri Yogender Singh for Sri J.V.Lakshmana Rao, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondents. Sri Kanakalah, Asst.Engineer of Legal Matters also heard and ^{he} answered some of the important questions in this matter.

2. There are 14 applicants in this OA. They are working as Technicians in the Telephone Exchange under Respondent No.4. They are all non-Diploma Holders. Notification bearing No.7-58/90-NCG dt.22-7-91 (Page-15 to the OA) ^{was} ^{ing} issued ~~term-~~ this notification as "The Departmental Examination for Telecom Technical Assistants Recruitment Rules, 1991". The method of recruitment involves only promotion; but two ways of promotions ^{are} indicated therein. The promotion is from Diploma Holders who are in the lower cadre or in the same scale of pay and non-Diploma Holders in the same cadre or in the same scale of pay. The relevant instructions states that the Diploma Holders possessing three years Diploma in Electrical/Mechanical/Electronic Engineering/Radio/Telecom awarded by any technical Institute recognised by the Central/State Government after 10th Standard will be promoted first on the basis of the seniority-cum-fitness. In case all the posts cannot be filled by the first method of promotion, Non-Diploma Holders also can be promoted in the balance of vacancies through competitive examination from among the Technician who are non-diploma holders.

The relevant portion is extracted below :-

1. By promotion on the basis of Seniority-cum-fitness from amongst the following

categories of Departmental employees possessing minimum qualification of 3 years diploma in Electrical/Mechanical/Radio/Telecom/Electronic Engineering awarded by any technical Institute recognised by the Central/State Government after 10th Standard.

(i) All Group 'C' employees borne on the regular Establishment in the Telecom Engineering Branch of the Department.

(ii) All Group-'D' employees borne on the regular Establishment in the Telecom Engineering Wing of the Department.

2. In case adequate candidates are not available through the process of selection as given above, balance would be recruited through Competitive Examination from amongst the Technicians who are Non-Diploma holders.

If the non-Diploma holders are promoted in the vacancies ^{that} could not be filled by the Diploma Holders, their seniority is to be fixed as given in para-4 of that notification. It states "official: selected in Seniority-cum-Fitness basis would rank enblock senior to those selected through the Competitive Examination." That would mean that those non-diploma holders will rank junior ^{to those} diploma holders promoted first. Even if the non-diploma holders are seniors on certain basis either by seniority or ^{other} some basis in the lower grade of Rs.1150-1500.

3. The applicants herein submit that as they had passed the competitive examination they are to be treated as equivalent to the diploma holders and if they are seniors in the lower category, then they should be given seniority ^{in the promoted cadre} in accordance with the seniority in the lower category. If in the lower category they are seniors to the Diploma Holders, then in the promoted category of TTA, they should be shown as seniors to the Diploma-

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have
 Holders. Hence they/challenged the seniority directions given
 in para-4 of that circular.

4. Eligibility list of TTAs was released by the respondents
 organisation vide memo No.E-3-19/Vol.II/95-96/111 dt.4-2-1995.
 In that the applicants were shown juniors to the diploma holders.

5. This OA is filed for setting aside the impugned memo No.
 E-3-19/Vol.II/95-96/111 dt.4-12-95 showing them as juniors to the
 Diploma Holders even though they are reported to be seniors in the
 lower cadre before promotion as TTAs. and also to set aside the
 recruitment rules issued under letter No.7-58/90-NCG dt.22-7-91
 and to direct the respondents to depute Technicians as per seniority
 for training ^{and} appoint them as Telecom Technical Assistants
 accordingly as per the seniority in the cadre of Technicians.

6. In the reply it is stated in para-8 that the impugned list
 dt.4-12-95 is prepared in accordance with the 1991 Recruitment
 Rules ¹⁹⁹¹ at the keeping the Diploma Holders / top and remaining non-diploma
 holders below the Diploma holders. This list is only for deputing
 the candidates for training. The seniority in the TTAs will
 depend on the marks obtained ^{ed} by them in the training. However,
 the diploma holders selected in seniority-cum-fitness basis would
 rank enblock senior to those selected through the screening test.

7. The main contention of the applicants ^{that} are/they are no way
 inferior to the ~~applicants~~ Diploma Holders when they had passed
 in the competitive examination. The very fact that they have pass
 the competitive exam makes them ^{equivalent to} diploma holders promoted as
 TTAs. If their seniority is not fixed properly, it is case of

discrimination between diploma holders and non-diploma holders as they are going to discharge same type of duties when they are going to be posted as TTAs.

8. The only point in this case is when a diploma holder promoted as TTA would rank senior to the non-diploma holder who passed the competitive examination and posted as TTA. The answer to this question lies in finding out the syllabus for the competitive examination and also whether that competitive examination can be treated as equivalent to an examination passed by a Diploma Holder in a Technical Institute.

9. Sri Kanakaiah, Officer from the Telecom Department informs that the competitive exam is only to ascertain the competence of the applicants to discharge their duties in future when posted as TTAs. They were questioned ⁱⁿ ~~to~~ the examination only in regard to the work performed by them and their aptitude to shoulder higher technical responsibilities if they are promoted as TTA. He further adds that the competitive exam is in no way equivalent to the Diploma Course passed in a recognised Institution. The Competitive Exam is only one paper for promotion of non-diploma holders. The diploma holders coming out of a recognised Institute has to pass the examinations to be conducted in all the three years. The subjects to be passed by them in the Technical Institutes ensure ^{may} ~~that~~ they possess extensive working knowledge equivalent to that of B.E. Electrical or any other Discipline ~~may~~ possess due to passing of the Diploma syllabus extensive capacity to improve the system and will ensure better maintenance.


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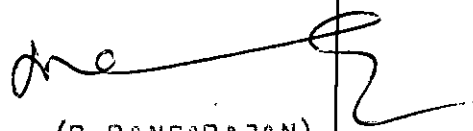
10. We fully agree with the respondents when they state that the competitive exam is in no way equivalent to the knowledge of the diploma holders. Further it was held by the Supreme Court that there is no discrimination if a technically qualified ^{person} is given better footing compared to an employee who does not possess the required technical qualification. In that view also, the view expressed is in order. The stipulation that only after posting the Diploma Holders as TTAs, then only the remaining vacancies will be filled by the non-diploma holders itself shows that first preference is given to diploma holders and in case, the posts cannot be filled due to non-availability of sufficient diploma holder candidates then only the non-diploma holders are preferred. When that is ^{so} ~~one~~, then challenging the seniority rule after promotion in isolation cannot be accepted and is not tenable. The applicants have not challenged the preference given to the Diploma Holders while considering them for promotion first. The/diploma holders had to be subjected to competitive exam and then only be considered for promotion against left out vacancies had been reconciled by the applicants. That itself is a reflection that they are inferior for promotion as TTAs in the first instance. If they have reconciled ^{to the} ~~that~~ they are not entitled/eligible for promotion as TTAs in the first instance, they should also reconcile to the fact that they are not eligible for higher seniority even if they are senior in the lower grade to that of Diploma-holders.

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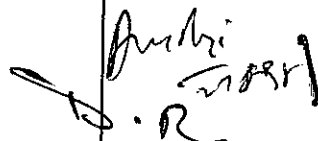
11. In view of what is stated above, we find no merit in the
O.A. Hence the OA is dismissed. No costs.


(D. S. JAI PARAMESHWAR)
Member (J)

21.8.98


(R. RANGARAJAN)
Member (A)

Dated: 21st August, 1998.
Dictated in Open Court.


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DA.691/96

Copy to:-

1. The Director General, Telecommunications, New Delhi.
2. The Chief General Manager, Telecommunications, Andhra Circle, Hyderabad.
3. The General Manager, Telecommunications, V.M.Area, Visakhapatnam.
4. The Dist. Telecom Engineer, Srikakulam,
5. One copy to Mr. J.V.Lakshmana Rao, Advocate, CAT., Hyd.
6. One copy to Mr. V.Bhimanna, Addl.CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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8/9/98

II COURT

TYPED BY
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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:

21/8/98

ORDER/JUDGMENT

M.A/R.A/C.P.H.S.

in

C.A. NO.

691/96

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
दस्तावेज / DESPATCH

1-7 SEP 1998

हैदराबाद न्यायापीठ
HYDERABAD BENCH