

(15) (28)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.923/96

DATE OF ORDER : 10-9-96

Between :-

Vaishnava Manohar

... Applicant

And

1. The Chief General Manager,
Telecommunications,
Andhra Pradesh,
Hyderabad-1.
2. Telecom District Manager,
Sanchar Bhavan, Tirupathi,
Chittoor District.
3. Sub-Divisional Officer (Phones),
Tirupathi,
Chittoor District.

... Respondents

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Counsel for the Applicant : Shri Meherchand Noori

Counsel for the Respondents : Shri V.Rajeshwara Rao

CORAM:

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THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI : VICE-CHAIRMAN *hell*

THE HON'BLE SH

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... 2.

Oral (Orders per Hon'ble Justice Shri M.G.Chaudhari,
Vice-Chairman).

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Shri Meherchand Noori for the applicant. Shri
V.Rajeshwar Rao, Standing Counsel for the Respondents. The
Respondents have not filed any reply as were directed on
6-8-96. Hence the matter was ~~not~~ heard for interim relief.
At the hearing, Shri V.Rajeshwar Rao stated that he had ^{received} instruc-
tions and some file also and he would argue the case on behalf
of the respondents without filing a formal reply. On that
basis after the matter was heard it transpired that an order
can be passed disposing of the O.A. itself and therefore by
consent of both the sides, the O.A. is taken-up for final
orders.

2. The applicant V.Manohar was appointed as Phone
Mechanic Group-D post in the year 1993. He was promoted on
ad hoc basis to the post of Telecom Technical Assistant by
order dt.20-2-95. While he was so officiating, recruitment
to the posts of Telecom Technical Assistants (TTAs for short)
for vacancies up to 30-12-94 was proposed to be made under the
"Department of Telecommunications, Telecom Technical Assistants
Recruitment Rules, 1991". There is no dispute on the point that
the said selection was governed by the said rules.

3. The promotion is ^{based on} ~~prescribed on the basis of~~ the
seniority cum fitness from amongst departmental employees
possessing minimum education qualification of three years

Diploma in Electrical/Mechanical/Radio/Telecommunications/
awarded
Electronic Engineering ~~xxxxx~~/by any Technical Institute
recognised by State or Central Government after 10th standard.

It appears that the applicant was considered for selection by
✓ the D.P.C. on the basis that he possessed the aforesaid requisite
educational qualification. He was selected by order dt.28-6-96
issued by the Sub-Divisional Officer, Phones, Tirupati on the
strength of Memo No.E/TTA/I/KW/17 dt.25-6-96 of TDM-Tirupati.
He was relieved on 28-6-96 to undergo induction of Training
for TTA in switching branch from 1-7-96 to 6-9-96 for 10 weeks
and he was instructed to report to the principal, CTTC, Kakinada
positively on 1-7-96. It may be mentioned that Rule-7 of the
above mentioned rules provides that the selected candidates
before appointment shall have to successfully undergo the
✓ prescribed training course for such period as may be specified
from time to time by the department of Telecommunications.

4. The applicant accordingly reported for training and
was undergoing the training. However, on 4-7-96 he was recalled
from the training. It is stated by the applicant that the
telegram on the basis of which he is relieved from the train-
ing centre was based on letter dt.4-7-96 ^{which} had given the ground
that he was being re-called as he was not eligible for promo -
tion. The applicant however did not file any representation
to the authorities seeking clarification of the ground for
✓ which he ~~was~~ ^{was} is recalled but only rushed to the Tribunal by
filing the O.A. on 30-7-96 seeking the relief that the
action of the respondents in recalling him from the training

vide letter dt.4-7-96 ^{is} ~~as~~ illegal, arbitrary and violative of constitutional provisions and to issue consequential directions to the Respondents to promote him to the post of TTA. The applicant cannot be straightaway promoted as sought by him. He has necessarily to undergo the training. He would have completed the training and would have been considered for promotion depending on his successful completion of training had he completed the training for which he was sent after having been found eligible for the same. The respondents appear to have ~~been~~ acted arbitrarily in recalling him from the training in the midst of the training without informing him the reason for which he was ^{being} recalled and giving him any opportunity to offer his explanation ^{regarding} on the ground for which it was considered necessary to call him back from ~~middle~~ ^{thereby} of the training. ~~Eventually~~ ^{depriving him of} it appears to be that his legitimate expectation ^{of} for being considered for promotion on ~~his~~ ^{the} completion of training. Shri V.Rajeshwar Rao, counsel for the respondents submitted that on the ^{basis} ~~basis~~ of instructions and records that the reason for recalling the applicant was ^{that} he was not found suitable for being selected for training as he does not possess the required educational qualification viz., holding of a diploma in the prescribed discipline. He ~~submit~~ ^{submits} that the applicant had produced the Diploma Certificate which was issued on 20-2-95 i.e. after the material date viz.,30-12-94 and therefore he was considered to be ineligible for the selection.

5. The reason for which the respondents have purported to

(19) (2/2)

consider the applicant ineligible for the selection however doesnot with stand scrutiny. Annexure-1 is the copy of the certificate-cum-consolidated marks sheet dt.20-9-95 issued by the controller of examination of the State Board of Technical Education & Training, Andhra Pradesh, Hyderabad . That certificate clearly states that the applicant had undergone the four years study of part-time Diploma course and has completed the pass requirements in all the prescribed examinations for the award of Diploma in Electrical & Electronics Engineering held in October/November '94 and that he is placed in first class on the basis of his performance in the examination pertaining to II, III and IV year and the date of eligibility for the award of Diploma is 30-11-94. The Diploma acquired by the applicant was ⁱⁿ ~~is~~ ^{of} ~~in~~ one ~~in~~ the subjects prescribed in the schedule under the recruitment rules. There should be no doubt even on plain reading of this certificate that the applicant had become a diploma holder on 30-11-94. The formal date of issue of certificate i.e. 20-9-95 related to a ministerial act and has no relevance to the date of eligibility of award of the diploma which was 30-11-94. Necessarily therefore for the purpose of cutt-off date viz 30-12-94 ^{the} ~~a~~ date of acquiring the eligibility by the applicant is required to be taken as 30-11-94. With that date there does not appear any reason as to why the applicant should be considered ~~xxx~~ ineligible particularly as no other ground has been pointed out. The Respondents obviously appear to have been carried away by the date of certificate viz. 20-9-95 without realising ^{that} the date of eligibility acquired under the certificate was ~~as on~~ 30-11-94. The Respondents

(20) (23)

therefore have not only acted arbitrarily but illegally in calling back the applicant from the Training. The Respondents are therefore required to rectify their wrong action.

6. Now, when the applicant has stated in the application that he had learned that he was considered ineligible and when he had not been intimated the reason as to why he has been called back from the Training, it was necessary for him to file a representation to the respondents ~~protesting~~ protesting against their action. He however did not do so. Under the circumstances the proper course to adopt ^{is} ~~to~~ to ~~be~~ directed the applicant to file a representation immediately so that the respondents can act on the basis of the same in the light of the above discussion and send him for the training in the next batch which is about to commence within few days during this month. Hence following order is passed :-

(1) The applicant may file a representation to the District Telecom Manager, Tirupati, (Respondent No.2) forthwith;

(2) The Respondent No.2 is directed to consider the representation in the light of this decision and the reasons stated herein above ^{working} within ^{two} days from the date of receipt of the representation.

7. In the event ^{of} ~~that~~ the representation ^{being} allowed, the respondent No.2 shall take steps to send the applicant ^{at the ensuing training course} for training on the basis of his selection earlier made when he was sent for training without loss of time so that the

applicant is able to get the benefit of the training without loss of any material period of the said training. The O.A. is disposed of interms of the above directions. No order as to costs.

M.G. Chaudhary
(M.G. CHAUDHARI)
Vice-Chairman

Dated: 10th September, 1996.
Dictated in Open Court.

avl/

for Reg. Mess.
Deputy Registrar (D) ce.

OA.923/96

To

1. The Chief General Manager,
Telecommunications,
A.P.Hyderabad-1.
2. The Telecom District Manager,
Sanchar Bhavan, Tirupathi,
Chittoor Dist.
4. The Sub Divisional Officer(Phones)
Tirupathi, Chittoor Dist.
5. One copy to Mr.Meharchand Noori, Advocate, CAT.Hyd.
6. One copy to Mr.V.Rajeswar Rao, Addl.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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56 pages

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

~~THE HON'BLE MR. H. RAJENDRA PRASAD: M(2)~~

Dated: 10-9-1996

~~ORDER~~ / JUDGMENT

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

O.A.No. 923/96 in

T.A.No. (w.p.)

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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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
23 SEP 1996
हैदराबाद प्राधिकरण
HYDERABAD