

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO.926/96

DATE OF ORDER : 10-9-96

Between :-

Tammalala Venkata Krishna Rao

.. Applicant

And

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

.. Respondents

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Counsel for the Applicant : Shri Meherchand Noori

Counsel for the Respondents : Shri V. Rajeshwar Rao, Addl. CGSC

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CORAM:

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

*hsc*

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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 for the respondents. The applicant E.V. Krishna Rao was appointed as Phone Mechanic, Group-D post in the year 1993. On 20-2-95 he was promoted as Telecom Technical Assistant on adhoc basis. A selection for recruitment to the posts of Telecom Technical Assistants (TTA for short) for the vacancies up to 30-12-94 under the "Department of Telecommunications, Telecom Technical Assistants Recruitment Rules, 1991" was held by the Departmental Promotion Committee. The rules provide that after the selection, the selected candidate has to undergo pre appointment training successfully before they could be appointed as Telephone Assistants.

2. According to the applicant he fulfilled the eligibility criteria for being sent to the training but he was not selected although there were vacancies available. He <sup>has</sup> therefore filed this application aggrieved with the denial of consideration for promotion to the post of Telecom Technical Assistants as being illegal, arbitrary and violative of constitutional provisions. He prays that the respondents may be directed to promote him to the post of TTA.

3. The applicant had not filed any representation to the respondents but ~~had~~ <sup>the</sup> filed O.A. ~~straightaway~~ <sup>straightaway</sup> on 30-7-96. Respondents were issued notice to show ~~cause~~ the

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ground on which the applicant was denied legitimate consideration for promotion. The respondents have not filed any reply so far but today Shri V. Rajeshwar Rao submits that he was proceeding to argue on the basis of instructions and records received by him. After hearing for some time on the point of interim relief viz., as to whether the applicant could be directed to be sent for training without further loss of time, it transpired that the OA itself could be finally disposed-of. <sup>by consent</sup> Accordingly it was taken up for final hearing. Shri V. Rajeshwar Rao submitted on instructions that the eligibility criteria prescribed for the promotion to the post of TTA is that the candidate must possess minimum qualification of 3 years diploma in the prescribed subjects under entry No.1 in ~~Recruitment~~ column 11 of the schedule to the recruitment rules, 1991 and since it appears to the respondents that the applicant did not hold such diploma, he was not considered eligible for selection. It is common ground that the selection in question for the posts up to 30-12-94 was governed by the recruitment rules, 1991. Shri V. Rajeshwar Rao submits that the applicant <sup>of</sup> had submitted the certificate/award of Diploma <sup>bearing in date</sup> appearing ~~the~~ dt. 20-9-95 and as that date was subsequent to the cutoff date to the selection viz., <sup>30-12-94</sup> ~~30-9-94~~ the applicant was not considered eligible.

4. At Annexure-I the applicant has produced a copy of certificate-cum-consolidated marks issued on 20-2-95 by the controller of examination, State Board of Technical Education & Training which states that the applicant has undergone the four years study of part-time Diploma Course and completed the pass requirements in all the prescribed examinations for the

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award of diploma in Mechanical Engineering held in October/  
November '94 and that he is placed in First Class. The date  
of eligibility for the award of diploma is 30-11-94. Diploma  
in Mechanical Engineering is one of the recognised diplomas  
prescribed under the schedule <sup>of</sup> recruitment rules and cons-  
titutes an eligibility criteria. A plain reading of the cer-  
tificate shows that the date of eligibility for the award of  
diploma is specified by the competent authority <sup>as</sup> ~~is~~ 30.11.94  
and it must therefore be deemed that applicant had acquired  
the diploma on that date. That was the date prior to the  
material date for the selection. The applicant cannot there-  
fore be held ~~that~~ ineligible for want of diploma on the <sup>material</sup> cutoff  
date. The respondents seem to have acted merely on the basis  
of the date of the certificate viz. 20-9-95, that however was  
merely the date of issuance of the certificate as part of the  
ministerial act and could not mean <sup>that</sup> the date of acquiring the  
eligibility for award of diploma <sup>was not</sup> ~~which was~~ 30-11-94. It  
therefore clearly appears that the respondents have acted  
erroneously in treating the applicant as not qualified for  
being considered for the selection on the basis of a wrong  
premise. This approach of the respondents is not tenable.  
It is not indicated that the applicant suffers from any <sup>other</sup> dis-  
qualification. Hence on a true consideration of the certifi-  
cate of diploma, the applicant must be held as eligible for  
consideration for promotion. The respondents not having  
considered him that error on their part needs to be rec-  
tified.

5. The applicant had not submitted any departmental representation. The proper relief to grant therefore appears to be to direct the applicant to file a representation and require the concerned authority to decide the same in the light of what is stated herein above and if otherwise eligible consider his selection in the prescribed manner and send him for <sup>the</sup> training course about to commence within few days during this month.

6. Since the respondents had not informed the applicant the ground on which he was not considered for selection and as it is now revealed <sup>that the</sup> ~~the ground~~ ground was of his educational qualifications of diploma, the applicant may deal with that aspect in his representation.

7. In the result, the following order is passed :-

(i) The applicant may file a representation to the TDM Tirupati forthwith as indicated herein above;

(ii) The TDM, Tirupati is directed to consider and dispose of the representation of the applicant within two days of its filing excluding holidays in the light of what is stated herein above in this order.

8. <sup>In the event of</sup> ~~On~~ the representation being allowed, the respondents to take steps for selection of the applicant in accordance with the recruitment rules, 1991, immediately and if he is selected then to take steps to send him for the training course which is

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about to commence within few days during this month without any loss of time.

9. The O.A. is disposed-of in terms of the above order.

No costs.

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

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

*For Regd. Secy.*  
Deputy Registrar (DCC)

avl/

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To

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

pvm.

9/29/92

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

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(A)

Dated: 10.9.1996

ORDER / JUDGMENT

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

in

O.A.No.

926/96

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.

pvm

No

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Central Ad  
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HYDERABAD