

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.667/97.

Dt. of Decision : 17-03-99.

| | |
|---------------------------|-------------------------------|
| 1. G.Satyanarayana | 21.U.S.K.Choudary |
| 2. T.V.Subrahmanya Sastry | 22.B.Satyanarayana Reddy |
| 3. K.P.Balarama Prasad | 23.M.Santana aRao |
| 4. M.V.Madhusudana Reddy. | 24.P.Sambasiva aRao |
| 5. K.Gopalakrishna Reddy | 25.Madhusudhana Rao |
| 6. V.Venkata Ratnam | 26.V.Krishna Rao |
| 7. K.Narasimha Rao | 27.V.Chandra Sekhara Azad |
| 8. P.V.Rao | 28.M.Krishna Reddy |
| 9. G.Krishna Prasad | 29.S.D.V.V.Prasad Reddy |
| 10. K.Bhaskara Rao | 30.K.Louis Babu |
| 11. B.Chandra Vani | 31.Mahadevarao Jagadam |
| 12. A.Subhashchandra Bose | 32.Mohana Rao Kanazam |
| 13. K.S.N.B.V.Prasada Rao | 33.Venkatarama Krishna Vemuri |
| 14. G.Seetaramaiah | 34.Ammanabrolu Anjaneyulu |
| 15. Azeez Baig | 35.M.N.B.Sastry |
| 16. D.Venkateswarlu | 36.G.Galaiah |
| 17. T.Hari Babu | 37.D.Vallabha Rao |
| 18. M.Sankara Babu | 38.D.Veeranaerayana |
| 19. Ch.C.B.S.S.Prasad | 39.T.V.Ramani |
| 20. G.Ramakrishna Rao | ..Applicants. |

Vs

| | |
|--|---------------------------|
| 1. The Govt. of India, rep. by its Secretary, Telecommunications, New Delhi. | 15. B.Joseph Carlo |
| 2. The Director of Telecommunications, Sanchar Bhavan, New Delhi. | 16. P.Seethamma |
| 3. The Chief General Manager, A.P.Circle, Hyderabad. | 17. N.Venkateswara aRao |
| 4. The General Manager, Telecom, Vijayawada, Krishna.Dist. | 18. M.V.Mohan |
| 5. S.Girija Kumari | 19. K.Venkateswara Rao |
| 6. V.Butchi Babu | 20. B.V.Narayana |
| 7. P.Venu | 21. Ch.Rajendra Prasad |
| 8. S.Ramesh | 22. M.V.Narayana Rao |
| 9. V.N.V.Mohana Rao | 23. V.Navajeevan |
| 10.D.Ramakrishna Rao | 24. N.Pitcheswara Rao |
| 11.G.Suresh Babu | 25. N.V.S.S.P.R.V.Prasad. |
| 12.A.R.Mohana Rao | .. Respondents. |

Counsel for the applicants

: Mr.N.Saida Rao

Counsel for the respondents

: Mr.B.N.Sharma, Sr.CGSC.
for R-1 to R-4.

Mr.B.S.A.Satyanarayana
for R-5 to R-10, 13, 15 to
20, 22, 24 and 25.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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

..2/-

2

D

ORDER

ORAL ORDER (PER HON. SHRI R.RANGARAJAN : MEMBER (ADMN.)

Heard Mr.N.Saida Rao, learned counsel for the applicants, Mr.B.Narasimha Sarma, learned standing counsel for the official respondents and Mr.BSA Satyanarayana, learned counsel for the private respondents 5 to 10, 13, 15 to 20, 22, 24 and 25. Notice has been served on the private respondents 11, 12, 14, 21 and 23. They were called absent.

2. There are 39 applicants in this OA. They were initially appointed as Technicians between the years 1969 and 1976 in the scale of pay of Rs.975-1660. After completion of 16 years of service, all the applicants were promoted to the scale of pay of Rs.1400-2300 and were designated as Technical Supervisor (Operations)-TS(O) for short).

3. The applicants have filed this OA for the following reliefs:-

(i) for sending the applicants for qualifying screening test of Junior Telecom Officers' (JTO for short) training;

(ii) for a declaration that sending R-5 to R-25, who are far juniors to the applicants, for the above screening test and promoting them as JTOs is illegal etc; and

(iii) declaring the applicants as seniors and qualified for the screening test and training for promotion to the cadre of JTO with all consequential benefits.

2



4. The Department of Telecommunications had proposed restructuring of certain Group-C cadres to suit the requirements of modern technology. The restructuring of the cadres had created three new cadres namely: (i) Phone Mechanic (ii) Telecom Technical Assistant and (iii) Senior Telecom Operating Assistant. The scale of pay of Telecom Technical Assistant (TTA for short) is Rs.1320-2040.

5. On restructuring of the Group-C cadres, the Department had announced the recruitment rules to the cadre of TTA on 22.7.91 (Annexure R-1). As per these recruitment rules, the following cadres are eligible to move to this cadre. They are:-

(i) All Group-C employees; and

(ii) All Group-D employees on regular establishment in the Telecom Engineering Branch with 3 years Diploma in Electrical/ Mechanical/Radio/Telecom/ Electronics Engineering.

6. As stated earlier, the scale of pay of TTA is Rs.1320-2040 and that of OTBP/BCR officials in Group-C cadre is Rs.1400-2600 and Rs.1600-2660 respectively. The scale of pay of OTBP/BCR officials is higher than that of TTA scale. As the scale of pay of OTBP/BCR officials is higher than the scale of pay of TTAs, they were not allowed for ~~posting~~ promotion to TTA cadre. But there were persistent demands from the staff Unions to allow OTBP/BCR officials to move to the restructured cadres and accordingly the Dept. of Telecom vide its orders dated 30.6.93 (Annexure R-2) allowed the OTBP/BCR Technicians also to move to the

02



restructured cadres of TTAs. The amended Recruitment Rules for TTAs including OTBP/BCR Technicians was issued by the amended Recruitment Rules dated 31.12.94 which are enclosed as Annexure R-3 to the reply. As per these amended Recruitment Rules, the eligible cadres for coming over to the TTA cadre are, (i) All Group-C employees with 3 years Diploma and (ii) Technicians.

7. This OA cannot be disposed of in isolation without due note of the OAs disposed of by the other Benches of this Tribunal especially Chandigarh Bench and the Principal Bench of this Tribunal, as some directions pertaining to the Recruitment and Seniority to the TTAs cadre, promotion to the higher cadre of JTO from the cadre of TTAs, were given.

8. OA 100/PB of 1994 was decided by the Chandigarh Bench of this Tribunal. In that OA it was held that the vacancies arising in the cadre of TTAs on or before 30.12.94 may be filled up in accordance with the Recruitment Rules dated 29.7.91 and those occurring on 31.12.94 and thereafter, would be governed by the amended rules notified on 31.12.94.

9. From the above directions of the Chandigarh Bench of this Tribunal, it is evident that the employees from the feeder category mentioned in the notification dated 22.7.91 only can aspire to become TTAs against the vacancies that had occurred between 22.7.91 and 30.12.94. In that notification, OTBP/BCR officials are not entitled to become TTAs as their pay scale was higher than that of the TTAs cadre. Hence that direction cannot be over ruled by this Bench as there is no reason to differ from that judgement.

N *A*

Hence the applicants who were OTBP/BCR officials can be posted against the vacancies which arose on 31.12.94 and thereafter.

10. If that be the case, how the seniority of the TTAs who were appointed in the vacancies between 29.7.91 and 30.12.94 and those appointed in the vacancies from 31.12.94 and thereafter is to be decided, is a point for consideration.

11. In the docket order dated 5.12.98, we raised the above question and asked the respondents to examine the issue and subit. A note dated 10.2.99 was seen. It is stated that "though the OTBP officials were senior in their earlier cadre i.e., Technician cadre, but as they were appointed against the later vacancies in the cadre of TTAs, they will become junior in the cadre of TTA to all those Group 'C' & 'D' employees who were appointed earlier as TTAs."

12. The above principle of seniority is in accordance with the principles for fixation of seniority of those who had entered ~~in~~ the cadre earlier will rank senior to those who entered the cadre later. The OTBP officials were not eligible for consideration to the post of TTAs as per the Recruitment Rules dated 22.7.91 and that rules govern the field till 30.12.94 and those who ^{law} entered the cadre of TTA during the period from 22.7.91 till 30.12.94 should rank senior to those who entered the cadre on and after 31.12.94. It is a fact that the applicants in this OA are OTBP/BCR officials. They were appointed as TTAs in view of the amended rules dated 31.12.94 against the vacancies that occurred on or after 31.12.94. Hence they should rank

D

1

junior to those TTAs who were appointed earlier to 31.12.94. It is not necessary for us to further elaborate on this point as the seniority in the cadre of TTAs should be fixed accordingly.

13. The Hyderabad Bench of this Tribunal disposed of OA 251/96 by the order dated 9.7.98. The principles involved for the reliefs asked for in that OA were discussed at the time of hearing and the following clarifications were given in the affidavit filed by the respondents in that OA. They are as follows:-

"1. The OTBP/BCR Officials in the scale of pay of Rs.1400-2300 and 1600-2660, when posted as TTAs after successful completion of training are continued in their respective pay scale of Rs.1400-2300 and Rs.1600-2660 and were given the benefit of one advance increment in their pay scale.

2. All future TTA vacancies will be filled up with Gr.C employees of Telecom Engineering branch with the qualification of 3 years diploma in Engineering and from Technicians. The OTBP/BCR officials though given the TTA training will not be posted against the TTA vacancies.

3. The vacancies arose between 22.7.91 and 30.12.94 were filled up in accordance with the 22.7.91 recruitment

J

1

rules i.e., by promotion from diploma holders in the cadre of Gr. C & D and through competitive examination from non-diploma Technicians.

4. If sufficient eligible candidates according to 22.7.91 recruitment rules are not available to fill up the vacancies that arose upto 30.12.94, the balance vacancies will be filled up from Group-C employees according to the recruitment rules of 31.12.94."

As both the sides unanimously agreed to the view submitted as noted above, that OA was disposed of as there was no further adjudication necessary in that OA.

14. Prior to restructuring of the cadres, the recruitment to the cadre of JTO was as per the Junior Telecom Officers' Recruitment Rules, 1990 which lays down as under:-

- i) 65% by direct recruitment,
- (ii) 35% by promotion of departmental candidates;

The 35% departmental quota is further divided as follows:-

- (i) 15% through competitive examination from among certain Group-C cadres to which the applicants belong to,
- (ii) 10% through competitive examination from among PIs/TAs/AEAs/WOs; and
- (iii) 10% through qualifying screening test from

2

D

among PIs/TAs/AEAs/WOs.

15. But the above recruitent rules were modified vide Junior Telecom Officers' Recruitment Rules, 1996. The 15% quota as stated in the earlier departmental quota wherein the aplicants' cadre was included, remained the same. The quota meant for PIs/TAs/AEAs/WOs has been raised to 35%. The raised 35% vacancies have to be filled by direct recruitment. Subsequently, the cadre of TTAs was also added to 35% quota meant for PIs/TAs./AEAs/WOs vide DoT order dated 13.4.94. Accordingly, the TTAs were allowed to appear for screening test for promotion to the cadre of JTO and qualified JTOs were sent for training as per the eligibility conditions.

16. The Principal Bench of this Tribunal in OA No.1820/97 (Bachi Singh v. Union of India and others) disposed of on 9.1.98 had held as follows:-

"11. All the candidates who are considered fit for being sent to training for JTOs eventually leading to their appointment as JTOs after the publication of the notification shall comply with the rules issued by the notification on 8.2.96. Any person sent on training after this date which is not in accordance with the rules as interpreted by us as above, is hereby declared as not in accordance with law. Respondents shall with care and deligence choose such of the candidates who fulfil the criteria as interpreted

2

1

by us and who are to be sent for training after 9.2.96 and notify to them within four weeks from the date of receipt of a copy of this order."

17. By the above directions, the promotion to the post of JTO is to be ordered as per the notification dated 8.2.96. The service eligibility fixed therein both in sub-clauses (a) and (b) has to be strictly adhered to. In this OA it is stated that the applicants herein were empanelled in the selection list of TTAs but they were not sent for training. On receipt of the order dated 20.5.93, they were sent for training by the revised eligibility list dated 27.11.95 (Annexure A-5 at page 19 to the OA). The Technicians with three years' Diploma in Engineering were only sent for TTAs' training earlier. Thus the respondents' submission is in accordance with the order of the Chandigarh Bench of the Tribunal and the order of this Bench of the Tribunal in OA 251/96. As the applicants were not TTAs as on 29.1.95 on which date the screening test for promotion to the cadre of JTOs or PIs/TAs/AEAs/WOs under 35% quota was conducted. Hence the applicants were not eligible to write the said screening test and on that basis the respondents submit that the submission of the applicants that they are seniors to the private respondents is also incorrect.

18. A reply has been filed by the private respondents and a rejoinder to the reply has also been filed by the applicants.

19. We have considered the points raised by all the parties and also taken note of the judgements referred to

2

D

above. In view of the above, following directions are given:-

(i) The restructured cadre of the TTAs shall be filled in accordance with the Recruitment Rules dated 22.7.91 for the vacancies that rose in the cadre of TTAs between 22.7.91 and 30.12.94;

(ii) The vacancies that arose on or after 31.12.94 will be filled by the amended Recruitment Rules dated 30.12.94. By that the applicants are also eligible for consideration for the vacancies against TTAs cadre which arose on or after 31.12.94;

(iii) The seniority among the TTAs and OTBP officials who had come against the restructured cadre of OTBP will be governed by their date of entry into the cadre of TTAs. Filling up of vacancies of TTAs as accepted in OA 251/96 extracted in para 13 above shall be the guiding principle of filling up the vacancies of TTAs;

→ (iv) The direction given in OA 1820/97 on the file of Principal Bench of this Tribunal shall govern the service eligibility condition for promotion to the post of JTOs;

(iv) The applicants should be considered for the vacancies of JTOs which had arisen after 31.12.94 on the basis of the seniority in the cadre of TTAs against 35% quota. In addition, they are also eligible against 15% quota for promotion to JTOs;

J2

D

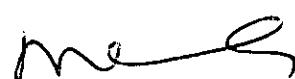
- 11 -

(vi) The service eligibility for promotion to JTOs should be counted even for the applicants herein following the conditions laid down for counting the service eligibility for PIs/TAs/AEAs/WOs.

20. The respondents are directed to follow the above directions for filling up the post of TTAs and JTOs.

21. The OA is ordered accordingly. No order as to costs.

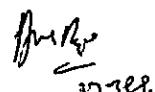
(B. S. OAI, PARAMESHWAR)
MEMBER (JUDG.) 17.3.97



(R. RANGARAJAN)
MEMBER (ADMN.)

DATED : 17 MARCH, 1999

vsn


M. S. R.