

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1548/97.

Dt. of Decision : 30-06-99.

1. K.Veeraiah
2. Shaik Mahaboob Bash
3. V.V.Chalapathi Rao
4. Shaik Abdul Rahiman
5. P.Anjaneyulu

.. Applicants.

Vs

1. The Telecom District Manager,
Ongole.
2. The Chief General Manager,
Telecom, A.P.Circle, Hyderabad.
3. The Chairman, Telecom Commission,
New Delhi.
4. T.Subba Rao
5. N.Venkata Reddy
6. T.Venkateswarlu
7. D.Radhakrishnan
8. N.Sathaiah

.. Respondents.

Counsel for the applicants : Mr.K.Venkateswara Rao

Counsel for the respondents : Mr.J.R.Gopala Rao, Addl.CGSC.

Mr.P.Krishna Reddy for Private
Respondents.

CORAM:-

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

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

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ORDER

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

Heard Mr.K.Venkateswara Rao, learned counsel for the applicants and Mrs.Sakthi for Mr.J.R.Gopala Rao, learned Mrs.Sarada for Mr.P.Krishna Reddy, learned counsel for the respondents/counsel for the private respondents.

2. There are 5 applicants in this OA. The Concise facts of this case are as follows:-

A notification No.5-11/89-NCG dated 15-6-90 (Page-18 to the OA) was issued under proviso to Article 309 of the Constitution for recruitment of Junior Engineers (Recruitment) Rules, 1980 (shortly called as JTOs). The enclosed annexure ^{at} to that which is page-20 states that 35% of recruitment ^{is} by promotion of departmental candidates. Out of 35%, 15% is by promotion of departmental candidates through a competitive examination. The competitive examination held in the year 1996 for the vacancies of 1993-94 are in question in this OA. In the notification dated 15-6-90 there is a provision for relaxation. This power to relax reads as below:-

"Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons."

3. The notification was issued for filling up the post of JTOs against the 15% quota mentioned above to be held on 9th and 10th September, 1995 by memo No.TA/RE/3-5/94 dated 5-7-95 (Annexure-II at Page-11 to the OA). As per this notification there are 4 papers to be answered. They are (I) English & General Knowledge (II) Physics (III) General Science (IV) Mathematics. The number of vacancies to be filled against the 15% quota is also

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indicated in that notification. For the year 1993 a total of 53 posts ^{had} to be filled against the 15% quota comprising of 41 OC, 8 SC and 4 ST and for the year 1994 there ^{was} ~~is~~ no provision against this quota for promotion. It is to be stated here that the applicants belong to OC community. However, the written examination was conducted accordingly in the year 1996. The pass percentage required to qualify in the 15% quota is indicated in the letter No.25-1/94-DE dated 10-02-94 (Annexure R-4 to the reply). As per this letter the pass percentage for OC is 40% in each of the paper and 40% on the aggregate and for SC/ST it is prescribed as 33% in each paper. The result was announced on 10-6-96 (Annexure R-1) wherein 17 candidates had been empanelled. On 8-10-96, 5 more candidates belonging to SC community ^{were} ~~was~~ also empanelled. Thus in the first instance as per the pass percentage prescribed in the letter dated 10-2-94, 22 candidates had been empanelled. It is stated that the paper-III i.e., General Science was a tough one and because of that many of the candidates who appeared for the selection could not qualify themselves. Hence there was unhappiness and a series of representations, ^{were submitted} for correction of that paper either by the relaxation of standard or by other means. The department though initially refused to accede to that request, ^{however,} subsequently it had issued the impugned Memo No.12-20/94-DE(PF-1) dated 5-6-97 (Annexure-I) relaxing the standard. The para-3 of that impugned notification is very relevant. This para is extracted below:-

"It has, therefore, now been decided that in addition to the result already declared as per the normal standards. A separate merit list year-wise for unfilled vacancies will be drawn by applying relaxation in the standards in order to make more qualified departmental candidates available for

recruitment in the cadre of J.T.O. The relaxation of standards will be as follows:-

- 1) Condition of obtaining minimum marks for qualifying in each subject will be dispensed with;
- 2) Merit list will be prepared on the basis of aggregate of marks obtained in all four subjects by the candidate;
- 3) The required minimum aggregate marks in all four subjects will be 30% for OC candidates and 20% for SC/ST candidates"

4. The ~~appellant~~ by the relaxation of the standards have filed this OA praying for setting aside the impugned memo No.12-20/94-DE(PR-1), dated 5-6-97 (Annexure-I) issued by the Department of Telecommunication, New Delhi and the merit list of candidates pertaining on that basis and for a consequential direction for holding fresh examination for filling up the JTOs vacancies of 1993 and 1994/ as ~~xx~~ illegal, arbitrary and discriminatory.

5. On the basis of the relaxed standards 32 candidates were also empanelled. The empanelment list can be seen at Annexure R-3 vide letter No.TA/RE/3-5/94/II dated 19-06-97 (Annexure- R-3).

6. An interim order was passed in this OA on 20-11-97.

The interim order reads as below:-

"If the selected employees were sent for training it should be clearly stated in the notification for sending them for training that their training and posting thereafter, if it is done, is subject to the outcome in this OA. This should be clearly indicated in the notification by which the selected candidates are to be sent for training. It is essential that those selected candidates have to be impleaded in this OA. Hence the official respondents will furnish the list of candidates who are to be sent for training on the basis of the selection notification referred to above at the time of next hearing, so that the applicants can implead them also if they felt it necessary to implead them."

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7. The main contention of the applicants in this CA are that the DoT initially refused to relax the standards when requested by the employees and the organised unions. But for un-known reasons they have relaxed the standard by the impugned memo dated 5-6-97. This relaxation given is unwarranted ^{and} is a colourable ~~exercise~~ of power. The relaxation is given so as to facilitate some of their favourite candidates to get empanelled in the selection. Further the vacancies had arisen in the year 1993 and the examination was conducted ⁱⁿ 1996 and the empanelment was done at the end of 1996 and 1997. After the issue of the initial empanelment the memo of relaxed standard was issued much later and the candidates selected on the basis of relax ^{the} standard was issued about a year after the issue of the initial select list. Thus there was considerable time lag between the occurrence of the vacancies and issue of the select list. The vacancies for the year 1993 ^{could have been} ~~can be~~ added to the subsequent vacancies for later ^{year} ~~year~~ and selection finalised on that basis by which no harm ^{would} ~~will~~ have caused ~~be done~~ to the department. Instead of doing so, the department issued the memo for relaxation standards and empanelled 31 more candidates. In the opinion of the applicants the relaxation itself is unwarranted and harmful to the interest of the applicants and also a colourable exercise of power to select some of the candidates whom the department wanted to put on the panel.

8. The department has filed their reply. The main contention of the department in the reply is that the department was short of JTOs. In the additional reply in para-4 at Page-2 that the department has indicated the details of number of requests waiting for provision of telephones. The details given also shows a comprehensive ^{need for} improving the basic services and long distance services and such other details. Because of that need due to the increase in the work load, the department thought that it is

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necessary to recruit enough number of JTOs who are in the junior level managerial cadre and who are responsible for construction/operation of the Telephone Exchanges. In view of that, they submit that the relaxation was considered necessary and it was given even though it was refused earlier when the applicants and others submitted their representations. They further add that no harm has been done to the interest of the employees especially the cases of the applicants herein are not prejudiced. The applicants also got the benefit of the relaxed standard and even after the relaxed standard if they could not come up for empanelment the department can do nothing in that connection. As the interest of the applicants and other employees are in no way affected the question of impugning the memo of the relaxed standard does not arise and hence the OA is liable only to be dismissed.

9. We have heard both the sides. The applicants strenuously argued that the memo for relaxation was given only to benefit some of the employees who wrote the examination and there is no need for relaxation. To substantiate the above contention they also add that there was motives on the part of the respondent organisation to relax the standard. The exact motive which impelled the respondent organisation to issue the impugned memo is not indicated in the OA affidavit. It is only an assertion saying that it was done to help some of the candidates who wrote the examination.

10. As there was no details in regard to the contention that there was motive in issuing the memo for relaxed standard we thought it fit to peruse the noting made in this connection in the DoT file and hence we asked for the concerned file. The file No.12-20/94-DE/Part-I was perused by us. There are plenty of

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noting^s in this connection before ~~issuing~~ ^{approving} the impugned memo in this file. The relevant noting in our opinion is at Page-10/N. It is seen in para-5 that the information received from the circles gave very poor of performance of the departmental candidates in the JTOs 15% examination. Out of 1107 vacancies only 77 candidates ~~had~~ passed in this examination which works out to 17% and in case of SC candidates out of 233 vacancies only 9 candidates ~~have~~ ^{had} qualified which works out to 3.8% and so far ST candidates are concerned out of 86 vacancies only 2 candidates ~~are~~ ^{had} qualified which works out to 2.32%. Thus it is stated that the candidates qualified in the examination ~~is~~ ^{was} very low and there was urgent need for recruitment of JTCs due to the ever increasing assets in the Telecommunication Department. The department has justified in the noting pages that the relaxation is necessary and without the relaxation the running of the department will be put to a great dis-advantage. It is further added that by relaxing the standard nobody will get extra benefit and as all will be considered under the relaxed standard the question of challenging the relaxation may not be justified. It is also noted in the noting pages that one of the officers ^S ~~have~~ also stated that there will be litigation if relaxed standard was given. That was also considered and a final decision by the highest authority was taken to relax the ^{in accordance with the power to relax in the R.F.} standard so as to tide over the situation. A reading of the file does not indicate to us that this was done with oblique motive leading to a ~~com~~curable exercise of power. Even if there is a slight oblique motive in issuing the impugned memo that could not have escaped the attention of the number of officers who had seen the case and ~~indicated~~ ^{expressed} their view points. Hence, in our opinion that there was motive in relaxing the standards is not proved by the relevant noting^s

11. It is also seen that the applicants are also beneficiaries of the relaxed standard. The applicants failed to come up to the level by obtaining 40% of marks in each subject. When it was reduced to 30% naturally the applicants also would have got some advantage. Even 30% ^{of marks} under the reduced percentage of marks the applicants could not get empanelled. Probably some of their juniors had got empanelled. Hence the applicants herein ^{ve} ~~had~~ filed this OA challenging the memo for relaxation of standards. When they themselves got the advantage we see no reason why should they challenge that memo of relaxation. If they had got any advantage out of the impugned memo then there may be a reason to challenge that memo. But such a situation has not arisen in this OA. Hence, challenging the memo which relaxed the standard does not appear to be a proper one.

12. The next contention of the applicant is that the department waited for over 3 years to fill the post and they could have allowed the vacancies to be added to the next selection and on that basis the vacancies could have been filled. There may be two opinions in this connection. One opinion may be it ^{could have} ~~can~~ waited without any harm being done to the department. The other opinion is that it cannot wait because already harm has been done and allowing that harm to continue ^{would} ~~will~~ bring down the efficiency of the department of Telecommunication. When the 33 vacancies had been filled after 3 years there ^{was} ~~is~~ every possibility that the vacancies that had arisen later would have also postponed for another 4 years. That means that these 33 vacancies could have been filled ~~after 6 or 7 years~~. That in our opinion is not a healthy practise. Hence we do not see any reason to assail the memo on that score.

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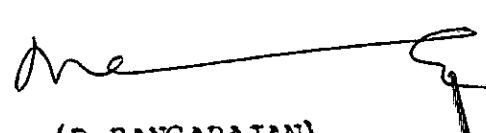
..9/-

13. The next point that is to be considered is whether the applicants could have passed in the subsequent examinations. When they cannot pass in this selection even with ^{the} relaxed standard there may be a possibility they may not get selection with the higher standards in the next selection. It is also possible that the applicants may also pass. But nothing could be said ^{with} certainty. The possibility of the applicants not passing with the higher standards is a more reasonable assumption as they failed under ^{the} relaxed standard.

14. In view of what is stated above, we find ^{that} there is no justification in challenging the impugned memo dated 5-6-97 by the applicants, as their cases are not prejudiced by the relaxed standard. In that view the challenge to the impugned notification dated 5-6-97 is only liable to be dismissed and accordingly it is dismissed. The OA thus stands dismissed. No costs.

15. Before we part ^{of} this, OA we will also like to add that the department had acted very inefficiently in conducting the selection. We are very unhappy to note that the department which boasts of efficiency cannot fill up the vacancies in time and wait ^{ed} for 3 years to fill up. The reasons given for delay are not adequate and appropriate. Such an action on the part of the department of Telecommunication has to be deplored and we express our deep dis-satisfaction in conducting the examination belatedly. We suggest to the department to avoid such lapses in future.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

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Dated : The 30th June, 1999.
(Dictated in the Open Court)

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July
5/99

1ST AND 2ND COURT

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25/7/99

COPY TO:-

1. HON'BLE CHIEF JUSTICE
2. HON'BLE MR. JUSTICE D.H. NASIR
3. HON'BLE MR. JUSTICE M. RAJENDRA PRASAD
4. D.R. (A)
5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. M. RAJENDRA PRASAD :
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESWAR :
MEMBER (B)

ORDER: 30-6-99

ORDER / JUDGEMENT

MA./DA./CP No. 11

in
DA. No. 1548/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

O.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO COSTS

SRR

Central Administrative Tribunal
HYDERABAD BENCH
DESPATCH

22 JUL 1999

हाईकोर्ट दस्तावेज
HYDERABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:
HYDERABAD.

OA. NO. 1548/1997

Between:

Date: 23-4-99

1. K. Veeraiah
2. Shaik Mahaboob Bash
3. VV. Chalapathi Rao
4. Shaik Abdul Rahiman
5. P. Anjaneyulu

..Applicants

And

1. The Telecom Dist Manager, Ongole
2. The Chief General Manager, Telecom AP, Circle, Hyderabad.
3. The Chairman, Telecom Commission New Delhi.
4. T. Subba Rao, Telephone Supervisor, under Sub-Divisional Engineer, o/o the Telecom Dist Manager Ongole.
5. N. Venkata Reddy, TSO, Sub-Divisional Engineer, o/o the General Manager Telecom Dist Eluru.
6. T. Venkateswarlu, JSD, o/o the TDM, Kurnool.
7. D. Radhakrishnan, TSO, Mangalari under the General Manager Telecom Dist, Vijayawada.
8. N. Sathaiah, TSO Kamarreddy, o/o TDM, Nizamabad.

..Respondents.

Counsel for the Applicants

..K. Venkateswara Rao

Counsel for the Respondents

..JR. Gopal Rao

..P. Krishna Reddy R-4

CORAM:

THE HON'BLE MR. R. RANGARAJAN : MEMBER : (ADMIN)

THE HON'BLE MR. B.G.DAI PARAMESHWAR: MEMBER (JUDL)

*** ***

THE TRIBUNAL MADE THE FOLLOWING ORDERS:

The case was heard today. The learned counsel for the applicant submits that there is no need for relaxation of the marks in the examination held for filling up the vacancies of JTC for the year 1993 against the 15% quota to be filled by examination. The relaxation is a colourable exercise. One of the points made by the learned counsel for the applicant is that the examination was conducted in February, 1996 the result was published in June, 1996 and some filed representations for relaxation of the marks as the third paper General Science was difficult to answer. But the representations were rejected. However, a further review was done and on that basis the marks was relaxed. That relaxation after having rejected the representation first is due to favour some employee. Thus he submits that there is colourable exercise of power. It is necessary to see the correspondence in this connection from the file.

Hence, the respondents are directed to produce ~~that~~ the appropriate file flagging the correspondence for perusal of this Bench. List on 10-6-1999.

Sd/-xxxx
Section Officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:
HYDERABAD.

DA. NO. 1548/1997

Between:

1. K. Veeraiah
2. Shaik Mahaboob Bash
3. VV. Chalapathi Rao
4. Shaik Abdul Rahiman
5. R. Anjaneyulu

Date: 23-4-99

Applicants

And

1. The Telecom Dist Manager, Ongole
2. The Chief General Manager, Telecom AP, Circle, Hyderabad.
3. The Chairman, Telecom Commission New Delhi.
4. T. Subba Rao, Telephone Supervisor, under Sub-Divisional Engineer, o/o the Telecom Dist Manager Ongole.
5. N. Venkata Reddy, TSO, Sub-Divisional Engineer, o/o the General Manager Telecom Dist Eluru.
6. T. Venkateswarlu, JSO, o/o the TDM, Kurnool.
7. D. Radhakrishnan, TSO, Mangalari under the General Manager Telecom Dist, Vijayawada.
8. N. Sathaiah, TSO Kamareddy, o/o TDM, Nizamabad.

.. Respondents

Counsel for the Applicants

.. K. Venkateswara Rao

Counsel for the Respondents

.. J.R. Gopal Rao

.. P. Krishna Reddy R-4

CORAM:

THE HON'BLE MR. R. RANGARAJAN : MEMBER : (ADMIN)

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

*** ***

THE TRIBUNAL MADE THE FOLLOWING ORDERS:

The case was heard today. The learned counsel for the applicant submits that there is no need for relaxation of the marks in the examination held for filling up the vacancies of JTO for the year 1993 against the 15% quota to be filled by examination. The relaxation is a colourable exercise. One of the points made by the learned counsel for the applicant is that the examination was conducted in February, 1996 the result was published in June, 1996 and some filed representations for relaxation of the marks as the third paper General Science was difficult to answer. But the representations were rejected. However, a further review was done and on that basis the marks was relaxed. That relaxation after having rejected the representation first is due to favour some employee. Thus he submits that there is colourable exercise of power. It is necessary to see the correspondence in this connection from the file.

Hence, the respondents are directed to produce ~~that~~ the appropriate file flagging the correspondence for perusal of this Bench. List on 10-6-1999.

Sd/-xxxx
Section Officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT :: HYDERABAD

R. A. NO. 1062 OF 1997

in

O.A.S.R. No. 3556 OF 1997

Between:-

1. K. Veeranah.
2. Shaik Maheboob Bashe.
3. V. V. Chalapathi Rao.
4. Shaik Abdul Rahiman.
5. P. Anjaneyulu.

... APPLICANTS

A N D

1. The Telecom District Manager,
Ongole.
2. The Chief General Manager, Telecom,
A.P. Circle, Hyderabad.
3. The Chairman, Telecom Commission,
New Delhi.

... RESPONDENTS

BRIEF FACTS OF THE CASE:-

We are the 5 applicants herein and as such we are well acquainted with the facts of the case.

2. We submit that we are all working as Transmission Assistant/T.G.As. in the Telecom Dist. Department. The relief sought for is same. The cause of action is same and the respondents are also one and the same.

RELIEF:-

It is therefore prayed that this Hon'ble Tribunal may be pleased to permit us to file single O.A. on behalf of all of us and pass such other order of orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

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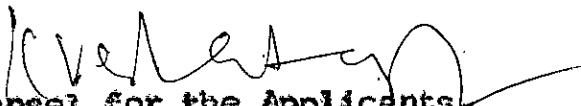
VERIFICATION

We, (1) K.Veeraiah, S/o.K.Punnaiah, aged about 38 years, (2) Shaik Mahaboob Basha, S/o.Late Kasim Sabeb, aged about 34 years, (3) V.V.Chalapathi Rao, S/o.Subrahmaneyeswara Rao aged about 37 years, (4) Shaik Abdul Rahiman, S/o,Sk. Habisaheb, aged about 39 years, (5) P.Anjaneyulu, S/o,Lakshmana Swamy, aged about 36 years, do hereby verify that the contents in the above para ~~2xim2 axm 2~~ are true to our our personal knowledge and legal advice from our counsel and we have not suppressed any material facts.

Hyderabad.

Dated :

Signature of the Applicants


Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL AT HYDERABAD

M.A.NO.

OF 1997

In

O.A.S.R.NO.

OF 1997



PETITION FILED UNDER SEC.4(5)(a)
OF CAT PROCEDURE CODE

Mr. K.Venkateswara Rao,
Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT :: HYDERABAD

M.A.NO. 1062 OF 1997
in

O.A.S.R.No. 3556 OF 1997

Between:-

1. K.Veeraiah.
2. Shaik Mahaboob Basha.
3. V.V.Chalapathi Rao.
4. Shaik Abdul Rahiman.
5. P.Anjaneyulu.

... APPLICANTS

A N D

1. The Telecom District Manager,
Ongole.
2. The Chief General Manager, Telecom,
A.P.Circle, Hyderabad.
3. The Chairman, Telecom Commission,
New Delhi.

... RESPONDENTS

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RELIEF:-

It is therefore prayed that this Hon'ble Tribunal may be pleased to permit us to file single O.A. on behalf of all of us and pass such other order of orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

:: 2 ::

VERIFICATION

We, (1) K.Veeraiah, S/o.K.Punnaiah, aged about 38 years, (2) Shaik Mahaboob Basha, S/o.Late Kasim Sabeb, aged about 34 years, (3) V.V.Chalapathi Rao, S/o.Subrahmaneyeswara Rao aged about 37 years, (4) Shaik Abdul Rahiman S/o.Sk. Nabisaheb, aged about 39 years, (5) P.Anjaneyulu, S/o;Lakshmana Swamy, aged about 36 years, do hereby verify that the contents in the above paras ~~xxx~~ ~~xxx~~ ~~xxx~~ are true to our our personal knowledge and legal advice from our counsel and we have not suppressed any material facts.

(1) Veeraiah
(K.VEERAIAH)

(2) P. Anjaneyulu
(P. Anjaneyulu)

(3) Maboo
(SHAIK, MAHABOOB BASHA)
(4) V. V. Chalapathi Rao
(V V CHALAPATHI RAO)
(5) Abdul Rahim
(SK ABDUL RAHIM MAN)

Hyderabad,

Dated :

Signature of the Applicants

I (V. V. Chalapathi Rao)

Counsel for the Applicants.

To File a copy of

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL AT: HYDERABAD,

M.A.NO. OF 1997

in

O.A.S.R.No. OF 1997



PETITION FILED UNDER SEC.4(5)(a)
OF CAT PROCEDURE CODE

Recd
13/11/97

Mr. K. Venkateswara Rao,
Counsel for the Applicants.

Recd
13/11/97

MA 1062/97 & No. A.R.A 3556/97

ORIGINAL

28.11.97

None for the applicant.
Sri Phalgunan has for Sri
J.R. Gopal has for the respon-
sibility.

2. MA is not opposed
under the circumstances
referred to, the notice
ordered accordingly as
prayed for. Whether the
objection is otherwise in
order and left for
admission on 5.9.11.97.

JK
HBSSP
MP

MRAN
MP

दूर संचार TELECOM वैद्य केस/BENCH CASE
CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

M.A. NO. 1062 OF 1997

IN

O.A. S.R. NO. 3556 OF 1997

SINGLE C.R. RETENTION

Mr. K. Venkateswara Rao
COUNSEL FOR THE APPLICANT.

AND

Mr. _____

Sr. ADDL. STANDING COUNSEL FOR
C.G. Klys.

19-8-98.

Mr. T. V. V. S. Murthy for
Mr. K. Venkateswara Rao for the
applicants, Mrs Sakthi for Mr. J. R.
Gopal Rao for the official respondents
and Mr. P. Krishna Reddy for the
private respondents.

2. The applicants numbering
5 in this OA has filed this MA for
impleading the party respondents No. 4
to 8. All the 5 party respondents ~~are~~
the clients of Mr. P. Krishna Reddy, the
learned advocate for the proposed
private respondents, Mr. P. Krishna Reddy
submits that there are 31 employees who
were selected in that selection. The
applicants ^{have chosen} ~~showed~~ to implead only
private respondents No. 4 to 8 in this
MA and thus they have discriminated the 5
private respondents. When they ^{are} affected
by the promotion of 31 employees they
should necessarily implead all the 31
employees and they cannot pick and choose
some 5 employees in the selected list
for impleading as private respondents in
the OA. It is not necessary to pass
any order ⁱⁿ on this contention. The
applicants for reasons best known to
them had prayed for impleading private
respondents No. 4 to 8 only through this
MA. Hence, the MA may be allowed and
the Registry should correct the OA
accordingly. However, at the end if
necessary and appropriate parties are
not included the applicants stand ~~risk~~
of the OA being dismissed on that count.

3. The MA is allowed and the
applicants are permitted to implead the
proposed private respondents 4 to 8 in
the OA. Registry should correct the OA
and take further action in this
connection.

4. The MA is disposed of.
No costs.

Tan
HBSJP
M(J) 19.9.98

HRRN
M(A)

*filed/notice to
RR.Lts&
TMR
19/8*

MA. 34598 in OA. 1548/97

DATE : OFFICE : NOTE :

ORDER

Date
24-7-98

Re to Rs have since engaged
the service of Sri P. Krishna Reddy.
Notice to go to them to file
their objection if any to this M.A.
This should be done within 2 weeks
Lier at there after.

Notice
1.8.98
cc
27/7/98
Issued
M/A/As

je
HBSJP
m(T)

je
HHRP
m(A)

7-8-98

Heard Mr. K. Venkateswararao
for the applicant and Mrs. Shakthi
for Mr. Gopal Rao for the respon-
dents. None for the proposed
private respondents.

It is stated that Shri Krishna
Reddy has filed the Wakalat-
namo for the proposed private
respondents. No objection has
been filed in regard to the
proposal. If no reply or file
by the said Mr. Krishna Red
on or before 18.8.98, the M.A.
may file to be allowed.

List this case on 19.8.98.

je
HBSJP
m(T)

je
HRRN
m(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT :: HYDERABAD

M.A.NO. 345 OF 1998

in

O.A.No. 1548 of 1997

Between:-

1. K.Veeraiah, S/o.K.Punnaiah, aged about 38 years, Working as Transmission Assistant under T.D.M. Ongole.
2. Shaik Mahaboob Bash, S/o.Late Kasim Saheb, aged about 34 years, Transmission Assistant, under T.D.M.Ongole.
3. V.V.Chalapathi Rao, S/o.Subrahmaneswara Rao, aged about 37 years, Transmission Assistant, under T.D.M. Ongole.
4. Shaik Abdul Rahiman, S/o.Sk.Habisahab, aged about 39 years, Transmission Assistant, under T.D.M. Ongole.
5. P.Anjaneyulu, S/o.Lakshmana Swamy, aged 36 years, Senior T.O.A.(General), under T.D.M. Ongole.

... APPLICANTS

A N D

1. The Telecom District Manager, Ongole.
2. The Chief General Manager, Telecom, A.P.Circle, Hyderabad.
3. The Chairman, Telecom Commission, New Delhi.

... RESPONDENTS

4. T.Subba Rao, S/o.not known, aged not known, Telephone Supervisor, under Sub Divisional Engineer (Admn) O/o.Telcom District Manager, Ongole.
5. N.Venkata Reddy, S/o not known, aged not known, Working as T.S.O. under the control of Sub Divisional Engineer, Tadepalligudem, under the General Manager, Telecom District, Eluru.
6. T.Venkateswarlu, S/o.not known, aged not known, J.S.O. under S.D.O.(P) Admn. of Telecom District Manager, Kurnool.
7. D.Radhakrishnan, S/o.not known, aged not known, T.S.O. under S.D.O.(Gr) Mangalagi, under the General Manager, Telecom District *infayalal*
8. N.Sathaiah, S/o.not known, aged not known, T.S.O. under S.D.O.T.Kamareddy of Telecom District Manager. *Njonalai Raxty 4 b & Proposed Respondents.*

... Contd.. 2.,

2

For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Tribunal may be pleased to implead the proposed respondents herein as Party Respondents in the above O.A., in the interest of justice and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Hyderabad,

Dated :

Dated : Counsel for the Applicants.

Even Natwarlal
Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT :: HYDERABAD

M.A.NO. 345 OF 1998

in

O.A.No. 1548 of 1997

Between:-

K.Veeraiah and others.

... APPLICANTS

A N D

The Telecom District Manager,
Ongole and others.

... RESPONDENTS

A F F I D A V I T

I, K.Veeraiah, S/o.K.Punnaiah, aged about 38 years, Transmission Assistant, under T.D.M. Ongole and now temporarily come down to Hyderabad, do hereby solemnly and sincerely affirm and state as follows:-

1. I am the first applicant in the above O.A. and as such I am well acquainted with the facts of the case. I am filing this affidavit on my behalf as well as on behalf of other applicants in the O.A. who have authorised me to do so.
2. I submit that ~~the~~ we have filed the above O.A. aggrieved by the impugned Memo. No. 12-20/94-DE PP-1, dated 5.6.1997 issued by the third respondent in illegally and unjustly relaxing the prescribed standards in respect of competitive examination for recruitment of J.T.Os. for 15% quota of vacancies of the years 1993 and 1994 held on 10th and 11th February, 1996 without any justification or reasonable cause on exterior considerations with a view to favour their own interested persons.
3. I submit that it is their case in the O.A. that one out of the four papers namely general science in the examinations held on 9th and 10th September, 1995 for recruitment to the post of J.T.Os. contained many questions which are out of syllabus, as a result of which many candidates could not fare well. I submit that there was no instance where the percentage of minimum marks were relaxed earlier to fill up the vacant posts of J.T.O. under 15% quota and in cases where the

vacancies could not be filled for want of candidates who were unsuccessful in getting the minimum percentage of marks, the vacancies were being brought forward in the next competitive examination and so on.

4. I submit that the efforts made by the Union for giving grace marks to those who attempted third paper or to hold fresh examination for paper-III in December, 1996 in order to meet the acute shortage of J.T.Os. have been rejected. It is therefore our case that the results announced on 10.6.1996 were final and cannot be reopened and as such the remaining vacancies kept ~~in~~ unfilled will have to be tagged on to the next recruitment.

5. While such is the position by virtue of impugned Memo, No.12-20/94 DE (PF-1) dated 5.6.1997, the third respondent relaxed the normal standards in respect of the competitive examination held on 10 & 11 of February, 1996 as a result of which as many as 31 candidates which includes the proposed respondents were qualified and they were already ~~were~~ sent for training. It is this action of relaxing recruitment procedure that is challenged in the above O.A.

6. I submit that the Hon'ble Tribunal has already admitted the above O.A. and issued Interim directions. I submit that as aforesaid it is the principle and policy by the respondents in relaxing the standard of examination that is under challenge. However for effective adjudication of the matter it is felt necessary to implead atleast a few persons who were the beneficiaries of the impugned policy of the Department. We are therefore impleading five out of 31 candidates at random as party respondents in the above O.A. so that the, beneficiaries may also have a chance to put forth their case in view of

principle of natural justice.

It is therefore prayed that this Hon'ble Tribunal may be pleased to implead the proposed respondents herein as party respondents in the above O.A. in the interest of justice and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Solemnly and sincerely affirmed
at Hyderabad on this day of
April, 1998.

Shenoy
(K. V. SHENOY)

DEPONENT,

Before me

S. R. V. // ADVOCATE // HYDERABAD.

particulars of IPO enclosed:

Vidhan Sabha P.O.
IPO NO. 7140/201700
dt 05/04/98 for RS. 20/-
payable at Hyd. G.P.O.

16/20/-
~~16/20/-~~ D. Removac

Affidavits to be done.
by the A.A.

2) copies of the OA for the
proposed suspensions to be
filed.

Impound Petition

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT :: HYDERABAD

M.A. NO.

OF 1998

in

O.A. No. 1548 of 1997

4/5/98
14 days limit

(1) Since done heat.
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Petition is ordered
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4/5/98 ADN

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5-6-98

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Advocacy



PETITION FILED UNDER RULE 8(3)
OF CAT PROCEDURE RULES,
1987

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Annexures will
be made available
after the infleas
Petition is
ordered pp
16
Advocacy

Copy new
deposited
AdS.c for City

Mr. K. Venkateswara Rao,
Counsel for the Applicants

may 1998

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD.

M.A.NO. 345 of 1998

in

O.A.NO. 1548 of 1997

Between:-

K.Veeraiyah
and 4 others.

..Petitioners/
Applicants.

A N D

The Telecom District Manager,
Ongole, Prakasam District
and 7 others.

.. Respondents/
Proposed Respondents.

COUNTER AFFIDAVIT FILED TO THE AFFIDAVIT FILED BY
K. VEERAIAH SUPPORTER IN M.A.NO.345 of 1998.

..

I, T.Subba Rao, son of Venkateswarlu, aged about
36 years, Occupation: J.T.O. in Department of Telecommuni-
cations, presently residing at Hyderabad, do hereby solemnly
affirm and state as follows;

1. I am the proposed 4th respondent in the above O.A. and I am authorised to file this affidavit on behalf of 5 to 8 proposed respondents also.
2. I read the affidavit filed by Sri K.Veeraiyah the 1st applicant in the above O.A. and I deny all the allegations except the allegations specifically admitted herein.
3. The O.A. was filed questioning the D.O.T. Memo. No. 12-20/90 & D.E.(PF-1), dated: 05-06-1997 issued by respondent No.2. The O.A. was admitted by the Honourable Tribunal on 20-11-1997 and while issuing interim orders the

Received
Notarized
17/11/98
J.R. Gopal Rao

Ree
110
5/10/98

1st page

Corrections:


Attestor


Dependent

Honourable Tribunal was pleased to observe as follows;

"It is essential that those selected candidates have to be impleaded in this O.A. Hence the official respondents will furnish the list of candidates who are to be sent for training on the basis of the selection notification referred to above at the time of next hearing. So that the applicants can implead them also if they felt it necessary to implead them".

In para 6 of the affidavit under review, it is mentioned as follows;

"However for effective adjudication of the matter it is felt necessary to implead at least few persons who were the beneficiaries of the impugned policy of the department, we are therefore impleading 5 out of 31 candidates at random as party respondents in the above O.A. so that beneficiaries may also have a chance to put forth their case in view of principles of natural justice".

8

4. I humbly submit that interim order was passed on 20-11-1997 and the affidavit to implead parties was signed in the month of April, 1998. It is clear from the statement of facts by the 1st applicant that 31 persons were the beneficiaries under memo, dated: 05-06-1997. I respectfully submit 31 persons are from A.P.Circle. The memo is effective and implemented in all States throughout the country and nearly 1300 persons were declare pass in pursuance of the impugned memo, dated: 05-06-1997. Under these circumstances

2nd page

Corrections:

Attestor

A
Deponent

the action of the applicants selecting 5 out of 31 persons and trying to implead them as respondents is arbitrary and discriminatory. I submit that the proposed 5 respondents are neither authorised nor representing either successfull candidates in A.P.Circle or beneficiaries in the entire country. It is well known that all the effected parties should be impleaded as respondents in the above O.A. In case only 5 out of 31 persons belonging to A.P.Circle are impleaded it will result in anomalies position. If O.A. is allowed 5 proposed respondents will be effected whereas other persons who were beneficiaries under memo, dated: 05-06-1997 can not be touched.

5. I humbly submit that the present M.A. can not be ordered as the method of pick and choose adopted by the applicants in impleading some of the beneficiaries as respondents is arbitrary and discriminatory. As all the necessary effected parties are not impleaded, this M.A. as well as the O.A. liable to be dismissed. The proposed respondents pray this Honourable Tribunal to give them an opportunity to file a detailed reply statement in the O.A. if the M.A. is allowed.

Under the facts and circumstances mentioned above it is prayed that this Honourable Tribunal may be pleased to dismiss both M.A. and O.A., as all beneficiaries of the impugned Memo No. 12-20/94, D.E.(PF-1), dated: 05-06-1997 are not impleaded,

3rd page

Corrections:


Attestor


Deponent

and pass such other order or orders as the Honourable Tribunal may deem fit and proper in the circumstances of the case.

Sworn
DEponent

Sworn and signed before me
on this 17th day of August, 1998
at Hyderabad.

BEFORE ME,
Ramfay
ADVOCATE: HYDERABAD

4th and last page

Corrections:

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

M.A.NO.345 of 1998

in

O.A.NO.1548 of 1997



COUNTER AFFIDAVIT FILED TO THE
AFFIDAVIT FILED BY K.VEERAIAH SUPPORTED
IN M.A.NO.345 of 1998.

• •

M/S.P.Krishna Reddy, &
Smt.P.Sarada.

COUNSEL FOR RESPONDENTS 4 to 8

*Ray Smt
Sarada*

Rt.

Heard Sri K. Venkateswara Rao and for the applicants and Ms. Shakti for Mr. J.R. Gopal Rao for ~~the~~ official respondents.

Official respondent has no objection to implead the proposed parties R-4 to R-8. Hence issue notice to R-4 to R-8.

List this OA on 10-6-98.

R
HBSJP
M(J)

D
HRRN
M(A)

sk

Nehru MMA
10-6-98

*cal
20/5/98*

Sufficient number of OA copies for issue of notice have not been filed.

*J.R.
3/6/98
8-6-98*

Heard Mr. K. Venkateswara Rao for the applicant and Ms. Sakthi for Mr. J.R. Gopal Rao, learned counsel for the respondents.

It is now stated that sufficient copies had been made available. Hence there ~~was~~ ^{would not} be any problem to issue notice to R-4 to R-8. Hence issue notice to R-4 to R-8 as enough copies are now available.

List it on 25-6-98.

R
HBSJP
M(J)

D
HRRN
M(A)

*Nehru
25-6-98
cal
10/6*

राजकार्य तेलिकॉम

पुस्तक/BENCH

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

M.A. No.

345

of 1998

IN

O.A. No.

1548

of 1998

Implied Petition

MA Allowed

19-8-98

Mr. K. Venkateswara Rao

COUNSEL FOR THE APPLICANTS.
AND

Mr. J. R. Gopal Rao,

~ Sr. ADDL. STANDING COUNSEL FOR C.G.Rly.

*W. P. Krishnam Reddy
Advocate*

Valcet Htd to RR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.500004.

M.A., NO. 1054 OF 1997

O.A., NO. 3591 OF 1997

BETWEEN:

1. V. SAMBA SIVA RAO, son of Bhaskera Rao,
Aged 47 years, R/o Hyderabad,
Occupation : Technical Officer 'A'.,
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058, A.P.,
2. S. KRISHNA MOHAN RAO, son of S. Jamnaji Rao,
Aged 36 years, R/O Hyderabad,
Occupation: Technical Officer 'A'
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058.A.P.
3. S. M. S. FRANCIS son of Singa Raju,
aged 56 years, R/O Hyderabad,
Occupation: Technical Officer 'A', Defence Metallurgical
Laboratory,
Kanchanbagh, Hyderabad-500 058.A.P.
4. A. G. PHILLIPS, son of Late Andrew Phillips,
aged 47 years, R/O Hyderabad,
Occupation: Technical Officer 'A'.,
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058. A.P.
5. K. R. SREECHENDER son of late K. Ramdas,
aged 60 years, R/O Hyderabad,
Occupation: Technical Officer 'B',
Defence Metallurgical Laboratories,
Kanchanbagh, Hyderabad-500 058.A.P and
6. SHAIK JAMEEL AHMED son of Shaik Ahmed Hussain,
aged 46 years, R/O Hyderabad,
Occupation: Technical Officer 'A',
Defence Metallurgical Laboratory,
Kanchanbagh, Hyderabad-500 058. Andhra Pradesh.

... APPLICANTS.

AND

1. UNION OF INDIA: Rep. by:
Secretary to the Government of India,
Ministry of Defense, Sena Bhavan, New Delhi.,
2. The Scientific Advisor to Raksha Manthri,
Ministry of Defence, Govt. of India,
Sena Bhavan, New Delhi.
3. The Director,
Defence Metallurgical Research Laboratory,
Kanchanbagh, Hyderabad-500 058. A.P.

... RESPONDENTS.

No. of Corrections: 01

Attender: By