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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:AT HYDERABAD

ORIGINAL APPLICATION NO.66/99

DATE OF ORDER : 21-12-1999.

Between:-

Avula Satyanarayana

...Applicant

And

1. The Sub Divisional Officer, Telecommunications, VDO's Colony, Khammam-507 002.
2. The Telecom District Manager, Telecommunications, Khammam-507 050.
3. The General Manager, Telecom, Telecommunications, Vijayawada.
4. The Chief General Manager, Telecommunications, AP Circle, Hyderabad.

...Respondents

COUNSEL FOR THE APPLICANT : Shri S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS:Shri V.Rajeshwar Rao, Addl

CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A))

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(Order per Hon'ble Shri R.Rangarajan, Member (A))

Heard Sri S.Ramakrishna Rao, learned counsel for the applicant and Sri V.Rajeshwar Rao, learned Standing Counsel for the Respondents.

2. The applicant joined as a Casual Labourer on 13.9.1981 and promoted as Temporary Status Mazdoor with effect from October 1989. Casual Labourer with 10 years of service can be called for the selection to the post of Phone Mechanic by conducting screening test. The notification for screening test was issued on 15-6-1994 (Annexure-I page-9 to the OA). In that list the applicant was declared as 'not permitted' candidate due to administrative grounds. It was stated that the applicant was involved in a criminal case and also a charge sheet was pending against him. The applicant was exonerated in the criminal case and the charge sheet was also finalized exonerating him. The applicant appeared for the screening test in the year 1996. Thereafter he was sent ~~for~~ ^{to} training, which he completed on 9.5.1997 and posted as phone mechanic immediately thereafter.

3. The applicant contends that he should have been promoted on par with his juniors for which screening test was conducted by notification dated 15.6.1994. If that has been done, he would have gained seniority and other benefits. As he was permitted only in 1997, his seniority is lowered and his juniors in the grade of casual laborers obtained higher seniority.

4. This OA is filed to call for the records pertaining to the screening test and training for the post of Phone Mechanic for the years 1994, 1995, 1996 and 1997 and declare that the applicant is entitled to be treated as having qualified himself ~~for~~ with effect from 25.6.1994 and to direct the respondents to treat ~~the~~ applicant had been qualified for the promotion to the post of Phone Mechanic during the year 1995 itself and consequently to promote him with effect from 1995 on par with his juniors who were promoted to the post of Phone Mechanic with all consequential benefits.

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5. In the reply filed by the respondents, it is admitted that the applicant was not screened due to administrative reasons as a criminal case was pending against him but the reply does not state ^{clearly} as to why he was not screened and his result is kept in the sealed cover in accordance with the law laid down by the Supreme Court in the case of K.V.Janakiraman Vs. Union of India (AIR 1991 SC 2010) as he was issued with a charge sheet. Normally when an employee whether he is to be screened or is expecting promotion byway of selection or non selection, keeping the name of such candidate in a sealed cover procedure is to be done in view of Janakiraman's case. After exoneration of the applicant ^{on} ~~against~~ the charges leveled against him and also after exoneration in the criminal case, that sealed cover could have been opened and the results ^{in 1995} could have been announced but that was not done. The respondents should take the view that the application is a belated one as he was not permitted for screening and approached this Tribunal in the year 1999. He could have atleast approached the Tribunal immediately after his non screening and empanelment for the post of Phone Mechanic in the year 1996 and appointment in the year 1997. We see a point in the contention of the respondents. But that does not mean that the error committed by the respondents should be erased. The error committed as well as the delay in filing the application has to be considered together and an equitable solution has to be found. In view of the above, we feel that the applicant shall be ~~treated~~ deemed to have promoted to the post of Phone Mechanic on par with employees screened and promoted on the basis of the notification dated 15.6.1994. The applicant is entitled for fixation of pay in accordance with the ^{actually and regularly} rules only from the date he was appointed to that post.

6. The Original Application is ordered accordingly. No order as to costs.


(R.RANGARAJAN)


(D.H.NASIR)

MEMBER(A)

VICE-CHAIRMAN

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Dated: 21st December, 1999.
Dictated in Open Court.