

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.670/99

DATE OF ORDER : 7-4-2000

Between :-

M.V.K.Anand

..Applicant

And

1. The Chief General Manager,
Telecom Department, Hyderabad.
2. The Telecom Divisional Manager,
Tirupathi.
3. The Sr.Superintendent, Telegraph
Telecommunication Division, Kurnool.
4. The Superintendent, Telegraph Telecommunication
Division, Nellore.
5. The Superintendent, Telegraph Telecommunication
Division, Tirupathi (SSA).
6. The Union of India, represented by its
Secretary, Telecommunication Department,
New Delhi.

..Respondents

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Counsel for the Applicant : Shri R.Briz Mohan Singh

Counsel for the Respondents : Shri B.N.Sarma, Sr.CGSC

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CORAM:

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

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

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

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

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Heard Sri Mallikarjun for Sri R.Briz Mohan Singh, learned counsel for the applicant and Sri B.N.Sharma, learned Standing Counsel for the Respondents.

2. The applicant in this OA was appointed as a Telegraph Assistant under SC category on 21-5-1983 in the pay scale of Rs.250-400 in Kurnool Telegraph Telecommunication Division and was posted to work at Tirupathi after necessary training and after success in the same. The payscale was revised due to the introduction of IV Pay Commission Recommendations with effect from 1-1-1986. The applicant had passed the Diploma in Mechanical Engineering in the year 1987 and on that basis he contends that he is eligible to be appointed and absorbed as Telegraphic Traffic Assistant (TTA for short). New technical cadre of TTA in Group-C was introduced by memo No.27-4/87-TE.II(2) dated 16.10.1990 of the Department. It is stated in that memorandum that Group-C and D cadre possessing three years Engineering Diploma after 10th Standard are eligible to restructured cadre of TTA ^{or} by seniority cum fitness ^{basis} followed by training and post Training Test. The applicant submits that he is qualified to be absorbed as TTA and he made several representations right from 1990 onwards but his representations dt.11.9.1998 only enclosed as Annexure-V (page-12 to the OA). It is stated ^{even} that the representation is yet to be disposed of. The applicant submits that 2 other Telegraphists S/Sri Harinath and V.Narayana were posted as TTAs eventhough they were also working in the same cadre as that of the applicant.

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3. This OA is filed ~~to declare~~ that the applicant is entitled to be absorbed in the restructured cadre of Telegraph Technical Assistant in the Telecom Department in terms of para-5 (2) of the D.O.T. letter No.27-4/87-T.E.II(2) dated 16-10-1990 and to consequently direct the Respondents to send the applicant for training and if the applicant successfully completes the training, to appoint the applicant and absorb him as Telegraphic Technical Assistant.

4. It is stated that in view of the Recruitment Rules promulgated by notification dated 22.7.1991 (Annexure R-1 to the reply), the applicant could not be absorbed as TTA as he does not belong to Telecom Engineering Branch. He is from Telegraph Assistant cadre and that cadre is in the Traffic Branch. The respondents rely on the Schedule to the notification dated 22.7.1991 wherein it is stated that "All Group 'C' employees ^obrne on the regular establishment in the Telecom. Engineering Branch of the Department" are eligible for consideration for posting them as TTA and the respondents are also relying on the Chapter-9 of the classification of the Establishment under Rule 307 of P & T Manual Volume IV. Chapter X of the P & T Manual gives various categories including Electrical Branch of the Telecommunications. The above Rule is enclosed as Annexure R-4 to the reply. As the applicant comes under Traffic Branch category, the respondents submit that he is not entitled for consideration for appointment as TTA.

5. As regards the posting of S/Sri L.Harinath and V.Narayana and Naroatham Reddy, it is stated that those ^{Cases being} are enquired into and necessary action will be taken to set right the wrong promotions. In view of what is stated above, it is ~~xx~~ submitted that the OA is liable to be dismissed.

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6. It is an admitted fact that the applicant belongs to Traffic Branch. It is also a fact that in the initial notification dt. 16-10-1990 it is stated that the Departmental officials in Group C & D ~~and~~ cadre possessing 3 years Deiplima after 10th standard are eligible to be absorbed in TTA cadre basing on fitness but by subsequent notification dated 22.7.1991 the Recruitment Rules for appointing into the TTA cadre has been issued. Whether the case of the applicant can be considered for appointment on the basis of the notification dated 16-10-1990 ^{and} adverting the notification dated 22-7-1991 is in order or not.


7. In a similar earlier OA, it has been stated that the initial notification dated 16-10-1990 was issued when the posts were created. Subsequently the notification dated 22-7-1991 was issued stipulating ~~the~~ Recruitment Rules for filling up the TTA posts. In that context we hold that both the notifications dated 16.10.1990 and 22.7.1991 are to be read together but not in isolation. Eventhough it is not clarified that the ~~post of~~ officials belonging to Engineering Branch only are eligible for consideration in the earlier notification, the same was clarified in the subsequent notification dated 22.7.1991 which has been extracted above. The notification dated 22.7.1991 cannot be read as a modification to the earlier notification dated 16-10-1990. It is a continuation of the earlier notification clarifying certain points. Hence the clarification dated 22.7.1991 has to be read together with notification dated 16.10.1990. ~~Further~~ the applicant who belongs to Traffic Division is not eligible for consideration for the post of TTA. Earlier when it came for consideration, ~~for~~ the learned counsel for the applicant doubted that the Schedule





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was not included to the notification dated 22.7.1991. Hence we have asked the Standing Counsel for the Respondents to produce the Gazette in that connection. Today a xerox copy of the Gazette notification was produced which ^{was} ~~is~~ obtained from New Delhi. We find that the Schedule is enclosed to the notification dated 22.7.1991. Hence the qualification prescribed in the notification should be taken note of to dispose of this OA. As stated earlier, the applicant having been in the Traffic Branch, cannot claim for posting as TTA as the officials belonging to Engineering Branch including the Electrical Department are only eligible for posting as TTAs.

8. Hence the OA is liable to be dismissed. The applicant claims that S/Sri Harinath, Narayan and Narotham Reddy has already been posted as TTAs. If those people posted as TTAs, the applicant should also be posted otherwise it is a case of discrimination and violation of Articles 14 and 16 of the Constitution of India. There is a point in this contention. However, in the reply it is clearly stated that the case of three officials are being enquired into and necessary action is going to be taken to set right the wrong promotions. The Respondents should take the necessary action as per law. Further it is to be added that an error once committed need not be repeated. The error if any has to be corrected. In view of the above, we find no merit in the OA. Hence the same is dismissed with the observations as made in para supra. No order as to costs.


 (B. S. JAI PARAMESHWAR)
 Member (J)


 (R. R. RANGARAJAN)
 Member (A)

Dated: 7th April, 2000.
 Dictated in Open Court.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD

1ST AND 11ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

A

COPY TO:

- 1. HOHND
- 2. HRAN (ADMN) MEMBER
- 3. HBSJP (JUDL) MEMBER
- 4. D.R. (ADMN)
- 5. SPARE
- 6. ADVOCATE
- 7. STANDING COUNSEL

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

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

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

DATE OF ORDER 7/4/2000

MA/RA/CP NO.

IN

OA. NO.

670/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN: 19 APR 2000

ORDER REJECTED

NO ORDER AS TO COSTS

(10 copies)

THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH 19 APR 2000 RECEIVED NOTIFICATION SECTION
