

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 28.4.2001

OA No.4/2000

Shiv Swaroop Vashishtha s/o Shri Murli Dhar Vashishtha, working as Telecom Technical Assistant in the office of Principal GMTD, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Telecom., Sansar Bhawan, New Delhi.
2. The Chief General Manager Telecom, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.
3. The Principal GMTD, M.I.Foad, Jaipur (Raj)
4. The Chief Managing Director Telecom, Consultants of India Ltd., TCII Bhawan, Greater Kailash-I, New Delhi.

.. Respondents

OA No.5/2000

U.C.Goyal s/o Shri M.L.Goyal, working as Telecom Technical Assistant in the office of the CGMT, Patel Marg, Jaipur

.. Applicant

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Telecom., Sansar Bhawan, New Delhi.
2. The Chief General Manager Telecom, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.

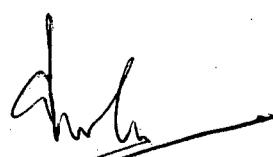
.. Respondents

OA No.6/2000

Bhushan Lal Bhatt s/o late Shri J.L.Bhatt working as Telecom Technical Assistant in the office of Principal GMTD, Jaipur.

.. Applicant

Versus



1. Union of India through the Secretary, Ministry of Communication, Department of Telecom., Sansad Bhawan, New Delhi.
2. The Chief General Manager Telecom, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.
3. The Principal GMTD, M.I. Road, Jaipur.
4. The Chief General Manager Telecom, J&K Telecom Circle, Sri Nagar at Jammu, Telecom Exchange Road, Jammu.

.. Respondents

K.S.Sharma, counsel for the applicants

Mr. V.S.Gurjar, counsel for respondents

OA No.187/2000

Jagdish Prasad Sharma s/o Shri Suraj Narain Sharma presently working as TTA in the O/o PGM Telecom District Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Telecom. Sansad Marg, New Delhi.
2. The Chief General Manager Telecom, Rajasthan Telecom Circle, Sardar Patel Marg, Jaipur.
3. The Principal General Manager, Telecom District, Jaipur

.. Respondents

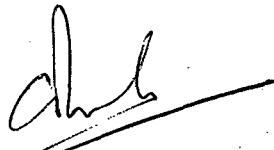
OA No.188/2000

T.M.Pareek s/o Shri G.L.Pareek presently working in the office of Circle Telecom Training Centre, Jaipur as instructor in the Training Centre, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Telecom. Sansad Marg, New Delhi.
2. The Chief General Manager Telecom, Rajasthan Telecom Circle,



Sardar Patel Marg, Jaipur.

3. The Principal General Manager, Telecom District, Jaipur

.. Respondents

Mr. P.N.Jati, counsel for the applicants

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

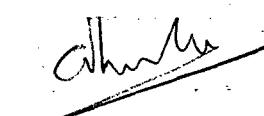
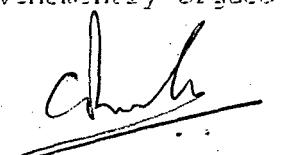
Order

Per Hon'ble Mr.N.P.Nawani, Administrative Member

The legal issues involved and to a great extent the facts being similar, the above listed OAs are proposed to be disposed of through this common order. For the sake of convenience, reference is being made to OA No. 4/2000, Shiv Swaroop Vashistha v. Union of India and ors.

2. We have heard the learned counsel for the parties and have gone through the material on record.

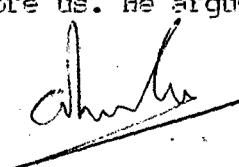
3. After considering the rival contentions, it appears that the applicants are aggrieved that they are not being allowed to appear in the second qualifying screening test for the post of JTO against 35% quota which has been postponed from time to time and is likely to be held any time in immediate future. It is contended on their behalf that on restructuring of Group-C and Group-D posts in the Department of Telecom, they were appointed as Telephone Technical Assistants (for short TTA) and have been working in the said post as long as since 1993. However, the respondents are denying them the opportunity on the ground that they were not eligible for the post of JTO, falling vacant on or prior to 31.8.1999. The learned counsel for the applicant vehemently argued that since they have



been working as TTAs for last so many years, they could not be denied the opportunity of appearing in the screening on the ground that they have been appointed on regular basis as TTAs.

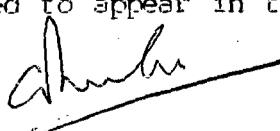
4. The respondents, on the other hand, contend that in terms of the Department of Telecommunications letter dated 24.12.99 only those TTAs who have been appointed on regular basis could be promoted to take the Screening Test against 35% quota even if they have been not completed six years of services as TTAs and since the applicants were appointed as TTAs only on provisional basis they were not eligible for screening test. It has however been contended on behalf of the respondents that no junior persons to the applicants in the post of TTA has been allowed to take such screening test and, therefore, there is no cause of grievance for the applicants.

5. The learned counsel for the respondents produced before us a copy of the judgment dated 9.2.2001 rendered by the Jodhpur Bench of the Tribunal in OA No. 2/2000, Kushal Singh and ors. v. Union of India and ors and stated that the controversy before us is similar to the one decided by the Jodhpur bench vide their order dated 9.2.2001 and since after considering the entire matter in detail the said OAs were dismissed by the Jodhpur Bench, the OAs before us should be accordingly dismissed. However, the learned counsel for the applicants stated that certain facts were not brought before the Jodhpur Bench of the Tribunal and, therefore, the applicants before this Bench of the Tribunal need to be considered in the light of additional averments/arguments they would like to pray before this Bench of the Tribunal. The learned counsel for the applicant stated in this regard that the Department had already issued a notice for such a screening test in 1998, a copy of the same was produced before us. He argued that as per the said notice,

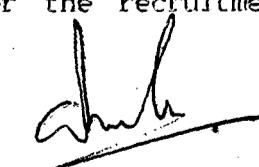


all the TTAs were entitled to appear in the qualifying screening test for promotion to the post of JTOs against 35% quota and it was, therefore, wrong for the Department to insert the condition in the impugned notice dated 18.11.99 (Ann.A1) that only those TTAs who are eligible as on 31.8.1999 will be allowed to appear in the screening test. He also added that there was no justification for prescribing such a cut-off date in view of availability of a large number of posts of JTOs and in any case the vacancies available on the date of notice have to be taken into account. It was also stated by him that it was wrong for the Department to impose pre-appointment training to the restructured cadre of TTAs and in any case they have been given training earlier. It was further contended that with the removal of six years of qualifying service, all the TTAs should be allowed to appear in the JTO screening test. The learned counsel for the respondents, on the other hand, stated that the basic principle of law laid down by the Jodhpur Bench of this Tribunal in their judgment dated 9.2.2001 is that those employees who have been appointed only on officiating basis are not eligible (emphasis supplied) to take the second screening test for the purpose of promotion to the post of JTO and the learned counsel for the applicants have brought before the Tribunal neither any new facts nor any principle in law to enable this Bench of the Tribunal to arrive at a conclusion other than what has been arrived at by the Jodhpur Bench in a controversy, which is exactly same as was before the Jodhpur Bench and, therefore, relying on the judgment of the Jodhpur Bench, the OAs before this Bench of the Tribunal need to be dismissed.

6. We have carefully considered the rival contentions raised by the opposing counsel. We take note of the fact that the Jodhpur Bench in their judgment dated 9.2.2001 have come to the conclusion that an employee who has been appointed as TTA only on officiating basis cannot be permitted to appear in the second screening test



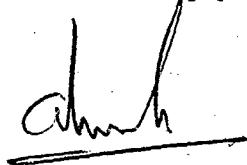
for promotion to the post of JTO against 35% quota to be held in near future and we are mandated to follow the law laid down by a coordinate Bench of this Tribunal. We did, however, consider the arguments raised on behalf of the applicants regarding the cut-off date being not prescribed in the earlier notice for the said test dated 24.11.98, the justification for cut-off date being not there in view of large number of vacancies in the cadre of JTOs and the actual service rendered by the applicants and not the regular service being considered for the eligibility to appear in the test etc. However, we find no force in these contentions raised by S/Shri K.S.Sharma and P.N.Jati on behalf of the applicants primarily on the ground that these contentions do not alter the principle of law laid down by the Jodhpur Bench of this Tribunal vide their order dated 9.2.2001 that it is only the regular service that should entitle a TTA to compete for second qualifying screening test for promotion to JTOs against 35% quota. We also note from the order dated 14.3.96 annexed by the applicants in OA No. 4/2000 as Ann.A9 that the applicant therein was given officiating promotion in the grade of TTA only for the period 1.1.94 to 21.2.95 and if he and other applicants have been given the officiating promotion for certain periods with further stipulation in paragraph 2 that "this officiating promotion is on purely and ad-hoc basis and these officials have no right for regular promotion in the restructured cadre of TTAs" lends further support to the conclusions arrived at by the Jodhpur Bench of this Tribunal in their order dated 9.2.2001. Our attention has also been drawn to the recruitment rules for TTAs as notified through Gazette of India dated 6.2.99 which indicates that select list for the purpose of training will be prepared in certain prescribed manner and makes it clear that such training is necessary before absorption/promotion. It, therefore, follows that training prescribed under the recruitment rules appears to be mandatory



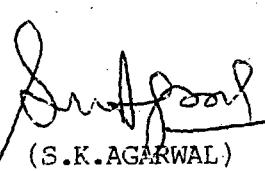
before technicians etc. can be regularly appointed as TTAs. We also take note of the contentions of the respondents that nobody junior to the applicants has been allowed to appear in the second qualifying screening test for promotion to the post of JTO and, therefore, no prejudice has been caused to the applicants and hopefully they will be appearing in such qualifying screening test for promotion to the post of JTO in their turn.

7. The learned counsel for the applicants sought support from 1989 SCC Supp 1) 393, State of Maharashtra v. Jagannath Achut Karnik; (1992) 2 ATC 870, Raj Singh Naulakha and ors. v. Union of India and ors.; (1993) 25 ATC 234, Rekha Chaturvedi v. University of Rajasthan and ors. and 1997 (2) SLJ 131, Ashok Kumar Sharma and ors. v. Chander Shekhar and Anr. We have given our respectful consideration to the judgments and find that they are distinguishable on the facts and circumstances and extend no help to the cases of the applicants.

8. In view of above discussions and the judgment already rendered by Jodhpur Bench of this Tribunal vide their order dated 9.2.2001 in OA No. 2/2000, we find no merit in these OAs and these are accordingly dismissed with no order as to costs.

  
(N.P.NAWANI)

Adm. Member

  
(S.K.AGARWAL)

Judl. Member