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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 161/97 of

DATE OF DECISION 13.12.2000

Shri Biswanath Thakur

PETITIONER(S)

Mr. B. Malakar

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. A. Deb Roy, Sr. C.G.S.C.

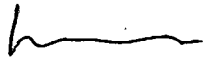
ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. M.P. SINGH, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 161 of 1997.

Date of decision : This the 13th day of December, 2000.

Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Hon'ble Mr. M.P. Singh, Member (A).

Shri Biswanath Thakur,
Son of Sri Jadu Thakur
Regular Mazdoor,
Office of the S.D.E. (Cables),
Dispur, Guwahati-6.

Applicants

By Advocate Mr. B. Malakar.

-versus-

1. The Union of India,
Represented by the Chief General
Manager, Telecom Circle,
S.R. Bora Lane,
Guwahati-781007.
2. The Telecom District Manager,
S.R. Bora Lane,
Guwahati-781007.
3. The Divisional Engineer (P & A),
S.R. Bora Lane, Guwahati.

... Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

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O R D E R (ORAL)

CHOWDHURY J. (V.C.).

The subject matter of the application relates to the legality of the action of the respondents in not promoting the applicant as Phone Mechanic. The applicant is working as Regular Mazdoor under the Respondents. Under the existing norms regular Mazdoor is eligible for appearing in the qualifying screening test which is sine qua non for absorption in the restructured cadre for being appointed as Phone Mechanic. The applicant claims that on being qualified in the screening test alongwith others was sent for training at Circle Telecom Training

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Centre, Guwahati in the batch No.7 vide communication dated 8.6.95 where the name of the applicant appeared at serial No.16. The list of successful candidates was published by the Principal, Circle Telecom Training Centre by communication No. E-44/95-96/196 dated 25.8.95. In the said list 24 names appeared, the name of the applicant also appeared at serial no. 17. According to the applicant though he successfully completed the training he was not promoted/appointed as Phone Mechanic but his colleagues who were also similarly situated and completed the initial course of training were promoted/appointed by order dated 25.4.96. The applicant thereafter moved the authority seeking for remedial measure by his representation dated 11.9.96. The respondents thereafter on 25.9.1996 informed the applicant that he did not come out successful in the departmental competitive examination for recruitment of Phone Mechanic held on 8th & 9th May, 1993. It was also intimated since he did not appear in subsequent qualifying screening test and supplementary screening test his name could not be considered. According to the respondents his name was erroneously appeared in the select list prepared after declaration of result of qualifying screening test held on 25.6.94 and nominated for undergoing initial course of Phone Mechanic Training. The applicant therefore filed this application for redressal of his grievance.

2. The respondents submitted its written statement and contested the application. According to the respondents the applicant appeared in the test held on 9.5.1993 but could not come out successful.

3. We have heard Mr. B. Malakar, learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents.

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4. Admittedly the applicant was sent for training by communication dated 8.5.1995. The applicant had also completed his training course successfully and his name appeared in the list among the successful candidates. On the own showing of the respondents the name of the applicant appeared in the select list which was prepared after declaring the result of qualifying screening test. From the facts enumerated above it thus emerges that the name of the applicant appeared in the select panel and on the basis of the select panel the applicant was sent for training course for Phone Mechanic and he completed the training course successfully. At no stage the applicant was ever informed that he failed in the qualifying screening test save and except the communication dated 25.9.1996 and the statement made in the written statement. There is no material to justify ~~the~~ ^{fine} stand of the respondents that in fact applicant failed in the qualifying screening test. If the name of the applicant in fact erroneously shown in the select panel it was the duty of the respondents to intimate the same to the applicant at the appropriate time to enable him to take necessary step. Since the applicant ^{has} already completed the screening test and allowed to undergo for training and he successfully completed. In the circumstances it is difficult to accept the plea of the respondents that the applicant failed in the qualifying screening test.


5. In the circumstances we do not find any justifiable ground for refusing to appoint the applicant as Phone Mechanic after completion of training. The respondents are accordingly directed to consider the case of the applicant for appointment in the post of

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Phone Mechanic since he successfully completed initial course of training from the date his juniors were appointed as Phone Mechanic with all consequential service benefit including seniority save and except the back wages.

The application is allowed to the extent 6. indicated above. There shall, however, be no order as to costs.


(M.P.SINGH)
Member (A)


(D.N.CHOWDHURY)
Vice-Chairman

trd