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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 134/2000 OF 199

Applicant(s)

Sri Kamalendra Saha and others.

Respondent(s)

Union of Saha and others.

Advocate for Applicant(s)

Mr. B. K. Datta

Mr. S. Sarma.

Advocate for Respondent(s)


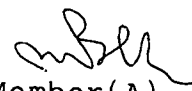

C. G. S.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form and within time. F.F. of Rs. 50 deposited with the Registry. Dated 9.4.2000</p> <p>494209 9.4.2000 Normal 17/4/2000</p> <p><i>Dr.</i></p>	18.4.2000	<p>Heard Mr S.Sarma, learned counsel for the applicants and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents.</p> <p>57 applicants have approached this Tribunal by this application with a prayer to allow them to join in this single application under the provision of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rule 1987. Permission is granted.</p> <p>perused the application. Application is admitted. Written statement within four weeks.</p> <p>List on 22.5.2000 for written statement and further orders.</p> <p>Mr Sarma submits that there are vacancies for the applicants and prays for an interim order. Heard counsel of both sides. The respondents may allow</p>



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Notes of the Registry	Date	Order of the Tribunal
<p><u>18.4.2000</u></p> <p>Notice issued to The Respondants Vide D.Nos. 1098 to 1099 Dtd. 18.4.2000</p> <p><u>Zy</u></p>	<p>18.4.2000</p> <p>pg</p>	<p>the applicants to appear in the ensuing examination and the result of the examination shall be subject to the result of this O.A..</p> <p><u>60</u> Member</p>
<p><u>8.6.2000</u></p> <p>① Service complete on R.No-2.</p> <p>② No. written statements has been filed.</p> <p><u>Zy</u></p>	<p>22.5.00</p> <p>9.6.00</p>	<p>NO Bench is available. Adj'd to 9.6.00</p> <p>1570 h</p> <p>Present : The Hon'ble Shri D.C.Verma, Judicial Member.</p> <p>None for applicant. Mr A.Deb Roy, learned Sr.C.G.S.C prays for two weeks time to file written statement.Prayer allowed.</p> <p>List on 26.6.00 for written statement and further orders.</p>
<p><u>8.9.2000</u></p> <p>Written Statement has been filed by the respondents.</p> <p><u>1000</u></p>	<p>pg</p>	<p>Member (J)</p>
<p><u>23-10-2000</u></p> <p>w/s has been filed.</p> <p><u>Zy</u></p>	<p>26.6.00</p> <p>24.7.00</p>	<p>There is no Bench today. Adj'd to 24.7.00.</p> <p>1570 h</p> <p>NO Bench is available. Adj'd to 21.8.00.</p> <p>1570 h</p>
<p><u>21.8.00</u></p>	<p>21.8.00</p>	<p>NO Bench is available. Adj'd to 24.10.00.</p> <p>1570 h.</p>

Notes of the Registry	Date	Order of the Tribunal
<p>The Case is ready for hearing as required note.</p> <p><u>20</u> 21.12.2000</p>	<p>24.10.00</p> <p>pg</p>	<p>Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Heard Mr S.Sarma, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. Written statement has been filed.</p> <p>List on 29.12.2000 for hearing.</p> <p> Vice-Chairman</p>
<p>24.12.2001</p> <p>Copy of the Judgment has been sent to the D/Sec. for issuing the same to the Applicant as well as to Sr.C.G.S.C for the Respondents.</p> <p>nl.</p>	<p>22.12.2000</p> <p>nkm</p>	<p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. No order as to costs.</p> <p> Member(A)</p> <p> Vice-Chairman</p>

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Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. No. . . 134 of 2000

DATE OF DECISION 22.12.2000

Shri Kamalekha Sinha and 56 others

PETITIONER(S)

Mr B.K. Sharma and Mr S. Sarma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others

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, ADMINISTRATIVE MEMBER

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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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.134 of 2000
Date of decision: This the 22nd day of December 2000

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

The Hon'ble Mr M.P. Singh, Administrative Member

Shri Kamalekha Sinha and 56 othersApplicants

All the applicants are working as
Telecom Technical Assistant, Wireless
Operator and RSA and posted at
various stations in Assam Circle.

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Department of Telecommunications,
New Delhi.Rs

2. The Chief General Manager, Telecom,
Assam Telecom Circle,
Guwahati.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The issue pertains to filling up of the vacancies by promotion to Junior Telecom Officer (JTO for short) against the 35% quota vacancies for filling up such posts.

2. The applicants are fiftyseven in number who are working as Telecom Technical Assistant (TTA for short), Wireless Operator (WO for short) and RSA under the respondents and presently posted at various stations. Their claim is for consideration of their case for promotion under the 35% quota. The Recruitment Rules envisages for promotion to the post of JTO as 35% by promotional avenue, 15% by Departmental Competitive Examination and 50% by Direct

Recruitment. The 35% quota is filled up departmentally by way of promotion through a screening test. The respondents called for applications from the applicants for the screening test the applicants in response to the said call submitted their application/willingness. Thereafter syllabus and the hall permits were issued to the applicants. The date for the screening test was fixed but the same was postponed for three times due to administrative reasons. Finally the respondents fixed the date of the screening test on 22.4.2000. However, the respondents while fixing the date of the said test, by order dated 28.3.2000 cancelled the hall permits issued earlier to the applicants. Hence this application.

3. The impugned communication itself mentioned about the Second Screening Test for promotion to JTO against 35% quota of vacancies arising up to 31.8.1999 and the scheduled dates, which were time to time changed. By the aforesaid communication the Deputy General Manager informed that as per its earlier circular dated 8.12.1998 it was made clear that the Screening Test would be held in accordance with JTO (Rec'tt) Rules, 1996. The communication also mentioned that it was clarified by letter dated 14.12.1999 that the left over vacancies if any after absorbing the qualified officials of the First Screening Test arising up to 31.8.1999 would only be available to the qualified candidates of the Second Screening Test. The vacancy position, in the meantime, was worked out in the cadre as on 31.8.1999 and it was found that there was no vacancy in under 35% quota for Unreserved and ST reserved category after accommodating the qualified officials of the First Screening Test. For want of vacancy in unreserved and ST reserved category it was decided not to hold the test for the OC and ST officials. Accordingly it was decided not to permit OC and ST officials to appear in the Second Screening Test and all hall permits issued earlier were cancelled. The said communication also gave the scheduled dates for screening test for promotion to the cadre

of JTO against 35% vacancy reserved for SC community. The legality of the aforesaid action is challenged as arbitrary and discriminatory.

4. The respondents submitted their written statement denying and disputing the claim of the applicants. The respondents in their written statement stated that under the provisions of JTO (Recrtt) Rules, 1996 the 35% quota in the cadre of JTO are filled up by promotion from PI/RSA/WO/TTA through a qualifying Screening Test. Accordingly screening tests are held from time to time to fill up the existing vacancy as well as future vacancies. The last screening test under the Recruitment Rules was held in January 1995 and the qualified officials were waitlisted for promotion to JTO against future vacancies and were being absorbed against 35% quota of vacancies arising from year to year. The JTO Recruitment Rules 1999 were framed and notified/published in the Gazette of India on 1.9.1999 and came into force from 1.9.1999. In view of the new Recruitment Rules the vacancies arising upto 31.8.1999 could only be filled up by qualified officials of screening test held under the 1996 Recruitment Rules. In other words, all vacancies arising on or after 1.9.1999 would be filled up under Recruitment Rules 1999. It was also stated that for that a separate test under Recruitment Rules 1999 would be held in due course of time. The vacancies under 35% quota arising upto 1998 had already been filled up from among the qualified officials of 1995 examination. The vacancies of 1999 and upto 31.8.1999 was worked out and it was found that no vacancy in general or ST reserved category would be available after accommodating the waitlisted qualified officials of 1995. The respondents further stated that SC reserved posts would still remain vacant as there was no qualified officials from that community in the waiting list. The proposed test under the Recruitment.....

Recruitment Rules 1996, according to the respondents, was aimed at making an eligibility list for promotion to JTO under 35% quota of vacancies arising upto 1.9.1999. In view of the change of the Recruitment Rules in SC cadre only due to the reasons mentioned above, the selection process was kept confined to SC, and others would be considered for promotion to JTO against vacancies which might arise after 1.9.1999. According to the respondents as the vacancies which were to be filled up under 35% quota in accordance with the Recruitment Rules, 1996 fell under SC reserved category, it was needless to allow officials of other categories to sit in the proposed test as such an exercise would be meaningless as it was already known that the qualified candidates could not be absorbed to the cadre of JTO for want of vacancy. Accordingly the hall permits of all OC and ST candidates were cancelled vide order dated 28.3.2000. The respondents also stated that after introduction of the Recruitment Rules, 1999 and in view of the changed situation a revised notification was issued on 14.12.1999 wherein it was made clear that the proposed test would be conducted under the Recruitment Rules, 1996 for vacancies upto 31.8.1999 and the qualified officials of the test would not have any claim/right for their training and promotion to JTO except to the extent of vacancy, if there was any left over after accommodating the waitlisted qualified officials of 1995. The qualified officials of the Second Screening Test would have no claim whatsoever, against vacancies occurring on or after 1.9.1999. The respondents further stated that the vacancies occurring after 31.8.1999 would be filled up in accordance with the new Recruitment Rules and competitive examination would be held to fill up the 35% quota of vacancies. The eligible departmental.....

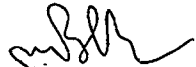
departmental officials would have the opportunity to appear in the test and compete for the post.

5. Mr S. Sarma, learned counsel for the applicants referred to some of the earlier decisions of this Tribunal and submitted that most of the applicants had appeared in the screening test by virtue of the order of the Tribunal dated 18.4.2000. Since they have appeared, in fitness of things, their results should be declared and if they are found suitable their names may be kept in the panel for consideration of their case for any vacancy reserved for SC candidates. We are afraid no such direction can be issued for consideration of the case of the applicants, since the entire test was processed and meant for persons against the quota reserved for SC candidates. Mr Sarma further submitted that these applicants will virtually lose all opportunity for promotion in the near future in view of the restructuring of the department.


6. Mr A. Deb Roy, learned Sr. C.G.S.C., submitted that the above apprehension of the applicants is meaningless and referred to the written statement in which it has been mentioned that this recruitment will be confined upto 31.8.1999 and steps for recruitment will be taken under the 1999 Recruitment Rules which had come into force from 1.9.1999. The aforesaid test limited to the SC candidates under Recruitment Rules, 1996 was meant for filling up of vacancies upto 31.8.1999 and the qualified officials of the test would have no right for their promotion to the cadre of JTO except to the extent of vacancy that may be available. Mr Deb Roy further submitted that against future vacancies, the qualified officials against 35% quota would, undoubtedly, be taken for consideration. We are also of the view that the department would not be so unfair as to
totally.....

totally overlook the promotion claim of the applicants against the vacancies and totally exclude a class from promotion.

7. In the circumstances we are not inclined to accept this application. Accordingly the application is dismissed subject to the above observation. There shall, however, be no order as to costs.



(M. P. SINGH)
ADMINISTRATIVE MEMBER



(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm

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গুৱাহাটী ন্যায়ালয়
Guwahati Bench

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 134 of 2000

Between

Shri Kamalekha Sinha and 56 ors Applicants.

AND

Union of India & ors Respondents.

I N D E X

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4.	Annexure-2	15
5.	Annexure-3	24.
6.	Annexure-4	26

Filed by : S.Sarma, Advocate.

Regn.No.:

File : C:\WS7\KAMALEKH

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative Tribunal Act.1985)

O.A.No. 134 of 2000

BETWEEN

1. Shri Kamalekha Sinha.
2. Shri Jogendra Nath Das.
3. Shri Umesh Ch. Kalita.
4. Shri Tarun Kumar Paul.
5. Shri Imran Hussain.
6. Shri Kali Pada Barman.
7. Shri Tarun Ch. Medhi.
8. Shri Bidyut Kumar Deb.
9. Shri Prabin Ch Mazumdar.
10. Shri Nilakanta Mazumdar.
11. Shri Dinesh Kalita.
12. Shri Sailendra Nath Sarma.
13. Shri Ratan Poddar.
14. Shri Subudh Ranjan Sarma.
15. Shri Jyoti Pran Chakraborty.
16. Shri Haran Chakraborty.
17. Smt Labainaya sargiyari.
18. Shri Salil Dasgupta.
19. Shri Debakumar Sarma.
20. Shri Tarun Sarma.
21. Shri Bijoy Krishna Mirra.
22. Shri Alimuddin Laskar.
23. Shri Hriday Choudhury.
24. Shri Ajay Choudhury.
25. Shri Bhola Ram Das.
26. Shri Ajit Sinha.
27. Shri Dibakar Sarma.
28. Shri Prafulla Sarma.
29. Shri Khagen Ch Deka.
30. Shri Akan Ch Sarma.
31. Shri Dilip Talukdar.
32. Shri Paran Sinha.
33. Shri Mani Ram Das.
34. Shri Chitradip Das.
35. Shri Surjya Mani Das.
36. Shri Khagen Ch Medhi.
37. Shri Krinan Kanta Pandey.
38. Shri Madan Ch Mahanta.
39. Shri Narayan Boro.
40. Shri C. Chakraborty.
41. Shri Rajat Ch Medhi.
42. Shri Dhrubajyoti Barman.
43. Shri L.M. Basumatary.
44. Shri Ranjeet Dutta.
45. Shri Rose Nath.
46. Shri Dambarudhar Dutta.
47. Shri A.K. Mitra.
48. Shri Imtaz Ali Ahmed.
49. Shri Bhupen Kalita.
50. Shri R.N. Dey.
51. Shri N.N. Barman.

Filed 16/7
Siddharth Samin
Advocate
64
17-5-2000

Ko

52. Shri Manik Bharali.
53. Shri Mono Bikash Dey.
54. Shri Dilip Chandra.
55. Shri R.N. Bhattacharjee.
56. Shri S. Bhattacharjee.
57. Shri K.K. Charkaraborty.

..... Applicants.

All the applicants are presently working as Telecom. Technical Asstt. (TTA), Wireless Operator (WO) and RSA under the respondents and at present they are posted at various stations in the Assam Circle.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Department of Telecommunication.
Sanchar Bhawan, New Delhi.
2. The Chief General Manager, (Telecom)
Assam Telecom Circle.
Ulubari Guwahati-7.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This application is directed against the order vide No RECTT-3/35/PART-1/117 dated 28.3.2000, by which the hall permit issued earlier to the applicant for the 2nd Screening Test has been canceled illegal. This application is also made for an appropriate direction to the respondents to allow the applicants to appear in the aforesaid 2nd Screening Test for promotion to the post of JTO and after successful completion of the said screening test and after following the due procedure of promotion including training, promote them to the post of JTO.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act. 1985.

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3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants through the present application have challenged the illegal action of the respondents in issuing the order dated 28.3.2000 by which the Hall Permit issued to them for the 2nd Screening Test for promotion to Junior Telecom Officer (JTO) has been canceled without any basis. The applicant has also prays for a direction from the Hon'ble Tribunal to the respondents for allowing them to appear in the said 2nd screening test for promotion to the post of JTO, which is scheduled to be held on 22.4.2000 and after successful completion of the same they also prays for a further direction to the respondents for sending them to training and thereafter promote them to the post of Junior Telecom Officer, (JTO). It is pertinent to mention here that the applicants are all eligible for the said screening test and accordingly the respondents have issued the hall permit to them enabling them to appear in the said screening test. However, the scheduled date of the said test was postponed for three times and the respondents finally rescheduled the said test on 22.4.2000. The applicants on receipt of the said hall permit have been prepared themselves and all on a sudden the respondents have issued the impugned order dated 28.3.2000 by which the hall permit issued to them has been canceled for want of vacancy.

This is the crux of the matter for which the applicants have filed the instant application seeking an appropriate relief from the Hon'ble Tribunal.

4.2. That the all applicants are citizen of India and as

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such they are entitled to all the rights and protections as guaranteed under the Constitution of India and laws framed thereunder. the instant application has been filed by 57 applicants seeking a common relief arising out of a common cause of action. It is therefore, they prays before the Hon'ble Tribunal to allow them to join to gather in a single application invoking the Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 to minimise the number of litigation as well as the cost of the application.

4.3. That the applicants are all at present working as Telecom Technical Asstt (TTA), Wireless Operator (WO) and RSA and are posted at various places of Assam Circle under the respondent No. 2. and they are all qualified for promotion to the post of Junior Telecom Officer (JTO) under the 35% quota. In this connection it will be pertinent to mention here that the respondents have laid down the quota for promotion to the post of JTO as 35 % (Promotional); 15 % (Departmental competitive Examination and 50 % (Direct Recruitment. This has been made for allowing better promotional avenue as presently there is no other promotional avenue for the applicants. This decision has been made by the respondents pursuant to various levels of meeting held for that purpose between the staff side as well as the office side.

4.4. That the respondents accordingly called for the applications from the applicants for the said screening test and the applicant in response to the said call has submitted their application/ willingness. Thereafter syllabus as well as the hall permits have been issued to the applicants. Even the date of the said screening test has been fixed but the same has been postponed for three times for certain administrative reasons. Finally the respondents have fixed the date of screening test on 22.4.2000. However, the respondents while fixing the date of the

said test by its order dated 28.3.2000, have canceled the hall permits issued earlier to the applicant, without any basis. The respondents have given the only ground for such cancellation is that there is no vacancy for UR and ST candidate at present.

A copy of the order dated 28.3.2000 is annexed herewith and marked as ANNEXURE-1.

4.5. That the applicants begs to state that prior to the said 2nd screening test, the respondents have held the 1st screening test and at that time the vacancy position was not looked into for the same. The qualified employees of the said screening test will be sent for training and thereafter only the posting will be given to them and that too subject to availability of vacancy. Hence the contentions raised by the respondents in regard to the vacancy is not correct as the process of selection is a time consuming procedure and normally it takes years for the same as the qualified persons of the screening test will be sent for training in order of seniority in a phase wise and will be accommodated subject to availability of vacancy. In case any vacancy arises in the dept the qualified and trained persons gets his promotion and that too in order of seniority.

4.6. That the applicant begs to state that the respondent have issued the said order dated 28.3.2000 without prior approval from the higher authority who framed the policy for such promotion, and the reason assigned in the said order is also devoid of any specific information. As stated earlier the screening test in question is scheduled to be held on 22.4.2000 and the said test will finalised after a long time. Thereafter the 2nd phase for training will come and thereafter only the promotion order will be issued and this will take years for its finality and in the mean time numbers of vacancies will occur and the respondents have not taken into consideration those aspect of the matter.

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4.7. That the applicants begs to state that the action of the respondents in issuing the aforesaid impugned order excluding the names of the applicants from the said test at the eleventh hour is illegal, arbitrary and violative of the principles of natural justice. As stated above the applicants are as per the decision of the highest authority of the respondents are eligible for the said screening test for their career advancement and accordingly they also prepared themselves for the said test even many of them have come down to Guwahati for the said examination and in case the said impugned order is not set aside and quashed, they will suffer irreparable loss and injury and their entire service career will be frustrated.

4.8. That the applicant begs to state that as stated above prior to the present test in question i.e, the 2nd screening test, the respondents have conducted the 1st screening test for the promotion to the post of JTO but on a similar ground the same was canceled. Being aggrieved by the said action on the part of the respondents, the employees approached the Hon'ble Tribunal by way of filing O.A. No 13/95 and the Hon'ble Tribunal was pleased to pass an interim order on 27.1.95 allowing them to appear in the said test. accordingly the respondents allowed them to appear in the said examination. Thereafter the aforesaid O.A. 13 of 1995 was disposed of vide judgment and order dated 30.1.95. in the light of the interim order and its subsequent developments. It is noteworthy to mention here that numbers of applications had been filed by the earlier groups in the various benches of this Hon'ble Tribunal of which mention may be made of O.A. No 207 of 1995 before the Hon'ble Principal bench of this Hon'ble Tribunal which was disposed of by an order dated 19.7.95 .

Copies of the orders dated 27.1.95 and 30.1.95 are annexed herewith and marked as ANNEXURE-2 and 3

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respectively.

The applicant craves leave of this Hon'ble Tribunal to produce the said copy of the Judgment and order dated 19.7.95 passed by the Hon'ble Principal Bench of the Hon'ble Tribunal at the time of hearing of the case.

4.9. That the applicant begs to state that similar matter came up before the Hon'ble Eernakulam Bench of the Hon'ble Tribunal (O.A. No 37 of 1995) and the Tribunal was pleased to dispose of the said O.A. on 5.7.95 directing the respondents to dispose of the representations filed by the applicants of the said O.A. Accordingly the respondents disposed of the representations filed by the said applicants vide order dated 5.1.96 in their favour.

The applicants craves leave of the Hon'ble Tribunal to produce the copy of the said order dated 5.1.96 at the time of hearing of the case.

4.10. That the applicant begs to state that all the applicants in O.A. No 13 of 1995 are similarly situated like that of them and as such they are also entitled to the similar relief. It is noteworthy to mention here that the applicants in O.A. No 13 of 1995 had to approach the Hon'ble Tribunal again by way of filing O.A. No 107 of 1996 seeking a direction from the Hon'ble Tribunal for declaration of the result of the 1st screening test and the Hon'ble Tribunal after hearing the parties to that proceeding was pleased to dispose of the said O.A. by judgment and order dated 18.8.98 directing the respondents to take all the necessary follow up action for the promotion to the post of JTO.

A copy of the said order dated 18.8.98 passed in O.A. No 107 of 1996 is annexed herewith and marked as ANNEXURE- 4.

4.11. That the applicants beg to state that in view of the aforesaid factual position it is crystal clear that the respon-

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dents have acted contrary to the settled position of law in issuing the impugned order. The respondents have virtually blocked the future avenue of promotion of the applicants and the other similarly situated employees i.e, the employees who got chance in the 1st screening test for promotion to the post of JTO are now far ahead of the applicants in the cadre of JTO whereas the applicants are still fighting for their promotion to the post of JTO.

4.12. That the applicant begs to state that similar kind of controversy has also arisen in the Tamilnadu Telecom Circle for the said test i.e, 2 nd screening test , however, the departmental authority has issued an order allowing them to appear in the said test. It is further stated that the present case of the applicants are also pertaining to the same examination/test and hence there is no earthly reason as to why the applicants are not allowed to appear in the test in question.

The applicants crave leave of the Hon'ble Tribunal for a direction to the respondents to produce the records pertaining to the said test at the time of hearing of the case.

4.13. That the applicants beg to state that the respondents have acted arbitrarily in issuing the order dated 28.3.2000 canceling the hall permits of the applicants at the eleventh hour more so when they have fully prepared themselves for the said test. It is therefore, the applicants pray for an interim order directing the respondents to allow them to appear in the said screening test till the finalisation of the case. In case the interim order is not granted the entire O.A. will be infructuous and the applicants will suffer irreparable loss and injury.

4.14. That the applicants have filed the present application bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

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5.1. For that the respondents have not applied their mind in issuing the impugned order dated 28.3.00 (Annexure-1) and the said order is a non speaking one and hence the said order is liable to be set aside and quashed with a further direction to the respondents to promote the applicant to the post of JTO after successful completion of training.

5.2. For that the impugned Annexure-1 order is devoid of and reason and the same has been passed without any authority and hence the same is liable to be set aside and quashed.

5.3. For that the respondents have acted arbitrarily in issuing the impugned Annexure-1 order dated 28.3.2000 that too at the eleventh hour without taking into the practical aspect of the matter and hence the same is not sustainable in the eye of law and liable to be set aside and quashed.

5.4. For that the respondents before issuance of the impugned order dated 28.3.00 (Annexure-1) ought to have issued prior notice to the applicants and having not done so they have violated the settled principles of law and hence their entire action is liable to be set aside and quashed.

5.5. For that since the applicants are similarly situated like that of the other employees in whose case the Dept. itself has allowed them to appear, there is no earthly reasons as to why the impugned order has been issued debarring the applicants from appearing in the examination/test.

5.6. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicants crave leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

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6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

- 8.1. To set aside and quash the order dated 28.3.2000 (Annexure-1). ✓
- 8.2. To direct the respondents to allow the applicants to appear in the 2nd screening test for promotion to the post of JTO which is scheduled to be held on 22.4.00. ✓
- 8.3. To direct the respondents to send the applicants for training after successful completion of the 2nd screening test and after successful completion of the said training to promote them to the post of JTO with all consequential service benefits.
- 8.4. Cost of the application.
- 8.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicants pray for an interim order directing the respondents not to give effect the Annexure-1 order dated 28.3.2000 so far it relates to cancellation of the hall permit is concerned and to allow them to appear in the said 2 nd screening test which is scheduled to be held on 22.4.00.

10.:

11. PARTICULARS OF THE I.P.O.:

- 1. I.P.O. No. : 06. 494209
- 2. Date : 4. 4. 2000 .
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Shri Kali Pada Barman, son of late C Barman, aged about 47. years, resident of Hangrabari Guwahati-26, at present working as Telecom Technical Asstt in the office of the remote Station Unit Basistha. Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 1-43, 45-47, 49, 411-414 & 5 to 12..... are true to my knowledge and those made in paragraphs 44, 48 & 410 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

I am one of the applicant (applicant No 6) of the instant application and as such well acquainted with the facts and circumstances of the case and I am also authorised by the other 56 applicants to swear this verification on their behalf.

And I sign on this the Verification on this the 17th day of April 2000.

Sri Kali Prasad Barman
Signature.

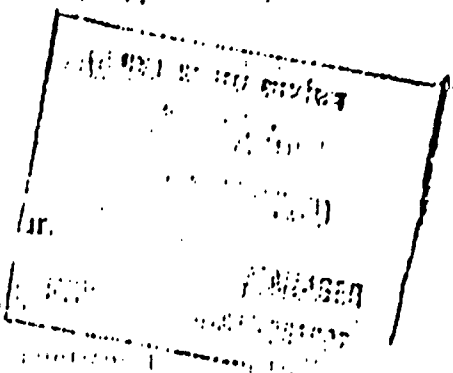
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE : GUWAHATI-7.

NO:- RECTT-3/35/PART-I/117

Dated at Guwahati the 28th March, 2000

To,

- ✓ 1. & 2. The General Manager Telecom,
Guwahati/Silchar
- 3. to 7. The Teleco district Manager
Dibrugarh/Jorhat/ Nowgong/ Bongalgaon/ Te
- 8. The C.G.M.T., Task Force, N.E. Region, Guwahati
- 9. The Director, Microwave Mics./Guwahati



Sub :- 2nd Qualifying Screening Test for promotion to the post of J.T.O. ---
Holding thereof.

The Second Screening Test for promotion to J.T.O. against 35% quota of vacancies arising up to 31.08.1999 was scheduled to be held on 8/1/2000. The Schedule was cancelled vide TCHQ letter no. 12-44/98-DE dated 05-01-2000 and the same was communicated to all concerned under this office letter No. Rectt -3/35/Pt-I/114, date 06/01/2000.

In our earlier circular letter No. Rectt-3/35/Pt-I/2, dated 8/12/98 it was made abundantly clear that the Screening Test will be held in accordance with J.T.O. (Rectt) Rules, 1996.. It was further clarified vide office letter dated 14/12/99 that the left over vacancies if any after absorbing the qualified officials of the 1st Screening Test arising up to 31.08.1999 will only be available to the qualified candidates of 2nd Screening Test

The vacancy position in the cadre as on 31.08.99 has since been worked out. It is found that no vacancy under 35% quota for U/R and S/T reserved category will be available after accommodating the qualified officials of 1st Screening Test. Since there is no vacancy in U/R and S/T reserved category it is not necessary to hold the Test for the OC and ST officials. Accordingly it has been decided that OC and ST officials will not be permitted to appear in the Second Screening Test. All Hall Permits issued to the officials for the Test are also cancelled.

Contd to P/2

33% for U/R & ST

P.T.O.

Attested
[Signature]

DF(1301/117)

The Second Screening Test for promotion to cadre of J.T.O. against 35% quota of vacancies reserved for SC community will be held on 22nd April, 2000 as per the following program.

<u>Paper & Subject</u>	<u>Day & Date</u>	<u>Time(IST)</u>
Part- A English	Saturday, the 22 nd April, 2000.	10.00 A.M. to
Part -B General Mathematics		
Part- C Physics		
<u>Part-D Departmental Practices.</u>		

Eligible officials belonging to SC community who had earlier applied for permission to sit in the Screening Test will only be allowed to appear in the Test. Fresh Hall Permits will be issued separately.

All the concerned officials may be informed of the above decision and revised schedule of the Test.

(M. Shukla)
Deputy General Manager(Admn)
O/O The C. G. M. T. Guwahati - 7.

Copy for information to :-

1. Shri M. Shukla, Supervising Officer, DGM(Admn), C.O., Guwahati.
2. The Exam. Co-ordinator, DGM(A), C.O., Guwahati.

For C. G. M. T. Guwahati - 7.

No. G.M.T./EST-411/Exam/99-2000/153

DD - 31-3-2000

Copy forwarded for information and wide circulation to:-

The Area Manager Telex. (E & D), all DE's under GM/KTD/GH, Principal C.T.C./GH, Director (Hler) ETR/GH, all SDO, SDO P/SDE, KTD/GH.

C.D.F. (T.O.) (S.A)

Attested
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Admn -

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ORIGINAL APPLICATION NO. 13 of 1995

MISC PETITION NO. _____ (J.A.NO. _____)

REVIEW APPLICATION NO. _____ (J.A.NO. _____)

CENT. PETITION NO. _____ (J.A. NO. _____)

28

Shri Rupak Medhi & Others

APPLICANT(S)

VERSUS

Union of India & Others

RESPONDENT(S)

Mr. B.K. Sharma

Advocate for the Applicant.

Advocate for the Respondents

Office Note

Court Orders

27.1.95

Mr B.K. Sharma for the applicants.

This application is moved on the basis of apprehension for urgent ad interim ex parte orders. There are 20 applicants who have joined in filing this application and in para 4.2 of the application it is stated that all of them have got a common grievance and they may be granted leave to join in single application under Rule 4(5)(a) of the Central Administrative Tribunal Procedure Rules.

Heard Mr B.K. Sharma (SOO). Leave as prayed in para 4.2 of the application granted. The applicants are working as Telecom Technical Assistants in different offices in the department of Telecommunication under the respondent Nos. 3 and 4, i.e. The Chief General Manager (Telecom), Assam Circle and the Chief General Manager (Telecom),



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M.E. Circle. It appears that the applicants and other Telecom Technical Assistants who are similarly placed had been persistently demanding that they (i.e. TIAs) be made eligible for promotion to the cadre of Junior Telecom Officer (JTO) at par with PIs, RSAs, IAs and WOs in view of their qualification and training in new technology. That demand was considered by the Ministry of Communications department of Telecommunications, Government of India, New Delhi. By letter No.27-2/94-TE-II issued by the Asstt Director General (TE) in the Ministry of Communications, Deptt. of Telecommunications, Government of India dated 13.12.1994 of the Heads of Telecom Circles were informed that the Telecom Commission is pleased to allow all Telecom Technical Assistants to appear at JTOs qualifying screening tests alongwith PIs/AEAs/TAs etc irrespective of their length of service against 35% quota meant for PIs/AEAs/TAs/WOs etc., however the length of service in the cadre of PIs/TAs/AEAs/WOs/TIAs will be the criteria for sending them for JTOs training. There is no dispute that the applicants are concerned only with the promotion of the 35% quota. Copy of the said letter is Annexure-1.

Pursuant to the aforesaid decision, the Assistant Director, Telecom (E&R) for the Chief General

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Manager, Telecom, Assam Circle, asked the Telecom District Manager (GH/DR) to invite applications in the prescribed enclosed proforma from the Telecom Technical Assistants under his control and arrange to send them after due scrutiny and recommended on or before 6.1.1995. That letter is at Annexure-2 bearing No. RECTT-3/35-94/16 dated 23.12.1994. In that letter it was clearly mentioned that all TIAs are now allowed to appear at the said test which is described as Departmental Qualifying Screening test of RSA/PT/WO etc to the cadre of JTO. to be held on 29.1.95. Accordingly applications were invited and the present applicants alongwith some others applied. Their applications were scrutinised and they were recommended. It is stated that each of the applicant was thereafter issued the Hall Permit for appearing at the examination to be held on Sunday, the 29.1.1995 between 10 am and 12-30 pm at S.B. Deorah College, Ulubari, Guwahati. The hall permit of applicant No.1 is produced for the perusal of the court.

The applicants who are working at different stations in the State of Assam and other stations in the North Eastern Region seemed to have arrived at Guwahati in preparation to appear at the said examination



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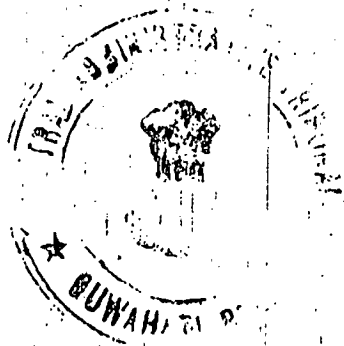
27.1.95

to be held on next Sunday. It is stated that they have also been released by their Heads of Department from duty to enable them to appear at the examination. In this background it is averred in para 4.9 of the application that the applicants have come across the communication, Annexure-4, and apprehend that in view of the same they may not perhaps be allowed to sit at the ensuing examination on Sunday, i.e. 29.1.95. It is stated that the applicants got the knowledge of Annexure-4 in the evening hours of 25.1.1995. It is contended by the applicants that if they are not so allowed they will suffer gross injustice and hardship and they cannot be denied the benefit of their demand, that ^{has} have been accepted by the Government of India, arbitrarily.

Annexure-4 is a Fax message from the Director (DE&VP) in the office of the Directorate of Telecom, Departmental Exam. Section, Government of India, New Delhi, addressed to All Chief General Managers, Telecom Circles, bearing No.12-1/94-DE dated 25.1.1995. It reads as follows:

"I am directed to say that the matter has been reconsidered and it has been decided that the TIAs will not be allowed to appear in the ensuing qualifying Screening Test to be conducted on 29.1.1995. They will be allowed to appear from the next qualifying examination only.

It is requested that the above contents may be brought to the notice of all concerned for further necessary action immediately."



27.1.95

The subject mentioned in the letter is Screening test in replacement of Departmental qualifying examination for promotion of Pls/AEAs/WOs/TAs to the cadre of Junior Telecom Officers to be held on 25.1.1995. Obviously the reference is to the same examination which is scheduled to be held on 29.1.95.

Since the application was moved ex parte and as I am inclined to grant ad interim order the facts have been noted in some detail above. The questions relating to merits will be dealt with at the hearing of the application, but for the purpose of granting ad interim order a prima facie case is also required to be considered. ^{intended} Both these tests are satisfied by the applicants.

It admits of no ambiguity that the demand of the applicants for opening their avenues of promotion as JTOs was accepted by the Government of India as can be seen from Annexure-1 dated 13.12.1994. Accordingly applications were invited from the TIAs which appear from Annexure-2 dated 23.12.1994. It is also seen from Annexure-3 dated 19.1.1995 that some condition of eligibility was amended as regards need to answer certain questions and there is a reference in that context to TIAs also. Meanwhile hall permits were

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also issued and as can be seen of ^{the} final permit of applicant No.1 it was issued on 13.1.1995. The respondents therefore had substantially acted in pursuance of the decision of the Telecom Commission to permit the ITAs to appear for the examination and the applicants had acted on the basis of representations made to them by the respondents in tune with the decision of the Telecom Commission, by inviting applications and the applicants have acted in pursuance of those representations and have arrived at the ~~venue~~ venue of the examination for which purpose if they were also relieved from their respective ^{offices} Depts. Prima facie therefore it appears that the Directorate of Departmental Examination Section in having acted contrary to the decision of the Telecom Commission and having disregarded the representation of the applicants on the basis of which they had acted had arbitrarily directed that the ITAs like the applicant will not be permitted to appear at the ensuing examination. At this stage it is not possible to know from Annexure-4 as to ~~how~~ which authority had reconsidered the earlier decision and for what reason the benefit of allowing to appear at the examination was postponed to the next qualifying examination in regard to the ITAs. Such abrupt change of policy and decision does not appear to be just and fair which is likely to cause great hardship to the applicants and deprive them of certain advantage as they may ~~be~~ gain by appearing at the examination.



27.1.95

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In the result pending admission
the following ad interim order is
passed:

- 1) The respondents are directed to allow the applicants to whom hall permits may have been issued to sit at the qualifying screening test scheduled to be held on Sunday, the 29.1.1995 between 10 Am and 12-30 PM at S.B. Deorah College, Ulubari, Guwahati. being held.
- 2) The above directions shall be without prejudice to the rights and contentions of the respondents and subject to such further interim or final orders as may be passed in the application by this Tribunal.
- 3) The applicants are directed to serve a copy of this order together with the copy of the application to respondent No. 3 immediately and in any event during the course of the day. and also to ^{inform it to} ~~inform it to~~ ^{other} ~~other~~ ^{respondents} ~~respondents~~ ^{in a timely} ~~in a timely~~
- 4) The respondents No.3 as well as other respondents are given liberty to move for variation of the afore-said order if so ~~ad~~ ^{at} desired any time after they are served with the order provided prior intimation is given to the learned Advocate of the applicants, Mr B.K. Sharma, either at his office or his residence.
- 5) Liberty to move ^{by affidavit} at the residence of the Vice-Chairman through the Deputy Registrar(CC).

Mr G. Sarma, Addl. C.G.S.C.,
seeks to appear on behalf of the



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in pursuance of decision taken by the appropriate authorities accepting their demand for that purpose. I am therefore satisfied that the applicants should be allowed to appear at the test without prejudice to the rights and contentions of the respondents and subject to the decision on the application on merits while leaving it open also the question of whether they ought to be considered for promotion on the strength of having qualified at this examination if they or any one of them does or whether they should be put on waiting list or would not be considered eligible for promotion until further orders. No prejudice would be caused to the respondents for allowing the applicants to appear at the examination as it appears that all arrangements for holding the examination where the applicants were expected to appear have already been made.

It is submitted by Mr B.K. Sharma that apart from the applicants other similarly situated candidates may be placed in the same predicament as that of the applicants and they may also be protected. In my opinion having regard to the order as passed below in respect of the applicant's the respondents ordinarily are expected to adopt the same course in respect of other similarly situated candidates who have been issued the hall permits.



U.A.No.13/95

OFFICE NOTE

COURT ORDERS

27.1.95

respondents. However, he will not be in a position to assist the court for want of instructions. Since he has chosen to appear he shall obtain necessary instructions from the respondents and shall make himself available to the respondents if they desire to move for variation of the order passed above. Mr G. Sarma will file his note of appearance in the matter also.

To be placed before the Division Bench for admission and further orders on 30.1.1995.

Copy of the order be issued immediately.



Certified to be true Copy

प्रमाणित प्रतिलिपि

Section Officer (J)

31/1/95

अनुभाग अधिकारी (न्यायिक शाखा)
 Central Administrative Tribunal
 भारतीय प्रशासनिक इतिहास
 Guwahati Bench, Guwahati-6
 गुवाहाटी न्यायपीठ, गुवाहाटी-6

Sd/- VICE CHAIRMAN

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(2)

CENTRAL ADMINISTRATIVE TRIBUNAL ; GUWAHATI BENCH ; GUWAHATI
ORIGINAL APPLICATION NO.13 OF 1995

Rupak Medhi & ors. Applicant

-vs-

Union of India & ors Respondents

-PRESENT-

THE HON'BLE JUSTICE SHRI M.G.CHOUHARI, VICE CHAIRMAN
THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (ADMN)

For the applicant : Shri B.K.Sharma, Advocate
For the Respdts. : Shri G.Sarma, Adl.C.G.S.C.

DATE

ORDER

30.1.95

Mr S.Sarma holding for Mr B.K. Sharma for the applicant.

Mr G.Sarma, Adl.C.G.S.C for the respondents.

Mr G.Sarma, the learned Adl. C.G.S.C states on instructions of Shri N.K.Rabha, Assistant Director, Telecommunication (HRD), Guwahati who is present in the Court that the applicants and other similar candidates have been allowed to appear at the screening test held on 29.1.95. In view of the same the application does not survive. It is made clear that the ad-interim

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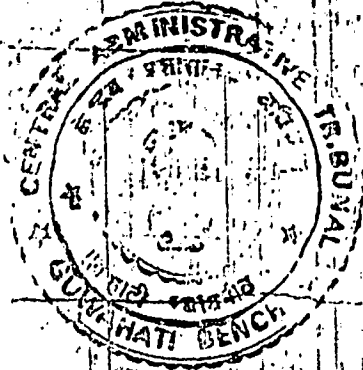
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order dated 27.1.1995 related only to allowing the applicants to appear at the test and does not deal with the consequence of their so having appeared which may be regulated by the appropriate rules. In other words the permission granted under the interim order shall not be ^{withheld to} initiated to clothe the applicants with any further rights on the strength of the order. With this clarification the application is disposed of as it is rendered infructuous.

The application stands disposed of.



Sd/- VICE CHIEFMAN

Sd/- MEMBER (ADMN)

Certified to be true Copy

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[Signature] 28/2/95

সচিব
আসাম প্রশাসনিক আয়তন
Central Administrative Tribunal
কেন্দ্রীয় প্রশাসনিক আয়তন
Guwahati Bench, Guwahati-5
গুৱাহাটী ন্যায়দীক্ষ, গুৱাহাটী-৫

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.107 of 1996.

Date of Order : This the 18th Day of August, 1998.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Rupak Medhi & 48 others. . . . Applicants.

By Advocate M.H.B.K.Sharma, B.Narima.

- Versus -

Union of India & Ors. . . . Respondents.

By Advocate Sri S.Ali, Sr.C.G.S.C.

ORDER

BARUAH J.(V.C)

49 applicants have approached this Tribunal by filing the present Original Application seeking certain directions. At the material time they were working as Telecom Technical Assistants in the department of Telecommunication and posted at various places in both Assam Circle and N.E.Circle. By Annexure-1 letter dated 13.12.1994 the applicants were allowed to appear in the screening test against 35% quota for the purpose of promotion to Junior Telecom Officer. Thereafter their candidature had been rejected by Annexure-4 letter dated 25.1.1995 issued by the Director of Telecom, Departmental Examination Section. Being aggrieved the applicants approached this Tribunal by filing O.A.No. 13/95. The said O.A. was disposed of by this Tribunal by order dated 27.1.1995 directing the respondents to allow the applicants to appear in the examination. By Annexure-6 letter dated 27.1.1995 similar test had also been taken by the department and accordingly they appeared in the examination. But unfortunately the result of the said examination was not declared. Situated thus, the applicants have approached

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this Tribunal by filing the present application. During the pendency of this present application the results had been declared. However, no further action has yet been taken in respect of those applicants who passed the examination.

2. We have heard Mr B.K.Sharma, learned counsel appearing on behalf of the applicants and Mr S.Ali, learned Sr.C.G.S.C. for the respondents. On hearing the counsel for the parties we dispose of this application with a direction to the respondents to take the follow up actions in respect of those applicants who passed the departmental examination as early as possible at any rate within a period of 2 months from the date of receipt of this order. We make it clear that if the applicants are still aggrieved regarding the follow up action including the fixation of seniority etc. liberty is given to the applicants to approach this Tribunal.

Application is disposed of. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)



Certified to be true Copy
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24/3/99

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal.

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-6

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24/7/99

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8 SEP 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI-BENCH

O. A. No. 134 OF 2000

Shri Kamalakshya Sinha & others
.....Applicants

- VS -

Union of India & others

IN THE MATTER OF :

Written statements submitted by Respondents.

1. That with regard to para 1, the respondents beg to state that under the provision of J. T. O. (Recruitment) Rules, 1996, 35% of vacancies in the cadre of J. T. O. are filled up by promotion from PI/RSA/WO/TTA through a qualifying Screening Test. Accordingly, Screening Tests are held from time to time to fill up the existing vacancy as well as future vacancies..

The last Screening Test under R. R. 1990 and ~~1996~~ was held in January, 1995 and the qualified officials were waitlisted for promotion to J. T. O. against future vacancies and are being absorbed against 35% quota of vacancies arising from year to year.

J. T. O. R. R. 1999 were framed and notified/published in the Gazette of India on 1.9.99 and came into force from 1.-9.-99. In view of the new R. R., the vacancies arising upto 31.8.1999 can only be filled up by qualified officials of Screening Test held under 1996 R. R. In other words, all vacancies arising on or after 1.9.1999 will be filled up under R. R. 1999. For this separate Test under, R. R. 1999 will be held separately in due course of time.

Contd.... 2/P

(A. DEB ROY)
Sr. C. G. S. C.

C. A. T., Guwahati Bench

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The vacancies under 35% quota arising upto 1998 have already been filled up from among the qualified officials of 1995 examination. Vacancies for 1999 and upto 31.8.1999 have been worked out and it is found that no vacancy in general or S. T. reserved category will be available after accommodating the waitlisted qualified officials of 1995 exam. However, some S. C. reserved posts will still remain vacant as there is no qualified officials from ^{the} community in the waiting list.

The proposed Test under R. R. 1996 is aimed at making an eligibility list for promotion to J. T. O. under 35% quota of vacancies arising upto 1.9.99. In view of the change of R. R. in S. C. cadre only due to reason mentioned above, the qualified officials of the Test cannot be considered for promotion to J. T. O. against vacancies which may arise after 1. 9.1999.

As the vacancies which are to be filled up under 35% quota in accordance with R. R. 1996 fall under S. C. reserved category, it is needless to allow the officials of other category to sit in proposed Test. Such an ~~EXERCISE~~ exercise will be meaningless as it is already known that the qualified candidates cannot be absorbed to ~~the~~ the J. T. O. cadre for want of vacancy. Accordingly, the Hall permits of all o/c, and S.T. officials were cancelled under G. M. T. Guwahati order No. Rectt-3/35/ part 1/117 dt. 28.3.2000.

The order dated 28/3/2000 is a reasoned one and the circumstances leading to the issuance of the order have been abundantly explained in para 1,2 and 3 of the order under attack. The cancellation of the Hall permits was necessitated by the introduction of the New R. R. 1999 and the actual vacancy position in the circle and the availability of qualified officials of 1995 Test.

2. That with regard to paras 1 and 3 the respondents beg to offer no comments.

3. That with regard to para 4, it is stated that the Hall permits issued to General and S. T. officials were cancelled vide CGMT Guwahati order dated 28/3/2000 as it became clear by that time that it would not be possible to accommodate any O. C. or S. T. officials in the J. T. O. cadre for want of vacancy. The reason for cancellation of the Hall permits is also noted in the same order. As already explained in para 1 above, there do not exist any vacancy of J. T. O. under general and S. T. category after absorbing the qualified and wait-listed officials of 1995 exam. Since there is no vacancy to be filled up under R. R. 1996 for U/R and S. T. category, there cannot be any valid ground for conducting the Test for general or S. T. officials.

The Hall permit to the applicants were issued by the CGMT Guwahati under letter No. Rectt-3/35/Part I/76 dated 12/5/99, before the introduction of the new R. R. 1999. After the introduction of the R. R. 1999 and in view of the changed situation a revised notification was issued under CGMT Guwahati letter No. Rectt-3/35/part I/88 dated 14/12/99 wherein it was made clear that the propose Test will be conducted under R. R. 1996 for vacancies upto 31-8-99 and the qualified officials of the Test shall not have any claim/right for their training and promotion to J. T. O. except to the extent of vacancy, if any left over after accommodating the wait listed qualified officials of 1995 exam. In any case the qualified officials of the second Screening Test shall have no claim what-ever against vacancies occurring on or after 1.9.1999.

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The notification dated 14/12/99 was issued pending calculation of vacancies under 35% quota as the test was re-scheduled to be held on 8/1/2000 and the calculation of vacancy was still in process.

The above schedule for holding the Test was cancelled by TCHQ and the same was again rescheduled to be held on 22/4/2000. By that time the calculation of vacancy was complete and it transpired that no vacancy would be left under 'General' and 'ST' category after accommodating the wait-listed qualified officials of 1995 Test. In the given situation the order dated 28/3/2000 was issued thereby cancelling all the Hall permits with assurance to issue fresh Hall permits ~~(with assurance to issue fresh Hall permits)~~ to S. C. applicants.

The proposed Screening Test under R. R. 1996 covers the post occurring upto 31.8.99 and the posts arising on or after 1.9.99 will be filled up under R. R. 1999. The vacancies upto 31.8.99 falling under 35% quota to be filled up by qualified candidates of Screening Test having been worked out to transpire that there is no left out vacancy under 'UR' and 'ST' category to be filled up after accommodating the wait-listed qualified officials. Since no vacancy is available it will not be possible to promote any official even if they come out successful. Nor the post which may arise after 31/8/99 can be filled up by the qualified officials of the proposed exam. No useful purpose will, therefore, be served by permitting the applicants to appear the Test.

4. That with regard to para 4.2 no comment.

Contd..... 5/P

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5. That with regard to para 4.3 it is stated that the Recruitment to the cadre of J.T.O. is governed strictly by the J.T.O. Recruitment Rules and there is absolutely no space for adjustment at Circle Level beyond the provision of the R. R. at the relevant period of time. The applicants are eligible to appear in the Screening Test held under R. R. 1996. But unless there are vacancy it is of no use to allow them to sit in the Test. It will be fruitless exercise at the public expense.

6. That with regard to para 4.4 it is stated that in view of the introduction of new R. R. the only purpose of holding the examination is to prepare a select list for promotion to J.T.O. against existing vacancy under 35% quota. Since no vacancy exist under the quota for 'General' and 'ST' category no plausible reason can exist to allow the applicants who are all 'General' or 'ST' officials to sit in the examination.

7. That with regard to para 4.5 the respondents beg to submit that the availability of vacancy at the time of holding the 1st Screening Test in 1995 was not a determining factor because in any case the qualified official could be empaneled for promotion against vacancies which would arise at subsequent years. In the instant case, this empanelment of the qualified officials is not permissible in view of the introduction of the New R. R. 1999. The posts occurring after 1.9.99 cannot be filled up under R. R. 1996. A separate examination will be conducted under the new Rules for filling up the future vacancies.

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8. That with regard to para 4.6 the respondents beg to submit that the highest authority of the Telecom department has clarified under their letter No. 5-11/99-NCG dated 27/10/99 that the vacancies arising prior to 1.9.99 can only be filled up by the qualified officials of 35% quota as per R. R. of 1996. It was further added that if still some screened officials are left, then they will have no claim and they will have to appear as fresh in competitive Examination under 35% quota in accordance with the new R. R. 1999.

The TCHQ under their letter No. 5-11/99-NCG dtd. 23.9.99 also clarified that the New R. R. of J.T.O. have been notified on 1.9.99 and all vacancies arising after 31.8.99 will be filled up as per new R. R. of J.T.O.

The TCHQ/ND letter dtd 23-09-99 and 27-10-99 are marked as Annexures R1 & R2 respectively.

9. That with regard to para 4.7 the respondents beg to state that vacancies occurring after 31.8.99 will be filled up in accordance with the provision of New R. R. and competitive Examination will be held in due course of time to fill up the 35% quota of vacancies. All the eligible departmental officials will have the opportunity to appear in the Exam and compete for the post.

10. That with regard to para 4.8 the respondents beg to state that there was dispute about the eligibility of the T.T.A. to appear in the Screening Test under JTO R.R. 1996. The same was settled by the Department and the TTAS have been provisionally permitted to sit in the Screening Test irrespective of the length of service in that, cadre. ^{At} The present there is no dispute about the eligibility of the TTAS to appear provisionally in the Screening Test and in fact the Hall permits were also

issued to them. The controversy in the instant case is about the need for holding the Test for 'General' and 'ST' category in the absence of vacancy.

The factual position is that 10 qualified officials of 1st Screening Test are still to be accommodated in the JTO cadre. Apart from that, 12 PI/RSA/WO/TTA belonging to walk in group are also wait listed for promotion to JTO. The available posts are not sufficient to accommodate even these wait listed officials.

11. That with regard to paras 4.9 and 4.11 the respondents beg to state that the OAs cited in para 4.9 and 4.10 may be of similar nature about the eligibility of TTAs under R. R. 1996 to appear in the Screening Test for promotion to J.T.O. In pursuance to the orders passed by the CAT in various O. As, the T. C. H. Q. had issued instructions under their letter No. 5-11/99-NCG dated 12/3/99 to permit the TTAs to appear in Screening Test irrespective of service length on a provisional basis subject to the outcome of pending OAs.

As already explained in para 4.8 above the orders passed in these OAs do not help the case of the present applicants.

12. That with regard to para 4.11 the respondents beg to state that the order dated 28/3/2000 was issued after detailed examination of the vacancy position and keeping in view the JTO Rectt Rules 1996 and 1999. As there is no vacancy for 'ST' and 'Genl' category and since future vacancies cannot be filled up by the screened officials of the proposed Test, it is needless to allow the applicants to sit in the Test with advance knowledge that even if they qualify they cannot be promoted for want of vacancy.

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13. That with regard to para 4.12 the respondents beg to state that the Respondent Deptt, particularly the Respondent No. 2 has no knowledge of any such controversy existing in T. N. Circle and how it is settled.

In any case, the vacancy position, the availability of qualified officials of earlier Test, availability of officials in the feeder cadre belonging to walk-in-group vary from circle to circle. Each Circle has to take independent decision on the basis of position of that Circle.


14. That with regard to para 4.13 the respondents beg to state that the only purpose of appearing in the departmental promotional Test is to secure promotion. The promotion in turn is subject to availability of vacancy. Unless there is any vacancy no promotion can be made.

The applicants cannot be promoted to J.T.O. even if they qualify for want of vacancy and in view of the change of R. R. In the situation, it is of no use to allow the ~~applicants~~ applicants to appear in the Test. It will not be in the ~~applicants to appear in the Test~~ interest of the applicant nor the Deptt.

V E R I F I C A T I O N

I, G. C. Sarma, Asstt. Director Telecom (Legal); Guwahati, being authorised do hereby declare that the statements made in this written statement are true to the knowledge and information and no material fact has been suppressed.

And I sign this verification on this 25th day of August 2000.


Declarant
Asstt. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781007

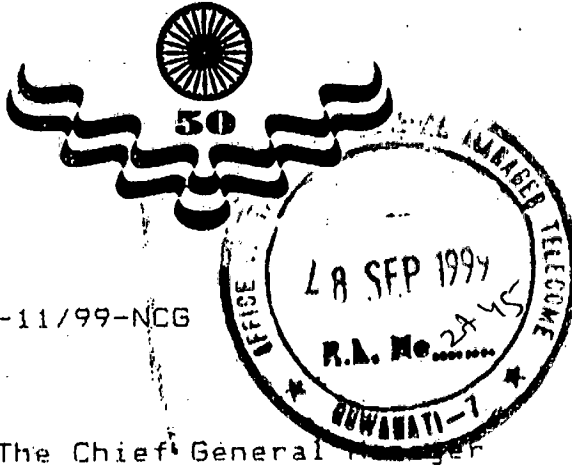
-9-
Annexure-R1

हिन्दी का मान : राष्ट्र का सम्मान

भारत सरकार
दूर संचार विभाग
संचार भवन, २०, अशोक रोड,
नई दिल्ली - ११०००१

49/33
46/c

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20/9



Government of India
Department of Telecommunications
Sanchar Bhawan, 20, Ashok Road,
New Delhi - 110001

No.5-11/99-NCG

Dated: 23.9.99

To

The Chief General Manager
Assam Telecom Circle
Ulubari Guwahati - 781007.

Sub:-Eligibility conditions to appear in JTO Quali-
fying Screening and Competitive Examination.

I am directed to refer to your letter No.Rectt-
3/25/89(Part)/40 dated 10th May 1999 on the above sub-
ject & to state that the PI/AEA/TA/WO turned TTAs who
possess the requisite qualification prescribed in column
No.8 of J.T.O. Recruitment Rules 1996 and have complet-
ed atleast 5 years ~~total~~ service including the service
rendered in the cadre of PI/AEA/TA/WO, can be considered
for promotion as JTOs under walk-in group category under
35% quota. It is further clarified that new Recruitment
Rules of J.T.O.s have been notified on 31.8.99. All
vacancies arising after 31.8.99 will be filled up as per
new R/R of J.T.O.

of regular

(Signature)
22/9

(J.B.JAIN)
Asstt.Dir.Gen.(STC)

(Signature)
28/9

ADT(F+R)

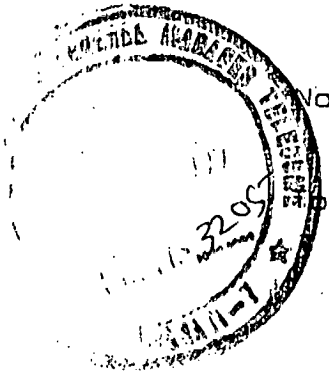
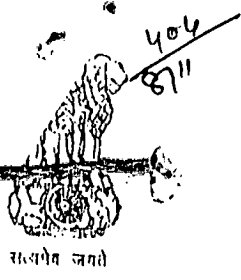
28/9

SSC(E 2002)
20/9

हिन्दी का मातृ : राष्ट्र का सम्मान

भारत सरकार
दूरसंचार विभाग
संचार भवन, 20 अशोक रोड,
नई दिल्ली - 110009

Government of India
Department of Telecommunications
Sanchar Bhawan, 20, Ashok Road,
New Delhi - 110001



No.5-11/99-NCG

Dated: 27.10.99

The Chief General Manager
Assam Telecom Circle,
Guwahati - 781007.

Sub:-Recruitment Rules for the post of JTO - clarification reg.

Please refer to your d.o.letter No.Rectt.3/5/25-89(PI) dated 4.10.99 addressed to DDG(P) on the subject noted above. I am directed to state that since new Recruitment Rules of JTO have been notified/published in the Gazette of India on 1.9.99, hence the vacancies arise prior to 1.9.99 can only be filled by the qualified officials of 35% quota as per Recruitment Rules of 1996. While absorbing such officials, instructions already issued for making select panel of among the screened officials and walk-in officials be followed. It is further added that if still some screened officials are left, then they will have no claim, and they have to appear as fresh in competitive examination under 35% quota in accordance with the new Recruitment Rules of JTO notified on 1.9.99.

In view of the above, the necessary action may be taken.

(Signature)

(J.B.JAIN)
Asstt.Dir.Gen. (STC)

Done A
3/11
ADT (CENT)
(2)
5/11

SSS (E&R) / M.S.
8/11/99