

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-274/2001 order sheet no-1 to 2 INDEX

Disposed Date-26/02/2002

O.A/T.A No. 363/2001

R.A/C.P No.....

E.P/M.A No. 274/2001

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SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 363/2001

Applicant (s) G. K. Das

Respondent(s) U. O. T. Govt

Advocate for the Applicant: J. L. Sankar, S. Deka, A. Chakraborty

Advocate for the Respondent: Cash.

Notes of the Registry	Date	Order of the Tribunal
This application is in form but lacks the incorporation petition. It was filed vide M. P. No. <u>X</u> C. F. for Rs. 50/- deposited vide IPO/BD No <u>64788205</u>	<u>10.9.2001</u>	List the case again on 14.9.2001 for admission. In the meanwhile, Mr. A. Deb Roy, learned Sr.C.G.S.C for the respondents may obtain necessary instruction
Dated.... <u>6.9.2001</u> <i>By Register.</i>		<u>K. C. Sharma</u> Member
	<u>14.9.2001</u>	Admit, call for the records, returnable by four weeks. List on 16.10.2001 for order.
		<u>K. C. Sharma</u> Member
	<u>16.10.01</u>	Mr. B. C. Pathak has prayed on behalf of Mr. A. Deb Roy, who has been hospitalised for time to file written statement.
<u>17.9.2001</u> W/C submitted by the Respondent		Prayer accepted. List on 26.11.2001 enabling the respondents to file written statement.
		<u>K. C. Sharma</u> Member

Notice delivered and sent to D/Ls
for giving the Respondent 10 days by
Regd. A.D. 18.9.01

Vick D. M. all

(2)

26.11.01

Written statement has been filed by the respondents. The case may now be listed for hearing. The applicant may file rejoinder, if any.

List on 3.1.2002 for hearing.

No. Wts has been filed.

23/11/01

IC Usha
Member

Vice-Chairman

No. rejoinder has been filed.

mb
3.1.02

Prayer has been made by Sri M. Chanda on behalf of Sri J.L. Sarkar, learned counsel for the applicant for adjournment on the personal ground. The case is accordingly adjourned. List again on 24.1.2002 for hearing.

No. Rejoinder has been filed.

My
23.1.02.

IC Usha
Member

Vice-Chairman

mb

24.1.02

On the prayer of Mr. J.L. Sarkar, learned counsel for the applicant the case is adjourned. List on 26.2.2002 for hearing.

20.2.2002
Copy of the First
has been sent to the
Office for laying the
case to the applicant
as well as to the Dr.
G.S.C. for the Rejoinder
etc

21/3/02

IC Usha
Member

Vice-Chairman

mb

26.2.02

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.

IC Usha
Member

Vice-Chairman

bb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 363 of 2001.

Date of Decision. 26.2.2002

— — — — Sri Gautam Kr. Das, J.T.O.

— — — — Petitioner(s)

— — — — By J.L.Sarkar, Mrs.S.Deka &
Mr.A.Chakraborty.

— Versus —

— — — — Advocate for the
Petitioner(s)

— — — — Union of India & Others.

— — — — Respondent(s)

— — — — Mr.A.Deb Roy, Sr.C.G.S.C.

— — — — Advocate for the
Respondent(s)

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

THE HON'BLE MR. K.K. SHARMA, 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.

NO

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.363 of 2001.

Date of Order : This the 26th Day of February, 2002.

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

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Sri Gautam Kr. Das, J.T.O. . . . Applicant.

By Advocate Mr.J.L.Sarkar, Mrs.S.Deka &
Mr.A.Chakraborty.

- Versus -

1. Union of India

Through the Secretary to the Govt. of India
Ministry of Communication
Department of Telecommunication
New Delhi.

2. The Director General

Department of Telecommunication
Government of India
Sanchar Bhawan
New Delhi - 110 001.

3. The Assistant Director General (DE)

Department of Telecommunication
Government of India
Sanchar Bhawan
New Delhi - 110 001.

4. The Chief General Manager Telecom

Assam Circle
S.S.Bora Road
Ulubari, Guwahati - 7.

5. The Director (HRD)

Bharat Sanchar Nigam Ltd.,
20, Ashoke Road
New Delhi - 110 001.

. . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C) :

Since the names of the applicant Nos.2 to 7 are struck off from this application in terms of the order passed in M.P.274 of 2001 the application is confined to aforementioned applicant only. In this application the applicant assailed the notification No.5-7/2000-DE

dated 20.4.2001 whereby the authority decided to hold Departmental Competitive Examination to fill up the vacancies arising for the period 1996-97 (23.7.96 to 31.3.97), 1997-98, 1998-99, 1999-2000, 2000-2001 as per the new Recruitment Rules 1996 of TES Group-B pertaining to the limited Competitive Examination against 25% quota.

2. One grievance of the applicant in this application is the decision of the respondents to hold one Competitive Examination for all these years. The applicant pleaded that year wise vacancies are to be filled up by holding separate Departmental Examinations against each year promotion.

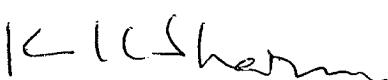
3. The respondents submitted its written statement contesting the claim of the applicant. It was clearly stated that the respondents were unable to hold the examination earlier as the examination for vacancies upto 22.7.96 could not be held in time owing to number of Court/CAT cases filed by the J.T.O.s and only after completion of finalisation of those matters the authority decided to conduct the examination. The respondents in its written statement stated that it is desirable to conduct Departmental Examinations each year subject to availability of vacancy, but the same cannot be done owing to the inhibition of the Department. In the written statement the respondents also stated that the candidates submitted separate applications for each vacancy year and their eligibility as on 1st July of the

respective vacancy year were scrutinised and finalised and they would receive due consideration for promotion only against the vacancy year for which individual were eligible. Though the examination is one and the same for all separate candidates they would receive independent and separate consideration for promotion of individual candidates depending on the year(s) for which the individual was eligible and performance in the competitive examination. The respondents also stated that the present applicant Gautam Kr. Das did not apply for the post which Mr.J.L.Sarkar, learned counsel for the applicant, seriously objected.

4. Considering all the aspects of the matter we are not inclined to go into the issue, leaving the applicant to pursue the matter departmentally.

With this application stands disposed of.

There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

bb

ცენტRAL მსამართის აღმუნება
Central Administrative Tribunal

- 6 SEP 2001 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

গুৱাহাটী ৰাজ্যিক GUWAHATI BENCH :: GUWAHATI
Bench

OA NO.

363

OF 2001

Sri Gautam Kr. Das & Others

- Versus -

U. O. I. & Others.

I N D E X

<u>Sl. No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page No.</u>
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3.	'A/1'	Notification dated 20.04.2001	14 - 15
4.	'A/2'	Representation dated 07.07.2001	16 - 17

Filed by :

Khakarab

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA NO. 365 OF 2001

BETWEEN

1. Sri Gautam Kr. Das, J.T.O.
2. Kallol Chakraborty, J.T.O.
3. Sri Amar Deka, J.T.O.
4. Sri Satrajit Narayan Mondal, JTO.
5. Sri Arun Kr. das, J.T.O.
6. Sri Montu Kr. Baishya, J.T.O.
7. Mukhutar Rahaman, J.T.O.

.....APPLICANTS

- AND -

1. Union of India

Through the Secretary to the Govt.
of India, Ministry of Communication,
Department of Telecommunication,

New Delhi.

Contd.....p/2

*Filed by the applicants
through P.C. Chakraborty
Protocol
07/9/2001*

2. The Director General

Department of Telecommunication
Government of India,
Sanchar Bhawan,
New Delhi 110001.

3. The Assistant Director

General (DE)
Department of Telecommunication,
Government of India,
Sanchar Bhawan,
New Delhi 110001.

4. The Chief General Manager Telecom

Assam Circle,
S. R. Bora Road,
Ulubari, Guwahati 7.

5. The Director (HRD)

Bharat Sanchar Nigam Ltd.,
20, Ashoke Road,
New Delhi 110001.

.....RESPONDENTS.

DETAILS OF THE APPLICATION :

1. Particulars of the Orders against which the application is made :

The application is made against the

Contd....p/3

Notification dated 20.04.2001 announcing the departmental competitive examination for promotion to TES Gr. B. Posts, 25% quota against vacancies for the year 199697, 1997-98, 199899, 19992000 and 20002001.

2. Jurisdiction :

The applicants declares that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation :

The applicants declares that the application is within the period of limitation under Section 21 of the administrative Tribunal Act, 1985.

4. Facts of the case :

4.1 That the applicant are Citizen of India and as such are entitled to the right and privileges guaranteed by the Constitution of India. The Applicant No.3 belongs to O.B.C. and applicant Nos. 4 and 6 belongs to S.C. category and they are entitled to the rights and privileges guaranteed to the O.B.C. and S.C. employees against the vacancies reserved for them and carried forwarded year after year according to Rules and instructions. The applicants have a common cause of action and are not in a position to file individual cases and pray for permission to file the common application under Rule 4(5)(a) of the CAT procedure Rules, 1987.

4.2 That the applicants are Engineering graduates and have been appointed as Junior Telecom Officers (for short JTO) ~~as direct~~ recruits. The scope of next promotion is to Telecom Engineering Service Gr. B (for short TES, Gr. B).

4.3 That the TES Gr. B recruitment Rules, 1996 have been framed by the President of India under Article 309 of the Constitution of India. The applicant have a right for consideration of Promotion against the vacancie in TES Gr. B Service caused year after year. This scope of promotion is a recurring scope year after year. Each year when there is a vacancy such scope and right occassions under the rules and the respondents have a duty to give the applicants such scope of promotion under the rules.

4.4 That the Rules prescribes two methods of filling up the vacancies in the TES, Gr. B Service, viz. (i) ~~By~~ seniority Cum fitness 75%, (ii) By Departmental Competitive Examination ^{15%}. In both the methods 3 year regulation service in the Grade of JTO, is essential.

The Crucial date of determining the eligibility shall be first of July of year to which the vacancies pertains.

When juniors who have completed their eligibility service are being considered for promotion,

their seniority would also be considered provided they are not short of the requisite qualifying/eligibility service by more than one year and have successfully completed their probation period if prescribed.

4.5 That from the rules the following are prerequisites for the Departmental Competitive examination for vacancies occurring each year/occassion.

(i) ~~Number~~ ^Y of vacancies for TES/Gr. B during the year. 25% of such vacancies are to be filled up by competitive examination and such number is a pre-determined number, and should be published.

(ii) The quotas for S.C., S.T., O.B.C. under reservation Rule should be published for each year/occassion of competitive examination.

(iii) Names of employees (JTOs) eligible for Competitive Examination for the year to which the vacancies pertains should be finalised relaxation for one year given in deserving cases.

4.6 That the vacancies for the year are filled up by Promotion 75% seniority plus 25% Competitive and the total of those promoted in one year shall get seniority over those promoted in next year and so on in successive years.

4.7 That a notification has been issued on 20.4.2001 that Departmental Competitive Examination for promotion to Telecom Engineering service (Gr. B) under 25% quota would be held on 23.7.2001. The date of the examination has thereafter been changed from 23.7.2001 to 16.9.2001.

Copy of the notification dated 20.4.2001 is enclosed as Annexure-A/1.

4.8 That respondents have ~~to~~ taken the matter of filling up the 25% of the vacancies in a very casual manner. The previous right of scope of promotion against each of the years have not been ~~Kept~~ in mind by the respondents. The notification is for vacancies for the following years :

- (i) 1996 - 1997
- (ii) 1997 - 1998
- (iii) 1998 - 1999
- (iv) 1999 - 2000
- (v) 2000 - 2001

The notification dated 20.4.2001 does not disclose the number of vacancies for each of the years indicated above nor the number of vacancies against reservation quota has been indicated.

Moreover list of eligible candidates for the respective years have not yet been finalised and decided or published. The notification is designed to take away the scope of successive chances against ~~such each~~ year's vacancies by a candidate who is eligible for examination for each of the years. If such a candidate does not qualify for the vacancies of the year 1996-97, he shall get the scope and chance for appearing in the next year i.e. 1997-98 and so on. A failure in a particular year cannot forfeit scope and chances for succeeding year or years. The notification dated 20.4.2001 does not disclose how the scope and chances shall be regulated.

Moreover, ~~ineligible~~ candidates of some years are made equal with eligible candidates and clubbed together. It is stated that applicant Nos. 1, 4, 5 and 6 are eligible for ~~vacancies~~ of 1996-97 and all the subsequent years. It is humbly submitted that a

single chance cannot forfeit the scope and chances for number of vacancies for different years.

4.9. That candidatures have been invited giving the applicants option to appear in the competitive examination. But most unfortunately the number of vacancies for respective ~~vacancies~~ ^{years} have not been notified to enable the applicants to assess the scope and chance against the vacancies before opting for the arduous examination. List of eligible candidates is

also an important factor for opting for the examination. Availability of vacancies for SC, ST, and OBC for the particular year is also primary factor for such candidates for opting and preparing for the vacancies. Applicant No. 2, 3 and 5 are eligible for vacancies for 2000 - 2001. But they are in the dark as regard their scope and chance without the number of vacancies including of reserved vacancies.

4.10 That the notification for the said examination now scheduled on 16.9.2000 is colourable exercise of power and against the administrative policy of fairness and transparency.

4.11 That the applicant No. 1 submitted representative on 7.7.2001. No reply to the said representation has been given. The same is pending.

Copy of the representation is enclosed as Annexure - A/2.

4.12 That the applicants most respectfully beg to state that the competitive examination should not be held and finalised before finalising the list of candidates for each year, and number of vacancies for each year reserved and unreserved separately.

4.13 That the scope and chances of the candidates cannot be forfeited by offering a single chance.

4.14 That the SC, OBC candidates cannot be asked to appear without disclosing number of reserved vacancies.

5. Grounds for reliefs with legal provisions :

5/1 For that the notice dated 20.4.2001 for the competitive examination has been issued violating administrative norms and fair play.

5.2 For that the candidates including the applicants have been denied reasonable opportunity of chance against each year's vacancy.

5.3 For that offering only one opportunity against 5 examinations for five years of vacancies amounts to forfeiture of scope and chances of examinations against number of years' scope of promotion.

5.4 For non disclosure of number of vacancies against respective years opens floodgate of administrative whims and subjectivity.

5.5 For that for non-disclosure of number of vacancies the applicants can not assess their relative prospects for opting and preparing for the examination.

5.6 For that non disclosure of the number of vacancies of the SC/ST and OBCs is violative of

administrative norms and denies scope to the candidates.

5.7 For that taking Single examination for vacancies for the 25% vacancies of several years whereas 75% vacancies have already been filled up in the respective years is not covered by any rule or administrative policy and such decision is arbitrary.

6. Details of remedy exaushted :

There is no remedy under any rule. The applicant No. 1 submitted representation dated 7.7.2001 but no reply has been give.

7. Matter not pending before any other Court :

The applicants declare that they have not filed any other case in any tribunal Court on the subject matter.

8. Reliefs sought for :

In the facts and circumstances of the case the applicants pray for the following reliefs :

8.1 The notification dated 20.4.2001 announcing the departmental competative examination for promotion to TES, GR. B posts, 25% quota against vacancies for

1996-97, 1997-98, 1998-1999, 1999-2000 and 2000-2001 be set aside and quashed.

8.2 The examination fixed on 16.9.2001 in place of 23.7.2001 by the notification dated 20.4.2001 should not be held and cancelled.

8.3 The applicants/candidates be given chance and allowed to appear ⁱⁿ successive years of examinations according to eligibility and those failing in a year be allowed to appear in the examination of the following year.

8.4 The vacancies of the respective years be disclosed.

8.5 The reservation for the SC, ST and OBC against the respective years be disclosed.

The above reliefs are prayed for on the grounds stated as para 5 above.

9. Interim relief prayed for :

During the pendency of this application the applicants pray for the following reliefs :

9.1 The holding examination fixed on 16.9.2001 be stayed /suspended .

9.2 The examination for the vacancies of 1996-97 be held first disclosing the number of vacancies with reserve vacancies.

10. This application has been filed through Advocate.

11. Particulars of Postal Order :

(i) IPO No. : 66788204
(ii) Date of Issue : 6/9/2001
(iii) Issued from : Guwahati
(iv) Payable at : Guwahati

12. Particulars of Enclosures :

As stated in the index.

contd....to...Verification.

VERIFICATION

I, Kallol Chakraborty, aged about 31 years, resident of Panbazar, Guwahati, working as Junior Telecom Officer, the applicant No.2 in this application, on being authorised by other applicants do hereby verify that the statements made in para 1, 4, 6 to 12 are true to my personal knowledge and those made in para 2, 3, and 5 are true to my legal advice and that I have not suppressed any material facts.

And I, sign this verification on this 5th day of september, 2001.

Guwahati

Signature

BHARAT SANCHAR NIGAM LIMITED
(Departmental Examination Branch)

Dark Haven, Sarsai Marg

New Delhi-110001

Dated the 20th April, 2001

5-7/2000-DE

To

The Chief General Managers, Telecom Circles.
The Chief General Managers, Calcutta Telephones/Chennai Telephones
The Chief General Manager Mtce. NTR New Delhi.
The Chief General Manager, MTNL, Mumbai/Delhi
The Chief General Manager, ALTTC, Gaziabad.

Subject:- Departmental Competitive Examination for promotion to Telecom Engineering Service (Gr. -B) under 25% quota to be held on 23/7/2001.

This departmental competitive examination is scheduled to be held on 23-07-2001 to fill up the vacancies arising for the period 1996-97 (23-07-96 to 31-03-97) , 1997-98, 1998-99 1999-2000, 2000-01 as per new Recruitment rules 1996 of TES Group B. This examination will consist of two papers as per syllabus circulated vide letter no. 2-48/2000-STG.II dated 03-10-2000.

The time table will as under:

<u>Paper</u>	<u>Subject</u>	<u>Maximum marks</u>	<u>Day & Date</u>	<u>Time(IST)</u>
I	Advanced Technical Paper-General (Objective type)	100	Monday, the 23-07-2001	10.00 AM to 1.00 PM
II	Advanced Technical Paper-Special	100	-do-	2.00 PM to 5.00 PM

The examination will be conducted by the Heads of Telecom Circle and will be held at such centers as may be fixed by the heads of Telecom Circles.

ELIGIBILITY:

The eligibility for appearing the TES GroupB Competitive examination(25% quota) shall be as per TES Group B recruitment rules 1996 dated 23-07-1996 as below.

3 Years regular service in the grade of JTO.

The crucial date for determining the eligibility shall be 1st of July of year to which the vacancies pertains.

*A. H. S. Patel
Advocate*

Minimum Pass Marks:-

For the competitive examination 50% marks in each paper for O.C. candidates and 45% marks for SC/ST candidates.

Officials who are eligible in accordance with the eligibility conditions laid down in para-3 and who desires to sit in the examination should submit their application in the proforma attached through proper channel to the respective Heads of circles holding the examination. The examination will be conducted in India only.

The last date for receiving the application will be 31/05/2001. No application received after the closing date will be entertained.

The Heads of Telecom Circles /(CGM Maintenance ,NTR , New Delhi for conducting the exam in Delhi) will be responsible for the actual conduct of the examination in respect of the admittance to appear under instruction by the Head of the Administration Officers situated at their Head Quarter in their limited jurisdiction.

The eligible candidates who are on deputation to other departments - in India or abroad shall be informed of the examination by the circles etc. on whose strength they are on deputation to the present organization. The examination will be conducted in India only.

The candidates at present posted in the Telecom Directorate will submit their application to the circles of their recruitment as JTOs . Permission to appear in the examination will be granted by their circle Heads / CGM, NTR, New Delhi. For any clarification regarding eligibility/ syllabus or service matters, such cases may be referred to in the staff section (STG-II) in the Telecom Directorate.

The receipt of this letter may kindly be acknowledged.

(N. Venugopalan)
Astt Director General(Departmental Examination)
Sanchar Bhawan, New Delhi-110001

To
The Director, (HRD)
Bharat Sanchar Nigam Limited.
20, Ashoka Road,
New Delhi - 110001.

(through proper channel)

Sub:- Prayer for Prior intimation regarding yearwise and categorywise (SC/ ST/ OC) vacancy positions before conducting the TES Group-B departmental competitive examination against 25% quota.

Ref:- ADG (DE) Lt./no.5-7/2000-DE dtd 20/4/01.

Respected Sir,

With due humble & respect, I would like to submit the following few lines for favour of your kind information & sympathetic consideration please :-

- 1) That Sir, bulk recruitment to the cadre of JTO took place from the year 1989 since the relaxation of ban on recruitment being imposed during the year 1984 and thereafter the TES Gr.B new recruitment rule was promulgated w.e.f 23/7/1996 after stalling the previous TES Gr.B recruitment rules.
- 2) That Sir, it is notified to conduct the TES Gr.B competitive examination on 16/9/01 and in the single attempt examination, the fate of candidates would be decided for the vacancies of the consecutive year endings w.e.f from 23/7/96 - '97, '97-'98, '98-'99, '99-'00, '00-'01.
- 3) That Sir, elsewhere or in the said notification of conducting the departmental competitive examination scheduled on 16/9/01, neither the yearwise & categorywise (SC/ST/OC) separate break up of vacancies nor the satisfactory reasons for not conducting the said exam. in time in the past years on year to year basis is mentioned.
- 4) That Sir, in the past, in the cases of all other departmental competitive examinations such as JTO departmental competitive examination (10% / 15% quota) and RSA/PI/WO/AEA departmental competitive examination (100% quota) etc., department was mentioning through circular clearly the vacancies alongwith breakup of vacancies categorywise i.e., SC/ST/OC and as a result eligible candidates were getting the information before appearing in the said examinations but this time in the case of TES Gr.B departmental competitive exam. (25% quota), it is not yet circulated to all heads of telecom circles and thus all JTOs are kept in dark in this regard.

As a result, the eligible candidates are going to be deprived from their legitimate right of knowing the information of vacancies as well as their categorywise break up before appearing in the concerned examination. This is also causing hindrance in preparing for the examination and concentrating on studies besides affecting the candidates manyways.

Therefore, Sir, it is fervently requested to kindly intimate the candidates or all the heads of recruiting/non-recruiting Circles, the year to yearwise vacancies alongwith SC/ST/OC categorywise break up of TES Gr.B posts against 25% departmental competitive quota before conducting the examination and if the vacancy positions are not ready, then till finalization of the vacancies & break up, the examination may kindly be deferred.

Sir, I shall be highly grateful to you if a few lines in reply is kindly communicated please. Otherwise, this letter may kindly be treated as seeking of your kind permission in advance to approach to concern appropriate authority in time for want of justice please.

Thanking you very much with respectful regards,

yours faithfully,


(GAUTAM KUMAR DAS)
Junior Telcom Officer.
Microwave Station/ ETR
I T A N A G A R.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 363/2001

Shri Gautam Kr. Das ^{YOGI}

- VERSUS -

Union of India & Ors.

- And -

In the matter of ;

Written statement submitted by the
respondents

The written statements of the abovenoted respondents are as follows :-

1. That with regard to para 1, 2, and 3, the respondents beg to offer no comments.
2. That with regard to para 4.1, the respondents beg to state that the applicants are the employees of the Department of Telecom presently working as JT0. Applicant No. 2, 3, 4, 5, 6, 7 have submitted applications for appearing in the competitive examination scheduled to be held on 16.09.2004 for promotion to TES 'B' (SDE) against the vacancy year 96-97, 97-98, 98-99, 99-2000 and 2000-01. They are found eligible and Hall permits have been issued to them after allotting Roll Numbers. No application has been received by the Respondent No.4, from Shri Gautam Kumar Das (Applicant No.1).

Applicant No. & Roll No. Eligible for Vacancy year (Legend Name
 E=eligible N/E= Not Eligible)

		96-97	97-98	98-99	99-00	00-01
1.	Sri Gautam- Kr. Das	Application not received by CGMT/Assam				
2.	Sri Kallol- Chakraborty	ASM/TES/B/2001/94	N/E	N/E	N/E	N/E Eligible
3.	Sri Amar Deka	ASM/TES/B/2001/93	N/E	N/E	N/E	N/E Eligible
4.	Sri S.N. Mondal	ASM/TES/B/01/88	N/E	N/E	N/E	N/E Eligible
5.	Sri A.K. Das	ASM/TES/B/2001/89	E	E	E	E
6.	Sri M.K. Baishya	ASM/TES/B/01/98	E	E	E	E
7.	Sri M. Rahman	ASM/TES/B/2001/96	N/E	N/E	E	E

According to the Rules and orders of the Government of India, certain facilities/concessions are available to the members of SC/ST community in the matter of promotion in service. However, no such facility/concession like reservation of post, lower qualifying marks are available to OBC for promotion.

3. That with regard to para 4.2, the respondents beg to state that the contents of this para are formal hence they do not call for any reply.

4. That with regard to para 4.3, the respondents beg to state that the TES Group 'B' Recruitment Rules 1966 have come into force from 23.7.96. That is the vacancies arising on and after 23.7.96 will be filled up in accordance to the provision of the said Recruitment Rules.

According to the provision of the Recruitment Rules, the 75% of the vacancies are filled up by promotion from JTO on seniority-cum-fitness basis and the rest 25% through a competitive examination. The proposed examination scheduled to be held on 16.9.2001 is the first one under the new Recruitment Rules. The last such competitive examination was held in Nov 2000 under old recruitment rules for vacancies upto 22.7.1996. (In the present case it was not possible to hold the examination earlier as the examination for vacancies upto 22.7.1996) In the present case it was not possible to hold the examination earlier as the examination for vacancies upto 22.7.96 could not be held in time owing to number of Court/CAT cases filed by J.T.O.s. The examination could be finally completed in Nov.2000 after all the Court/CAT cases were decided. The Department could initiate the process of holding the examination under new Recruitment Rules only after the last examination under old Recruitment Rules are completed.

5. That with regard to para 4.4, the respondents beg to state that the contents of this para are formal hence they do not call for any reply.

6. That with regard to para 4.5, the respondents beg to state that though it is desirable to conduct the examination each year, depending upon availability of vacancy, the same can not along be adhered to owing to various reasons beyond the control of the Department. The holding of the examination is also not mandatory according to Recruitment

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rules. However, as conveyed by Joint DDG (DE), New Delhi details of vacancy are as below .

Year	SC	ST	OC	Total
23.7.96- 31.3.97	82	41	426	549
97-98	81	40	416	537
98-99	125	63	646	834
Total	288	144	1488	1920
99-2000	information has been received from some circles, while reports are yet to be received from some circles		793 (tentative, based on information received from some circle)	
2000-2001	same as above		813 (tentative, based on information received from some circle)	
Grand Total			3516 (Approx.)	

The examination is a limited departmental examination for internal recruitment of SDE. The calculation and declaration of vacancy position alongwith the notification is not essential.

7. That with regard to para 4.5(ii), the respondents beg to state that according to the Reservation policy of the Government of India, some posts are reserved for SC and ST. However, there is no reservation for members of OBC in posts filled by promotion.

8. That with regard to para 4.5(iii), the respondents beg to state that the eligibility of the J.T.O.s have been scrutinized on year to year basis and those found eligible for more than one year have been listed for consideration against vacancies of respective years.

9. That with regard to para 4.6, the respondents beg to state that the J.T.O. selected for promotion against vacancy of earlier year rank enblock senior to those promoted against vacancies of subsequent years.

10. That with regard to para 4.7, the respondents beg to state that the notification for the examination was duly issued by the Departmental Examination of the B.S.N.L. vide their O.M. No. 5-7/200-DE dated 20.04.2000. The same was circulated by the Respondent No.4 (CGMT.GH) to all Heads of units along with a specimen application form for inviting application from eligible and willing candidates. After the issuance of the initial notification certain clarification regarding eligibility was issued vide OM No. 5-7/200-DE dated 21.06.2001. All the clarifications were immediately circulated to all concerned for their information.

Through the initial circulars and subsequent clarification as above it was made abundantly clear that the examination (would be examination) would be held to fill up the 25% competitive quota of vacancies in the grade of SDE(TES, Group B) for the year 96-97, 97-98, 98-99, 99-2000 and 2000-01.

The JTO who have completed three years of regular service (including the period spent on pre-appointment training) as on the 1st July of the respective vacancy year would be eligible to appear in the examination and considered for that vacancy year. It was also made clear that where Junior who have completed the qualifying eligibility service are being considered for promotion, their seniors would also be considered provided they have completed 2 years and have successfully completed probation period , if prescribed.

For better appreciation of the eligibility from year to year the candidates were instructed to submit separate applications for such vacancy years. Thus a candidate who is eligible for all vacancy years was required to submit 5 applications and he has been considered against vacancies of 96-97 followed by 97-98 and so on. Other candidates who may not be eligible for all the 5 years but eligible for some particular year(s) can make application for the particular year (s) and have been considered for vacancies of that/those years.

After the issuance of above clarification and to provide time for fresh applications, the closing date for submission of application was extended upto 27.7.2001. Likewise the examination date was changed from 23.7.2001 to 16.09.2001.

11. That with regard to para 4.8, the respondents beg to state that the matter relating to the examination and departmental promotion is a serious and sensitive one. The DE branch of the BSIN conduct the Departmental examination

with utmost care and sincerity. Similarly the circle who actually conduct the examination follow the guidelines rigidity. There is no let up or variation at any stage and as conveyed by Joint DDG (DE), New Delhi details of vacancy are as below :

<u>Year</u>	<u>Sc</u>	<u>ST</u>	<u>OC</u>	<u>Total</u>
23.7.96 - 31.3.97	82	41	426	549
97-98	81	40	416	537
98-99	125	63	646	834
<hr/>				
Total	288	144	1488	1920
99-2000	information has been received from some circle while from some circles reports are yet to be received.	783 (tentative, based on information received from some circle)		
2000-2001	same as above.	813 (tentative, based on information received from some circle)		
Grand total			3516 (Approx.)	

The SDE is an All India cadre and the vacancies arising in different circle from year to year are being worked out Centrally by the BSNL HQ. This is a time consuming complicated process which has to be performed with highest degree of accuracy. The same will be completed at the earliest and invariable before the announcement of the result. In fact

the result can not be declared until the vacancies are calculated as the number of successful candidates of a particular year would depend on the number of vacancy of that year. However, there is no problem in conducting the examination before finalizing the year wise vacancy. This is not a pre-condition for holding departmental examination.

As already submitted, the candidates have submitted separate applications for each vacancy year and their eligibility as on 1st July of the respective vacancy year have been scrutinized and finalised. The candidates will receive due consideration for promotion only against the vacancy year for which individual candidate is eligible. Though the examination is one and the same for all candidates their will be separate consideration for promotion of individual candidate depending on the year(s) for which the individual is eligible and performance in the competitive examination. For better appreciation an illustration is given below.

A candidate(say x) is eligible for all 5 years. He will be first considered for promotion against vacancy year 1996-97 on the basis of his performance in the examination along with other candidates eligible for that year. In case he does not get selected for 96-97 he will be against considered for promotion against vacancies of 97-98 and so on upto the vacancy year 2000-2001.

Thus the candidate will get repeated consideration and scope for all the years that he may be eligible for.

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12. That with regard to para 4.9, the respondents beg to state that the examination scheduled to be held on 16.09.2001 as per the provision of the new Recruitment rule for the vacancies arising after 23.07.96. The last competitive examination for 25% vacancies of TES Group 'B' was held in Nov'2000 for vacancies up to 22.07.1996. As conveyed by Joint DDG(DE), New Delhi details of vacancy are as below :

Year	SC	ST	OC	Total
23.7.96 - 31.3.97	82	41	426	549
97-98	81	40	416	537
98-99	125	63	646	834
Total	288	144	1488	1920

99-2000 information has been 783 (tentative, received from some based on information received circles while from some ved from some circle) circles reports are yet to be received.

2000-2001 Same as above 813 (tentative, based on information received from some circle)

Grand Total 3516 (Approx.)

In the meantime the accumulated vacancies arising after 22.7.96 remain unfilled. The Department, therefore, decided to hold a single examination for filling up the unfilled vacancies arising upto 2000-2001. However, the Department has taken appropriate measure to protect the interest of senior JTOs by making separate eligibility list for each vacancy year.

It is not the matter of opting for a single year the senior JTOs. They can apply for all the vacancy year for which they are eligible.

13. That with regard to para 4.10, the respondents beg to state that the notification for the examination was issued in due time and contained relevant information regarding eligibility criteria etc. This was followed by subsequent clarification to dispel all doubt regarding eligibility. The closing date for submission of application was also extended to enable the candidates to submit fresh applications in face of the clarification.

14. That with regard to para 4.11, the respondents beg to state that year wise vacancies subdivided cast wise have been informed as noted in foregoing paras.

15. That with regard to para 4.12, the respondents beg to state that there are about 7000 candidates appearing in the proposed examination to be held simultaneously all over the country. The concerned ~~xx~~ circles have already booked private accommodation for holding the examination and all preparatory work like printing of question paper, answer script, issuance of Hall Permit to candidates have since been completed. ~~Postix~~

Postponement/cancellation of the examination will cause the Department as well as the admitted candidates irreparable loss.

Copies of the notification and followed up clarification were also issued to Circle Secretary JTOA to which the applicants are members. The Circles Union which represents the JTO cadre as a whole has not raised any objection either to the manner or to the scheduled of the examination. The large number of JTO including some of the applicants having submitted their application has agreed to sit in the examination and thereby accepted the departmental policy in conducton the examination. The contrary view of few individuals cannot jeopardise the larger interest.

The examination which was held in Nov'2000 was delayed for ~~various~~ various Court cases filed by JTOs on which the Department has no control. The Department could conduct the examination only after all the cases had been settled. There was some unavoidable delay in conducting the last examination covering vacancies upto 22.07.1996. The Department could indicate the process of holding next examination only in May'2001. It is also pertinent to mention here that an application was moved in the ~~Principa~~ Principal Bench of CAT under No. 733 of 99 for suspension of competitive examination. The Principal CAT granted stay in M.A. No. 755 of 1999. However, the stay was vacated in February'2000 and competitive examination under 25% quota were held in Nov'2000 with fresh question papers.

16. That with regard to para 4-13, the respondents beg to state that the remedies as stated by the applicant have not been exhausted. The representation submitted by applicant

no.1 has ~~not~~ not been received by Directorate (MRD) as confirmed by BSNL Headquarter, New Delhi. The other applicants have never approached the department seeking any clarification for the vacancy position though notification for examination was circulated well in advance.

Prayer : In view of the grounds stated above the proposed departmental competitive examination to be held on 16.09.2001 should be allowed to continue to avoid unusual administrative inconvenience through out the country and for the larger interest of JTO cadre.

Verification.....

VERIFICATION

I, Shri Ganesh Chandra Sarma, Asst.

Director Telecom, being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and believe and I have not suppressed any material fact.

And I sign this verification on this 13 th day of September, 2001 at Guwahati.

Ganesh Ch. Sarma
Declarant.

Asst. Director Telecom (Loyola)
O/O the C. G. M. Telecom
Guwahati-781009