

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI-5.

D.A. NO. 125/94
T.A. NO.

DATE OF DECISION 20-7-95

Shri Paban Chandra Mahanta and Another (PETITIONER(S))

Mr. I.I. Sarkar with Mr. M. Chanda.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr. S. Ali, Sr. C.G.S.C. for the

ADVOCATE FOR THE
RESPONDENT (S)

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

1. Whether Reporters of local papers may be allowed to see the Judgment ? *yes*
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 ?

NO

Judgment delivered by Hon'ble VICE-CHAIRMAN *M.G.Chaudhary*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 1125/94

Date of Order: This the 20th Day of July 1995.

JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN
SHRI G.L.SANGLYINE, MEMBER(ADMN)

1. Sri Paban Chandra Mahanta
T.O.A., Office of the T.D.E.,
Tezpur, Assam.
2. Sri Indreswar Gogoi,
T.O.A, office of the T.D.E.,
Tezpur, Assam. Applicants.

By Advocate Mr. J.L.Sarkar with Mr.M.Chanda.

-Vs-

1. The Union of India,
through the Chief General Manager,
Telecom, Assam Circle,
Guwahati-7-
2. The Director General Telecom,
Telecom Directorate,
Dak Bhawan, Parliament Street,
New Delhi-1.

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

O R D E R .

CHAUDHARI J(VC)

1. Heard Mr.J.L.Sarkar. Mr.S.Ali for the respondents. Perused the show cause reply. The only relief sought by the applicant is for a direction to the respondents to publish the result of examination held on 18-12-93 in paper 1 & 2 and on 19-12-93 in paper 3 & 4. The applicant has also prays for setting aside the cancellation of the said examinations and the consequential letter Annexure D dated 17-5-94.
2. The applicants were working in the telecom department as T.O.A. The next promotion was to the post of J.T.O. by departmental competitive examination for recruitment.

contd/-

Ans

The applicants were eligible for the same. Initially the examination was scheduled to be held on 13th and 14th March 93 but was postponed from time to time.

Finally it was held on 12-6-93 and 13-6-93. The applicants appeared at the said examination. The respondents have however cancelled the said examination. It is the grievance of the applicants that the examination was purported to be cancelled on administrative grounds without giving any opportunity to the applicants to show cause against it and that decision is arbitrary. It is contended by them that the respondents have thus violated the principles of natural justice and the arbitrary manner of postponement and cancellation of the examination from time to time has adversely affected their service career and prospects. They aver that the cancellation of the examination is thus arbitrary and whimsical. Although they filed representation on 25-4-94 no reply was received. They therefore contend that the action of the respondents of not publishing the result of the examination held on 18-12-93 and 19-12-93 is arbitrary illegal, whimsical and perverse and is liable to be set aside.

3. Respondents explain that the examination was scheduled to be held on 12-6-93 and 13-6-93 but had to be cancelled as the question papers had been leaked at Ambala. The information about the cancellation of the examination was received by examination circle after the examination was completed. Thereafter once again as the question papers had leaked in other circles the result of the examination held on 18-12-93 and 19-12-93 was not published and the examination was treated as cancelled.

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It is stated that the examination was cancelled in other circles of Telecom department also vide order dated 25-3-94 of the directorate of the said department. The respondents have also stated that the examination was scheduled to be held again on 6-8-94 and 7-8-94. However that was subsequent to the filing of the instant application.

4. The respondents state that despite fullest sympathy for those candidates who had prepared for the examination and appeared on 18th and 19th December 1993 the result of the said examination cannot be pronounced for any particular centre as the same could not be held in other centres also and the cancellation of the examination was in fairness of spirit of competition.

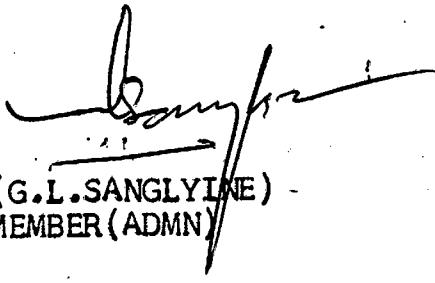
5. It thus clearly appears that the examination held on 12th and 13th June 1993 was not cancelled on administrative grounds but owing to leakage of question papers at certain circles. In so far as the cancellation of the examination on second occasion is concerned that was also due to leakage of papers and it was cancelled all over India. It is seen from the written statement that the said examination is conducted as Departmental Competitive Examination on all India basis covering all telecom circles in the country. This is not a case where the applicants alone have been singled out and therefore there does not arise any question of any individual grievance being available to the applicant to make. Secondly neither in equity nor on moral grounds the applicants can compel the respondents to publish the result of the examination by seeking to get the order of cancellation of the said examination set aside as the reason for cancellation is leakage of papers. The

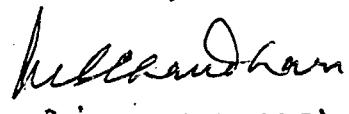
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applicants have to face the situation with other candidates in like manner and it is elementary that process of examination has to be fair. There is no vested right in the applicants to compel the respondents to treat the cancellation of the examination as cancelled and publish the result ^{only} in the circle to which the applicants belong. The proper course for applicants was to appear at the next examination which appears to have been already scheduled to be held when this application was filed.

6. In the circumstances we do not find any *prima facie* case disclosed about any grievance required to be redressed by this Tribunal. The O.A. is accordingly rejected.


(G.L.SANGLYINE)
MEMBER (ADMN)


(M.G.CHAUDHARI)
VICE-CHAIRMAN

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