

Union of India

Vs

Madras Telephones Scheduled Castes & Scheduled Tribes Social Welfare Association

Civil Appeal No. 4339 of 1995

13.02.1997

ORDER

1. Though the respondents are served, no one appears for them. We have heard Shri R. Venugopal Reddy, learned counsel for the appellant - Union of India.

2. In the Posts and Telegraphs Department, there are two methods of promotion from the post of Junior Engineer to the post of Assistant Engineer. Two-thirds of the posts are filled on the basis of Departmental Qualifying Examination while the remaining one-third are filled on the basis of a Departmental Competitive Examination. We are concerned in this appeal with the first mentioned category and the question is how should the eligibility list of candidates, who have passed the Departmental Qualifying Examination for consideration of the Departmental Promotion Committee be prepared. Clause 6 of Appendix I in the Schedule to the Rules to Telegraph Engineering Service (Class II) Recruitment Rules, 1966 provides :

"6. The eligibility lists of the candidates who have passed the Departmental Qualifying Examination for consideration of the Departmental Promotion Committee, shall be prepared in accordance with the instructions, as may be issued by the Government from time to time."

3. It is stated that pursuant to the said clause 6, instructions have been issued by the Government of India in its Memorandum dated 28-6-1966 Insofar as is relevant, it reads as follows :

"In pursuance of para 6 of Appendix I of the Government of India, Department of Communication, P&T Board Notification No. 108/11/49-STA dated the 15th June, 1966 it has been decided that, the eligibility list for consideration by the Departmental Promotion Committee for a promotion to Telegraph Engineering Service, Class II, from amongst the Engineering Supervisors, Wireless Supervisors and ex- company officials, who qualify in the prescribed Telegraph Engineering Service, Class II Promotional Examination, shall be prepared in the following manner :

(i) Separate lists shall be prepared for each year of recruitment/appointment, subject to the provisions in clauses (vi) and (vii) below."

4. From the aforesaid clause read with instructions, it is clear that the eligibility lists have to be prepared according to the year of recruitment/appointment. The respondent's case, before the Tribunal, however, was that the said lists should be prepared not with reference to the year of recruitment/appointment but with reference to the year of confirmation. The Tribunal neither accepted their statement nor did it uphold the Department's case but directed that these lists should

be prepared on the basis of the year of the passing of the Departmental Qualifying Examination and not on the basis of the year of recruitment/appointment. In our opinion what the Tribunal has done really amounts to rewriting the rule which should not have been done by it. The appeal is accordingly allowed. The order of the Tribunal is set aside. For the same reasons, the order dismissing the review filed by the Union of India, by the Tribunal, is also set aside. No costs.