

A THE CHIEF GENERAL MANAGER TELECOM KERALA
CIRCLE TRIVENDRUM AND ANR.

v.

G. RENUKA AND ANR.

B DECEMBER 2, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Service Law—Promotion—Scheduled Castes and Scheduled Tribes—Failure to acquire requisite standard—Power of Government to review suitability—Government Circular No. DGP & T No. 26/27/81 (SAN-I), dated 4.5.81—Recruitment of Junior Telecom Officers—Examinations conducted for promotion—Candidates belonging to SC/ST not attaining requisite standard—Subsequently Review Committee constituted which selected them—Respondents belonging to general category had attained higher marks—They challenged the promotion proceedings—Tribunal held that the Government could carry forward the vacant posts for future recruitment, but could not review the selection and make the appointments—Appeal before Supreme Court—Held Constitution of Review Committee was valid—It considered the suitability of SC/ST candidates by considering previous records and performance in the examination and gave them relaxation of marks and awarded grace marks—On that basis, they became qualified—This was done on consideration of their overall confidential reports and their performance in the examination—Therefore, the Government was within their power to review the selection—The necessity to carry forward the vacancies would arise only in cases where the Review Committee considers and finds them not qualified for three recruitment years.

F CIVIL APPELLATE JURISDICTION : Civil Appeal No. 16673 of 1996.

G From the Judgment and Order dated 8.3.96 of the Central Administrative Tribunal, Ernakulam Kerala in O.A. No. 157 of 1996.

N.N. Goswamy, Wasim Qadri and C.V.S. Rao for the Appellants.

K.M.K. Nair for the Respondents.

H The following Order of the Court was delivered :

Leave granted. We have heard counsel on both sides.

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This appeal by special leave arises from the order of the Central Admn. Tribunal, Ernakulam Bench made on March 8, 1996 in O.A. No. 157/96.

The admitted position is that for the recruitment of Junior Telecom Officers 15% of the posts have been reserved in the matter of recruitment by promotion. Out of 54 posts that were available under that quota, 43 posts were reserved for general candidates, 9 posts for Scheduled Castes and 4 posts for Scheduled Tribes. The result of the said competitive examinations conducted for promotion, was declared on February 3, 1995. Some of the candidates belonging to the Scheduled Castes and Scheduled Tribes did not reach the requisite standard in securing the marks for promotion. Therefore, they were not qualified for appointment by promotion. Subsequently, a Review Committee was constituted which had gone into the merits of the Scheduled Castes and Scheduled Tribes candidates and their selection was made by proceedings dated June 23, 1995 and appointments were made. The respondents have challenged their promotion on the ground that the Government is devoid of such power. Accepting their contention the Tribunal has held that the Government could carry forward the vacant posts for future recruitment, but could not review the selection and make the appointments. The question is whether the view taken by the Tribunal is correct in law?

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Shri Goswamy, learned senior counsel for the appellants, in support of the contention that the view of the Tribunal is not correct, placed reliance upon the instructions of the Government as to the procedure for filing up of reserved vacancies in promotion contained in Circular No. DGP & T No. 26/27/81 (SAN-1), dated 4.5.81. Paragraph 11.1 reads as under :

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"In Examinations where the required number of Scheduled Castes/Scheduled Tribes candidates, have not acquired the general qualifying standards, the case of failed Scheduled Castes/Scheduled Tribes candidates should be reviewed on the basis of confidential report, the overall performance in the examination etc. by a committee of senior officers, so as to assess their suitability/unsuitability."

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- A A reading of it would indicate that in examinations where the required number of Scheduled Castes/Scheduled Tribes candidates have not acquired the general qualifying standards, their cases should be reviewed on the basis of confidential report, the overall performance in the examination etc. by a committee of senior officers so as to assess their suitability/un-suitability. In this case, the committee of three senior officers of the
- B Department came to be appointed. It had considered their suitability by considering previous records and performance in the examination and given them relaxation of marks and awarded grace marks. On that basis, they became qualified. This was done on consideration of their overall confidential reports and their performance in the examination. Under these
- C circumstances, the Government was within their power to review the selection and declare the candidates belonging to Scheduled Castes/Scheduled Tribes as eligible for promotion. Consequently, they came to be appointed. The necessity to carry forward the vacancies would arise only in cases where the Review Committee considers and finds them not
- D qualified for three recruitment years. There is no doubt that the respondents, as general candidates secured higher percentage of marks over candidates belonging to Scheduled Castes and Scheduled Tribes. But that is not the correct way to consider the cases of reserved categories. Under these circumstances, it was not necessary for the Government to carry forward the unfilled vacancies and fill up the vacant posts with the general
- E candidates.

The appeal is accordingly allowed, but in the circumstances, without costs.

T.N.A.

Appeal allowed.