

**VALIDITY  
OF  
ASSISTANT ENGINEERS (AKASHVANI &  
DOORDARSHAN GROUP 'B' POSTS) RECRUITMENT  
RULES, 1985**

- In Writ Petition, R.Ayyaswamy & others v/s UOI, filed in the Madras High Court, the graduate applicants challenged the validity of the **ASSISTANT ENGINEERS (AKASHVANI & DOORDARSHAN GROUP 'B' POSTS) RECRUITMENT RULES, 1985**.
- \* The case was transferred to CAT, Madras Bench with TA No. 587/1986.
- \* The case was further transferred to CAT, Principal Bench, New Delhi with TA No. 85/1987.

Central Administrative Tribunal  
Principal Bench  
New Delhi

REGN.No. RA-1/91 in Date of Decision : 3-5-1991

TA-85/87

MP-51/91

Shri R. Iyyaswamy & Ors Applicants/  
Respondent in R.A

Versus

Union of India and Ors Respondent/  
Petitioners in R.A.

COM : The Hon'ble Mr. Justice Amitav Banerji,  
Chairman,  
The Hon'ble Mr. I.K.Rastogi, Member (A).

For the Applicant Shri G.D. Gupta,  
Counsel

For the Respondent Shri P.H. Ramchandani  
sr. Counsel

(Judgement of the Bench delivered  
by Hon'ble Mr. Justice Amitav  
Banerji, Chairman).

This Review application has been filed  
on behalf of the respondents, to review the

judgement dated 19-9-1990 by a Bench comprising of the Hon'ble Chairman and Hon'ble Shri B.C. Mathur, vice Chairman, Shri Ramchandrai submitted that there is an error apparent on the face of the record. Appendices I and II of Recruitment Rules, 1985 provide for the eligibility conditions for promotion against 25% quota and 75% quota. He urged that there is an error in the judgement in as much as the judgement proceeds to hold that there was two years weightage given to the Graduate Senior Engineering Assistants as against the Diploma holder senior Engineering Assistants. He then referred to the passages from the judgement which according to him referred to him were erroneous.

"For filling up 75% of the vacant posts in the grade of Assistant engineers, both Graduate Engineers and Diploma Holders are eligible. But the rules prescribes a longer period of experience for the Diploma Holders. Thereby, they have been on an equal plane. The concept of equality be the unequals

seems to have been fulfilled by prescribing a longer period of experience for the Diploma Holders. ".....Thus for 75% of the quota, the Diploma Holders are required to have two more years experience whereas if they are senior enough, they are exempt not only from the competitive test but also from higher educational qualification....."

He referred to another passage which reads as under :

"In the promotion quota of 75%, the two extra years experience has equated the Diploma Holders with the Graduate Engineers."

Learned Counsel stated that Appendix II of Assistant Engineers (Akashvani and Mordarshan Group 'B' Posts) Recruitment Rules 1985 does not provide for any such weightage in favour of the Graduate Senior Engineering Assistants. Paragraph 2 of Appendix II reads as follows :-

"The following shall be eligible to participate in the Departmental Competitive Examination :

(a) senior Engineering Assistants with 8 years' regular service in the grade of Senior Engineering Assistant combined together, as on 1st of January of the year in which the examination is held; and

(b) Possessing qualifications not lower than those prescribed for direct recruits to the posts of Engineering Assistants in the Akashvani and Doordarshan.

Shri G.D. Gupta, learned counsel for the Respondents (Applicants in I.A.) fairly conceded that there is an error apparent on the face of the record, as indicated above.

But he urged that the Division Bench had given clear and cogent reasons for striking down the reservation in respect of 25% quota of the vacancies of Assistant Engineers for Senior Engineering Assistants (S. E. As) on the basis of the latter's length of service,

on the ground that weightage has been given to equate the Graduate engineers and the Diploma holders. The same reasons could apply with greater force in the 75% quota for promotion where no weightage has been given. Any one who has been within zone of eligibility among the S.E.As whether he came from the Graduate Engineers stream or Diploma - holders stream, he would equated and allowed to take a test. Learned counsel contested that in the 1985 Rules there was a clear demarcation in respect of promotion for the Graduate engineers for whom 60% of the vacancies in the post of Assistant Engineers were available without appearing in any test. The 1982 rules provided for quota of 40% for the S.E.As, from the Diploma Holders stream. That also provided two more years of service or those who came from the above stream. He urged that the Rule which equates the Graduate engineers and Diploma Holders, on the same plans without any weightage for the comparatively inferior educational qualification on the part of the Diploma holders, was bad in law and had

been rightly struck down by the Division Bench. He argued that on the same basis the reservation of posts of 75% quota should also have been struck down.

We have looked into the matter closely and we find that there exists an error.

"To err is human, is the oft-quoted saying. Courts including the apex one are no exception. To do up the mistake when judicial satisfaction is reached does not militate against its status or authority. Perhaps it would enhance both."

Thus said Justice Ramnath Misra (as he then was) in the case of Shri A.R. Mithuley Versus Shri R.S. Nayaka and Another (JT 1988 (2) SC 325 at page 362).

Mahajan, J. speaking for a four Judge Bench in Krishna Deo Versus Ratha Kissan (1953 SCR 136) had observed -

"The judge had jurisdiction to correct his own error without entering into a

discussion of the grounds taken by the decree holder of the objections raised by the judgement - debtors."

We are satisfied from the above that the case has been made out for reviewing of our judgement, on the ground that there appears an error of law on the face of the record in this case.

Shri Ramchandani, Senior Counsel appearing for the Review Petitioners (Respondents in F.A.) argued that this was a ground for reviewing the judgement and once the judgement was set aside, the matter could be argued afresh. Shri C.D. Gupta appearing for the applicants (Respondents in the Review application) urged that the bench may consider only one aspect of the matter, which has been raised by the learned counsel for the Review - Applicants, namely with regard to the 75% quota - since Shri Ramchandani had no complaint in respect of the order of the Division Bench in the judgement dated 19-9-1990 regarding the 25% quota, which had been struck down, he urged that there was no justification for reconsidering the



conclusions arrived at in respect of the 25% quota. Shri G.D. Gupta contended that no error has been pointed out in respect of 25% quota, and that it should not become the subject matter of the Review.

We have given this matter the consideration it deserves. We find that there is an error in appreciating the rules in respect of 75% quota, and the observation that there was two years weightage in favour of the Graduate S.E.As. was erroneous and has probably come about due to inadvertence or wrong impression. But the challenge of the Review - petitioner was to Review the quota only for 75%. No error was pointed out in respect of 25% quota. The existence of the erroneous decision in respect of 75% quota could have created confusion, if it would have remained in force. Some candidates would be relying on the Rule and some others on the judgement.

It is no doubt, true that in the Review Application the prayer is to review its order dated 19-9-1990'. A perusal of the application indicates that the challenge was

In respect of the "weightage of two years in favour of the Graduate S.E.As for competing the examination of 75% quota". But then when an error on the face of the record is apparent, it would always be better to review the judgement and hear it afresh, and we think it would be in the interest of justice to do so.

We are, therefore, of the opinion that interest of justice would be served if the Review Application is allowed and the judgement dated 19-9-1990 is set aside, and the T.A. is heard afresh. An early date for its hearing may be fixed. We, accordingly, allow the Review Application. There will be no order as to costs.

(E.K. Rasgotra)  
Member (A)

(Anilav Baidarji)  
Chairman