

\$~21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11597/2016

MAHANAGAR TELEPHONE NIGAM LIMITED..... Petitioner

Through: Mr. Chandan Kumar, Mr. Amitesh
Chandra Mishra, Ms. Nivedita Nair &
Ms. Debdatta Ray, Advocates

versus

MOHD. ASHIQUE KHAN & ORS Respondents

Through: Mr. U. Srivastava, Advocate for
respondent Nos.1 to 3
Ms.Sushila Narang, Advocate for
respondent No.4

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

%

09.12.2016

CM No.45707/2016

Allowed, subject to all just exceptions.

The application stands disposed of.

CAV No.1043/2016

Caveator will be heard at the time, when the stay application is taken-
up for hearing.

Caveat stands disposed of.

WP(C) No.11597/2016

Learned counsel for the petitioner has drawn our attention to the recruitment rules for Telecom Technical Assistant-2001, as per which the post of Telecom Technical Assistant has to be filled by three modes: 50% by direct recruitment, 10% by absorption and 40% by promotion through limited departmental competitive examination.

In 2007, the petitioner had decided to grant relaxation statedly against 50% quota earmarked for departmental candidates and 30% of the vacancies were to be appointed/absorbed through walk-in-interview. Balance 20% were to be selected/promoted through limited departmental competitive examination. Technicians in NE-6 scale and above scales were eligible for consideration in the 30% quota, subject to seniority and medical fitness. Telecom Mechanics, who were graduates and above and working in any NE-7 scale, subject to availability of vacancies in the absorption quota, were also eligible on seniority-cum-medical fitness.

It is stated that there were 74 vacancies under this 30% quota which were duly filled-up, first from technicians in NE-6 scale and then from Telecom Mechanics, who were graduates and above. A select list was prepared in 2011 and those high-up in the order of seniority and were

eligible were appointed against 30% of the said vacancies.

In 2015, pursuant to a Board Resolution, the petitioner decided to grant another one-time relaxation on the demand made by the trade unions. This time, 25% of the posts in the departmental quota were to be filled-up from those having educational qualification of 10th pass and Telephonic Mechanic, who were in NE-8 pay scale, with five years' experience in the said scale. The Tribunal, by the impugned order, has directed that Telecom Mechanics, who were graduates and above and were included in the select list issued in 2011, pursuant to one-time relaxation granted in 2007, should be first appointed before relaxation granted in 2015 is applied.

Learned counsel for the petitioner submits that this amounts to interference in the policy making and completely modifies the one-time relaxation granted by the Board, pursuant to the talks with the trade unions.

It is also stated that, pursuant to the relaxation granted in 2015, some appointments have been given. The directions of the Tribunal would upset the entire process and would create administrative difficulties.

Having heard counsel for the parties, we direct that any promotions made are subject to the outcome of this writ petition. The promotions may be made in future, subject to the same condition. The petitioner has not

stated why the limited departmental competitive examination has not been held. If it has not been held, the petitioner would take immediate steps for holding the said examination for 25% seats. This possibly would take care of grievance of the respondents that merit and efficiency is being sacrificed. The petitioner would justify and give the reason for granting relaxation.

Issue notice, returnable on 16.2.2017. Notice is accepted on behalf of respondent Nos.1 to 4.

CM No.45708/2016

Notice for the date fixed. Notice is accepted on behalf of respondent Nos.1 to 4.

Till the next date of hearing, there will be a stay of the impugned order dated 22.9.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in the manner and subject to the condition that appointments made are subject to the outcome of the writ petition/stay application.

Dasti under the signature of the Court Master.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

DECEMBER 09, 2016/tp