

Director General, Telecommunication & ... vs T.N. Peethambaram on 19 September, 1986

Equivalent citations: 1987 AIR 162, 1986 SCR (3) 828, AIR 1987 SUPREME COURT 162, 1987 LAB. I. C. 31, (1987) IJR 12 (SC), (1986) JT 496 (SC), 1986 UJ(SC) 2 747, 1986 SCC (L&S) 780, (1986) 3 SCJ 597, 1986 (4) SCC 348, (1986) 2 LAB LN 1067, (1987) 1 LABLJ 458, (1986) 3 SERVLR 396, (1986) 4 SUPREME 245, (1987) 1 SERVLJ 190, (1986) 1 ATC 552, (1987) 1 CURCC 223, (1987) 1 CURLR 324

Author: M.P. Thakkar

Bench: M.P. Thakkar, K.N. Singh

PETITIONER:

DIRECTOR GENERAL, TELECOMMUNICATION & ANR.

Vs.

RESPONDENT:

T.N. PEETHAMBARAM

DATE OF JUDGMENT 19/09/1986

BENCH:

THAKKAR, M.P. (J)

BENCH:

THAKKAR, M.P. (J)

SINGH, K.N. (J)

CITATION:

1987 AIR 162	1986 SCR (3) 828
1986 SCC (4) 348	JT 1986 496
1986 SCALE (2) 471	

ACT:

Telegraph Engineering Service (Group 'B') Recruitment Rules 1981-Rule 2 in Appendix III-"minimum" pass mark-What it means.

HEADNOTE:

Rule 2 in Appendix III of the Telegraph Engineering Service (Group 'B') Recruitment Rules 1981 was interpreted by the appellant Department as requiring the candidates to secure 50% minimum pass marks for the general candidates and

45% minimum pass marks for the Scheduled Castes and the Scheduled Tribes in 'each' of the four subjects or items.

On a challenge made by the respondent to this interpretation by the Department, the Administrative Tribunal took the view that the requirement as regards securing minimum pass marks in the examination by the candidates concerned is referable to 'aggregate' and not to 'each' of the four subjects or items of the examination.

Allowing the appeal of the Department, this Court,

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HELD: 1. The 'Rule' does not employ the expression 'aggregate'. Injection of the word 'aggregate' in the Rule in the guise of interpretation would be self defeating and lead to absurd results and accordingly would be contrary to well established canons of construction, not to speak of a common-sense-oriented approach. [830E-F]

2. The interpretation propounded by the Tribunal would result in havoc and have a catastrophic consequences. [830D]

3. Since the Rule does not specify a different passing standard for 'each' subject, the prescribed minimum passing standard must be the yardstick to apply to each of the subjects or items. Minimum must mean the minimum in 'each', as much as, minimum in 'aggregate'. [830F-G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3141 of From the Judgment and Order dated 6.3.1986 of the Central Administrative Tribunal, Madras in Transferred Application No. 479 of 1986.

G. Ramaswamy, Additional Solicitor General, P. Parmeshwaran and R.P. Srivastava for the Appellants.

Harish N. Salve, Rajiv K. Garg, N.D. Garg and Mr. N. Safaya for the Respondent.

The Judgment of the Court was delivered by THAKKAR, J. 'Fails' in one subject, but 'passes' the examination. It is not a tongue-in-the-check remark, for, passing an examination does not mean passing or securing the minimum passing marks in each subject or item of examination provided the candidate secures the minimum passing marks in aggregate, and he is entitled to be declared as having passed the examination according to the Central Administrative Tribunal (Tribunal hereafter), Hyderabad, which has upheld the aforesaid proposition canvassed by the respondent. The validity of this view is in focus before this Court in the present appeal by Special Leave.

Rule 2 in Appendix III of the Telegraph Engineering Service (Group 'B') Recruitment Rules, 1981, for limited Departmental Qualifying Examination, in the context of which the controversy has arisen. reads thus:-

"2. Limited Departmental Competitive Examination:

(i)(a) Advanced Technical paper- . . . 100 marks General

(b) Advanced Technical Paper- . . . 100 marks Special.

- | | | |
|-----|--|----------------|
| (c) | General Knowledge and
Current Affairs | . . . 50 marks |
| (d) | Assessment of
Confidential Reports | . . . 75 marks |

(ii) (a) The minimum pass marks in the examination shall be 50% for general candidates and 45% for Scheduled Castes and Scheduled Tribe candidates."

This rule was interpreted by the concerned Department as requiring the candidates to secure 50% minimum pass marks for the general candidates and 45% minimum pass marks for Scheduled Castes and Scheduled Tribes in "each" of the four subjects or items. The Tribunal has taken the view that the Department was wrong in so interpreting the Rule and has formed the opinion that on a true interpretation, the rule requirement as regards securing minimum pass marks in the examination by the candidates concerned is referable to "aggregate" marks and not to each of the four subjects or items of the examination. It has been overlooked by the Tribunal that the 'Rule' does not employ the expression 'aggregate', and that it is impossible to inject the said word in the rule in the disguise of interpretation, as it would lead to absurd results. An illustration will make the 'obvious' point 'more obvious'. The illustration might be viewed in the scenario of a medical degree examination. Can one who secures zero, say in surgery, but secures high marks in the other papers, so that the minimum aggregate standard is attained, be declared to have passed the examination? Such an interpretation would result in havoc and have catastrophic consequences. Examining the examination rule in the present context, the nihilist result is equally conspicuous. Say, a candidate secures zero in the first paper of 'Advanced Technology (general), or second paper of Advanced Technology (Special), but secures full marks in the rest of the subjects (or items). He would be securing (0 + 100 + 50 + 75) or (100 + 0 + 50 + 75) (= 225 i.e. 56.25%) minimum passing marks and would be entitled to be declared as having passed and having become entitled to the outflowing preferential treatment. Similar would be the outcome also in a case where a candidate's Confidential Record is bad and he earns no points in that item. Such an interpretation would thus be self-defeating and lead to absurd results, and accordingly, would be contrary to well- established canons of construction, not to speak of a common-sense-oriented approach. Since the rule does not specify a different passing standard for 'each' subject, the prescribed minimum passing standard must be the yardstick to apply to each of the subjects or items. Minimum must mean minimum in each, as much as, minimum in aggregate. The Tribunal should not have therefore upset the decision of the concerned Department and imposed on the department the mistaken interpretation propounded by it. In the result, the decision of the Tribunal must be reversed.

The appeal is, therefore, allowed accordingly. There will be no order as to costs.

A.P.J.

Appeal allowed.

