

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 1449/90

Date of decision: 13.04.1992

Shri N.R. Rajoria and Another

...Applicants

Vs.

Union of India through the  
Secretary, Ministry of Defence and  
Another

...Respondents

For the Applicants

...Shri N.S. Verma,  
Counsel

For the Respondents

...Shri M.L. Verma,  
Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,  
Vice Chairman(J))

The two applicants before us are Senior Auditors working in the office of the Controller of Defence Accounts under the Ministry of Defence. They have prayed for the following reliefs:-

- (1) To declare them to have passed the SAS Examination part II held in 1981 or give appropriate directions or orders to the respondents to that effect by grant of relaxation of
  - (i) 9 marks in paper V to applicant No.1; and
  - (ii) 5 marks in paper VII and 10 marks in the aggregate to applicant No.2.

2. The applicants belong to the Scheduled Caste community and they were appointed as UDCs in 1962. The post of UDC was later on redesignated as Auditor. The post above Auditor is Section Officer (Accounts). The promotion to the said post is made on the basis of seniority-cum-fitness. The fitness is to be decided on the basis of a departmental examination known as SAS Examination. There are two parts of the SAS Examination - Part I and Part II. The applicants passed in Part I of the said examination.

3. Part II of the SAS Examination consists of the following subjects and papers:-

"(i) Subject 'C'

Paper V : Precis and Letter drafting.  
Maximum marks allotted to the paper are \_\_\_\_\_ 150

(ii) Subject 'D'

Paper VI : Book keeping with Elements of Cost and Accounting.  
Maximum marks allotted to the paper are \_\_\_\_\_ 150

(iii) Subject 'E' Regulations

Paper VII : Practical (with books)  
Maximum marks allotted to the paper are \_\_\_\_\_ 150

Paper VIII : Theoretical (without books)  
Maximum marks allotted to the paper are \_\_\_\_\_ 150

Aggregate \_\_\_\_\_ 500

4. A candidate is considered to have passed in Part II examination if he obtains minimum of the following marks:-

- "(i) 40% marks allotted in each of the subjects, provided that 40% is also secured separately in practical papers; and
- (ii) 45% is obtained in the aggregate (i.e. 225 marks)

(Note:- For paper VIII, no qualifying minimum is prescribed)".

5. The Scheduled Castes and Scheduled Tribes are to be given relaxation as envisaged in the OM dated 21.1.1977 issued by the Department of Personnel & Administrative Reforms.

6. In Comptroller and Auditor General of India Vs. K.S. Kagannathan, 1986 SCC(1&S) 345, the Supreme Court has considered the question of relaxation to be given to the SC/ST category in the context of the aforesaid OM dated 21.1.1977. The Supreme Court held in that case as follows:-

"For part II examination of the Subordinate Accounts Service examination (Ordinary) and all subsequent part II examination of the Subordinate Accounts Examination (Ordinary) held thereafter until today, there will be a relaxation of 25 marks in all for candidates belonging to the Scheduled Castes and Scheduled Tribes, i.e., this relaxation will cover not only the pass marks to be given in the aggregate but will be inclusive of the pass marks to be given in each individual paper so that the total number of marks covered by such relaxation will not exceed 25 .....

In respect of all subsequent examinations to be held for the Subordinate Accounts Service, the Comptroller and Auditor General of India will fix a relaxed or lower standard in advance and notify it to candidates who are going to appear for such examination. In fixing such standard, he will bear in mind the observation made in this judgment and what has been held therein".

7. In the examination held in 1981 the applicants scored

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the following marks in part II of the examination:-

S.No.	Applicant	Marks obtained in the SAS Examination Part-II held in 1981						Remarks
			No. Roll No.	Paper V	Paper VI	Paper VII	Paper VIII	
			MM150	MM150	MM100	MM100	MM150	
1	1	1560	51	87	49	38	225	Needs relaxation of 9 marks in paper V
2	2	323	60	75	35	40	210	Needs relaxation of 5 marks in paper VII and of 10 marks in the aggregate".

8. It will be noticed that applicant No.1 needed relaxation of 9 marks in paper V and applicant No.2 needed relaxation of 5 marks in paper VII and of 10 marks in the aggregate. They were, however, not given the relaxation and consequently they were not declared successful.

9. The applicants have contended that the respondents have given only relaxation of 3% marks which is illusory whereas they are entitled to relaxation of marks which may extend to 25 marks in each individual paper or/and in the aggregate subject to the condition that the relaxation cannot exceed 25 marks in all.

10. As against the above, the respondents have contended that the following minimum marks for a pass in respect of SC/ST candidates were adopted in the 1981

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examination:-

"The following minimum marks for a pass in respect of the SC/ST candidates were adopted in the above examination.

<u>Paper V</u>	<u>Paper VI</u>	<u>Paper VII</u>	<u>Paper VIII</u>	<u>Total</u>
55 out of 150	55 out of 150	37 out of 100	-	210 out of 500
				74

11. We have carefully gone through the records of the case and have considered the matter. The applicants have referred to the judgment of the Allahabad Bench of this Tribunal in Ram Din and Another Vs. Union of India & Others, 1989(9) ATC 522, wherein the following directions have been given in a similar case:-

" In the above view, we direct that in case certain reserved vacancies could not be filled as a result of the examination held in July, 1985 the respondents would apply the relaxed standard to the failed candidates and to the extent the number of vacancies had not been filled because of non-availability of qualified candidates they will make promotion from among the persons who had failed and who would now come within the qualifying standard after giving them relaxation of 25 marks instead of the relaxation already given, as fixed by the Hon'ble Supreme Court. With these directions we disposed of this application with no order as to costs".

*✓*  
✓ reserved

12. With regard to the above, the respondents have stated that the extension of the benefit of the judgment to the applicants was considered by them but it was decided not to do so as it would adversely affect the promotion chances of those who have already passed the examination either under normal standards or under the relaxed standards and were awaiting their turn for promotion for want of vacancies in the Section Officer(Accounts) Grade.

13. The respondents have stated in their counter-affidavit that the anticipated vacancies for the post of SO(A) from the 1981 batch was 218 out of which 33 posts from SC and 17 posts for ST were reserved. 22 SC candidates and 2 ST candidates were available for promotion in the 1981 batch. The remaining posts were carried forward to the subsequent year.

14. In our opinion, the extent of relaxation should be decided consistently with the requirement of efficiency & taking into account all the relevant factors including the factors mentioned in the OM dated 21.1.1977. The object of the said OM is to provide adequate opportunity of promotion to the candidates belonging to the reserved category. A relaxed qualifying standard could be fixed for them if a sufficient number of that category do not qualify according to the general standard. The OM specifically states that the extent of relaxation should be decided on each occasion whenever such an examination is held keeping in view the number of vacancies reserved, the performance of SC/ST candidates as well as general candidates, the minimum standard of fitness for appointment to the post and the overall strength of the cadre and that of the SC/ST in that cadre.

15. In the facts and circumstances of the case, we see no legal or constitutional infirmity in the prescription of relaxation of 3% marks in individual paper or in the

aggregate to the SC/ST candidates. We, therefore, see no merit in the present application and the same is dismissed.

There will be no order as to costs.

*B.N. DHO JNDIYAL*  
(B.N. DHO JNDIYAL)  
MEMBER (A)

*Om*  
(P.K. KARTHA)  
VICE CHAIRMAN (J)

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