

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 1724 of 1990

New Delhi, this the 25th day of August, 1994.

HON'BLE SRI A.V. HARIDASAN, MEMBER (J)

HON'BLE SRI B.K. SINGH, MEMBER (A)

Sri R.K. Tyagi,
C/o S.S. Duggal,
D-47, Fateh Nagar,
New Delhi

.. Applicant
(By Sri S.S. Duggal, Advocate)

v/s

1. Union of India through
Secretary, G.O.I.,
Ministry of Finance,
Controller General of Accounts,
Dept. of Expenditure, N.Delhi

2. Finance Secretary, Delhi Admn., Delhi

3. The Controller of Accounts,
Principal Accounts Office,
Delhi Admn., Delhi.

.. Respondents
(By Sri P.H. Ramchandani, Advocate)

ORDER (ORAL)

HON'BLE SRI A.V. HARIDASAN, MEMBER (JUDL.)

The applicant appeared in the S.A.S. Examination held in the year 1988 and obtained only 34% marks in Paper-II while the qualifying percentage of marks was 40. The grace marks decided to be given to candidates who fail in one subject in that year was 3 ~~per~~ subject. Since in the panel of those who passed the examination his name did not appear, ^(In Capital) He has aggrieved to that extend and therefore he has filed this application praying that the panel may be set aside and

that it may be declared that he had passed the Part-II in the S.A.S. Examination giving him the benefit of grace marks as per the circulars in vogue. The applicant relies on the O.M. dated 21-1-77 of the Department of Personnel and Administrative Reforms for claiming relaxed standards in the case of candidates who have failed in a Departmental Examination.

2. The respondents 1 and 3, in their reply statement have contended that the O.M. relied on by the applicant relates to relaxation of standards in regard to the candidates belongs to SCs and STs which has absolutely no relevance to General Candidates. They have further contended that the qualifying marks was 45% ^{in the aggregate} ~~in the aggregate~~ and minimum 40% ⁱⁿ part, and that as during the year 1988 it was decided to grant only 3 marks to all candidates who failed in one subject, or ⁱⁿ the aggregate, ~~subject to the claiming the excess~~ shortage of half-a-mark in the subject or in the aggregate and that ~~as this benefit~~ even after giving the grace marks, the applicant did not get the required 40 marks in Part-2 ~~and therefore~~ he has no legitimate basis for his claim that he should be declared passed.

3. In the rejoinder the applicant has contended that in respect of Common Examination Part-2 analogous to J.A.O. (Civil) Examination conducted by the Controller of General Accounts in 1987, Moderation was done awarding upto 10 marks in the subject or in the aggregate as the case may be and that this was in accordance with the view expressed by the Principal Bench of the C.A.T. in the case of Behari Lal Vs U.O.I. & Others decided on 4-1-88.

(8)

4. When the application came up for final hearing, neither the applicant nor his counsel appeared. Advocate Sri P.H. Ramchandani appeared on behalf of respondents 1 and 3. We have perused the material papers on record and heard Sri Ramchandani. We agreed with the arguments of Sri Ramchandani that the circular relied on by the applicant has no bearing to issue in this case because that circular relates to adopting relaxed standards in the case of candidates belongs to SC and ST. The reliance placed by the applicant in the case of Behari Lal Vs UOI & Ors also speaks ^{in this behalf} ~~also~~ ^{also} the case concerned with the candidates belongs to SC/ST.

~~Be Careful that~~ A full Bench of the Tribunal in O.A.Nos.1521/88 and 1333/90 decided on 15-3-91 considered the question as to how the grace mark has to be apportioned, whether it is to be given as a whole to one subject or to be divided into ~~concerned papers~~ ^{Pr} ~~on~~ ⁱⁿ a prorata basis in each subject. Though the above cases also related to the cases of SCs and STs, the principle explained therein may have relevance. The Full Bench said that ~~whether~~ ^{whether} ~~and~~ how the grace mark is to be awarded is a matter to be decided by the concerned administrative authority each year before holding the examination. In this case, as contended by the respondents, the department has decided as to how grace marks are to be awarded on that basis even after giving 3 grace marks to the applicant in a subject in which he failed. ^{set the required 40%} ~~set the required 40%~~ Therefore, ^{he could not make the grade} ^{and} ⁱⁿ his name was not included in the panel ^{et} of pass candidates. We ^{uniformly} do not find any unconformity or irregularity in the preparation of the panel and therefore we find no scope for judicial intervention. In the result,

the application fails as the same is dismissed,
leaving the parties to bear their own costs.

(B.K. Singh)
Member (A)

(A.V. Haridasan)
Member (J)

kmv