

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

(19)

O.A. No. 1587/93  
T.A. No.

199

DATE OF DECISION 13-5-97

Sh. Subash Saxena

Petitioner

None for the applicant

Advocate for the Petitioner(s)

UNI &amp; Ors Versus

Respondent

Shri M.K. Gupta

Advocate for the Respondent(s)

## CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri N. Sahu, Member (A)

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

*B. Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)



Central Administrative Tribunal  
Principal Bench: New Delhi

OA 1587 of 1993

New Delhi this the 13th day of May 1997.

Hon'ble Mrs Lakshmi Swaminathan, Member (J)  
Hon'ble Mr N. Sahu, Member (A)

Subhash Saxena  
S/o Late Shri Jagdamba Prasad  
R/o Sector II-P-750 Noida ...Applicant

(By advocate: None)

Versus

Union of India through

1. Secretary  
Ministry of Communication  
Sanchar Bhawan  
New Delhi.
2. Director of Accounts (Postal)  
Civil Lines  
Delhi - 110 054. ...Respondents.

(By advocate: Shri M.K. Gupta)

O R D E R (oral)

Hon'ble Mrs Lakshmi Swaminathan, Member (J)

None has appeared on behalf of the applicant. We have perused the records and heard the learned counsel for the respondents.

2. The applicant claims that the respondents have failed to assign him proper seniority in the cadre of Junior Accounts Officers with effect from 1988 and has sought a direction to be given to the respondents to this effect. The applicant states that he appeared in the departmental examination for promotion to the post of Junior Accounts Officer, the examination consisting of two parts - JAO Departmental Examination Part-I & Part-II. He has stated that a person is required to qualify in both parts to be promoted as JAO. He states that he has qualified the departmental examination for the post of JAO part-I examination in 1980. In the year



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1981, he was transferred from Postal Department to Telecommunication Wing of the Ministry of Communication. According to him, he had qualified the Book Keeping Paper of Advance Accounts in the year 1985. He states that there was a common syllabus and common papers for the candidates belonging to Postal Department as well as Telecommunication Department for the cadre of JAO departmental examination.

3. The applicant claims that in accordance with the circular issued by the Postal Department dated 26.5.1988 (Annexure A-2), he had applied as a candidate for the Part-II Examination in 1988 wherein he was allowed to appear only in five papers. The applicant says that the respondents have wrongly declared him failed in this examination on the ground that he had not qualified the Advanced Accountancy Paper. One of the contentions of the applicant in his application is that since he had already qualified the papers in the examination held in 1985, he should have been declared successful.

4. In the reply filed by the respondents, they have stated that the examination taken by the applicant in January 1985 was the examination of the year 1984. Respondents have also stated that the benefit of allowing only minimum qualifying marks in respect of the additional paper on Advance Accountancy set with the examination held in the year 1985-86 and 1987, as per the orders issued by the Directorate letter dated 26.5.88 is not applicable to the examination taken by the applicant

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in January 1985. They have also filed an additional affidavit in which they have reiterated that the applicant had appeared in the examination in 1985 but was declared failed in part-II examination as he had not qualified the Advanced Accountancy Paper. They have, however, stated that the applicant appeared in the departmental examination in 1990 and was declared qualified. They have further stated that the applicant was not entitled to exemption in the paper of Advanced Accountancy in the year 1988 as he had not qualified in the paper as early as 1985 and fulfilled other requirements as contained in the Postal letter dated 26.5.88 as he was at that time in the telecom service.

5. Applicant in his reply to the additional affidavit has submitted that he has qualified in the papers of Book Keeping and Advanced Accountancy in the year 1985 which was one of the papers in part-II examination and thus became entitled for the exemption to qualify the same again. He has relied on a judgement of this Tribunal in Dasrath Ram V. UOI & ors ( OA 1917/89 ) decided on 12.5.94. We note that in this case also, the applicant had taken the departmental examination held in January 1985. He had not qualified in the part-II examination. He is, however, said to have secured 83% marks in the Advanced Accountancy paper. After detailed examination of the facts and circumstances of the case, the Tribunal allowed the application directing the respondents to treat the petitioner as having qualified the JAO examination Part-II held in November 1988 taking

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into account his passing the Advanced Accountancy subject as part of the Part-II examination under the old syllabus. We are of the view that the facts in the present case are similar to the case in Dasrath Ram's case (Supra).

6. In the facts and circumstances, this OA is disposed of with similar directions as in the above referred to case:

(i) The Respondents to verify the statement of the applicant that he has passed the Book Keeping as also the Advanced Accountancy papers in January 1985 examination; If so, the respondents shall consider the applicant for promotion as JAO taking into account his passing in the Advanced Accountancy Part-II paper held in January 1985 under the old syllabus <sup>18/</sup> w.e.f. 1988;

(ii) Subject to the applicant qualifying the examination as mentioned above, he shall be considered for promotion in accordance with his merit and and be entitled to the benefit of seniority and promotion in accordance with the rules,

(iii) Necessary action shall be taken within three months from the date of receipt of this order.

OA allowed as above. No order as to costs.

*Narasimhaiah*  
(N. Sahu)

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)

Member (A)

Member (J)