(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

1) O.A. NO. 321/93 DECIDED ON : 16.4.93

C. L. Verma ... Applicant

Vs.

Comptroller & Auditor General of India & Ors. ... Respondents

2) O.A. NO. 322/93

T. K. Roy ... Applicant

Vs.

Comptroller & Auditor General of India & Ors. ... Respondents

3) O.A. NO. 455/93

E. D. Shukla ... Applicant

Vs.

Comptroller & Auditor General of India & Ors. ... Respondents

CORAM :

THE HON'BLE MR. S. P. MUKERJI, VICE CHAIRMAN (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri Meghnath Banerji, Counsel for Applicants
Shri N. S. Mehta, Sr. Standing Counsel for the Respondents

JUDGMENT

Hon'ble Shri J. P. Sharma, Member (J) :-

Shri C. L. Verma (applicant in OA-321/93) is Divisional Accountant (Emergency) in the office of Water Resources Division, Raj Garh., M.P. Shri T. K. Roy (applicant in OA-322/93) is working in the same capacity in the office of Executive Engineer, Lift Irrigation Division, Vidisha, M.P. and Shri E. D. Shukla (applicant in OA-455/93) is also working in the

same capacity at Hasdeo Canal Division No.5, Janjgir, District Bilaspur (M.P.). The applicant in OA-321/93 has assailed order dated 13.1.1993, so also the applicant in OA-322/93, by which the applicants are being repatriated to their parent offices. Applicant in O.A.455/93 has assailed the order dated 22.1.1993 repatriating him to his parent department.

2. Since the issue involved in all the three cases is the same of repatriation to the parent department of the applicants, all the three cases are being taken together and disposed of by a common judgment. The relief claimed in these applications is as follows :-

OA-321/93

"i) that the impugned order of repatriation Annexure A-1 be kindly quashed.

ii) that respondents be kindly commanded to extend the same relief of permanent exemption from appearing in examination as given by Hon'ble Supreme Court of India in the case of H.R.Patel.

iii) that respondents be kindly commanded to allow a grace marks in the paper of Book Keeping as Question No.1 with 40 marks and compulsory question was from out of sylabus consequently applicant be kinely declared to have qualified in the departmental examination.

iv) Any other relief which Hon'ble Tribunal may consider fit under the facts and circumstances of the case."

OA-322/93

"i) that the impugned order of repatriation Annexure A-1 be kindly quashed.

ii) that respondents be kindly commanded to extend the same relief of permanent examption from appearing in examination as given by the Hon'ble Supreme Court of India in the case of H. R. Patel.

iii) that respondents be kindly commanded to permit applicant two more chances for appearing in D.A.G. Examination as he could actually appear only Four chances

iv) Any other relief which Hon'ble Tribunal may consider fit under the facts and circumstances of the case."

(12)

OA-455/93

"(i) that Hon'ble Tribunal may kindly be pleased to observe that the reversion of applicant from the post of Emergency Divisional Accountant is invalid in view of the fact that in the initial appointment of applicant there was no condition for passing Departmental Examination and the condition was imposed only later on by Administrative Instruction.

(ii) that in the alternate if it is not considered to grant relief number one then in that case Respondents may kindly be commanded to effect Reversion of applicant on receipt of promotion & posting order from Engineer-in-Chief, Water Resources Department, Bhopal.

(iii) Any other relief in addition to above which the Hon'ble Tribunal considers fit under the facts and circumstances of the case."

3. None appeared on behalf of the applicants in all the three cases. Shri N. S. Mehta, Sr. Standing Counsel appeared for the respondents and in the reply filed the respondents opposed the grant of reliefs to the applicants. The respondents have taken a preliminary objection in all the three cases that the Jabalpur Bench of the Tribunal has declined to admit the O.A. No. 76/93 filed by M.P. Divisional Accounts Association seeking similar relief vide its order dated 12.2.1993 (R-9). In OA-455/93 the respondents have taken further preliminary objection that the applicant filed before the Jabalpur Bench O.A.648/89 decided on 21.12.1990, O.A.115/92 decided on 13.3.1992 and O.A.324/92 decided on 8.1.1993. It is, therefore, argued that the present O.A.s are not maintainable on the principles of res-judicata as the similar matter has been considered and decided on merits.

4. It is further contended that the applicant in OA-455/93 is holding lien in the Irrigation Department of M.P. State. He appeared in the Divisional Accountant Grade Examination and

availed of eight chances but failed to pass the examination. Similarly, the applicant in O.A.322/93 who was having a lien in Accountant General (A&E) M.P., Bhopal availed of six chances to pass mandatory examination for absorption in the Divisional Accountants' grade but each time he failed. Similarly, the applicant in O.A.321/93 who was also working in the Accountant General (A&E) M.P., Bhopal, availed of three mandatory and three additional opportunities to pass the Divisional Accountant Grade Examination in terms of provisions of Note Below para 316 of Chapter-VIII of CAG's MSO (Admn.) Vol.I which runs as follows :-

> "Such Emergency Divisional Accountants may not ordinarily be allowed more than three chances to sit for the DT (now DAGE) but the Accountant General may allow in such cases upto three additional chances in deserving cases."

The case of the respondents is that the applicant had been allowed three additional chances but he could not avail of the benefit of the same and the applicant, therefore, has no case.

5. The applications are, therefore, devoid of merits and dismissed as such leaving the parties to bear their own costs. One copy of this order be placed in each of the three O.A. files.

(J. P. Sharma) 16.4.93
Member (J)

16.4.93
(S. P. Mukerji)
Vice-Chairman (A)

as

Attested
20/4/93
Court Officer - C-IV