

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Date of decision: 14.07.1993.

(1) OA No. 640/93 /T

Sh. K. K. Saxena ... Petitioner  
vs.

The Comptroller & Auditor  
General of India & ors.... Respondents

(2) OA No. 637/93 /T

Sh. R. P. Yadav ... Petitioner  
vs.

Comptroller & Auditor  
General of India & 4 ors.... Respondents

(3) OA 638/93/T

Sh. Ram Prasad Banafer ... Petitioner  
vs.

The Comptroller & Auditor  
General of India & ors.... Respondents

(4) OA 639/93/T

Sh. G. K. Ohri ... Petitioner  
vs.

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

(5) OA 641/93/T

Sh. A. R. Keshwani ... Petitioner  
vs

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

For the Petitioners ... Sh. Ashok Singh. Counsel.

For the Respondents ... Sh. N. S. Mehta. Counsel.

CORAM:

THE HON'BLE MR. JUSTICE S. K. DHAON. VICE CHAIRMAN  
THE HON'BLE MR. B. N. DHOUNDIYAL. MEMBER (A)

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice S. K.  
Dhaon, Vice Chairman)

The controversy raised in these Original Applications is similar. They have been heard together. Therefore, they are being disposed of by a common order.

2. Petitioners in all these cases were appointed as Emergency Divisional Accountants (EDAs). In terms of letters of appointment issued to them, they were transferred to the State Government. They are being called upon to appear in the Divisional Accountancy Grade

6 2  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Examination(D.A.G.E). According to them, they are

not subject to such an examination. The prayer is that the respondents may be commanded not to insist on the petitioners to appear in the said examination. The prayer further is that the respondents may be directed to absorb the petitioners even though they did not appear in the examination.

3. Counter-affidavits have been filed in each case. Rejoinders have also been filed. Counsel for either side have been heard.

4. In the counter-affidavits filed, it has been brought out that same or similar controversy was raised before the Jabalpur Bench of this Tribunal in a bunch of cases, the leading case being OA No.172/88 which was finally disposed of on 29.10.90 with certain directions. So far as the present controversy is concerned, the Bench held that the petitioners before it were liable to appear in the aforesaid examination. Another case came up before the same Bench of the Tribunal by means of OA No.76/93 which was presented by the Madhya Pradesh Divisional Accountants Association and another. The Bench while following the order earlier passed also repelled all the contentions advanced before it.

5. In order to get over the said judgements, the learned counsel for the petitioners has urged that in cases of S/P. S.P. Roy Choudhary, P.B.Pillay and Harikankar Wigam, the respondents took a different view and exempted them from appearing in the aforesaid examination. In the counter affidavits, it has been asserted that the aforesaid three persons

1

standpoint and footing different from that of the petitioners. With respect to Shri S.R.Roy Choudhary, we may indicate that the exemption was granted to him on the basis of a communication dated 23.1.87 issued by the Ministry of Personnel. According to this communication, Sh. S.R.Roy Choudhary was a surplus Central Government official and was earlier working under the Dandakaranya Project and was on the date of issue of the communication working under Redeployment by the Surplus Cell against the post of Divisional Accountant. In para 3 of the said communication, it has been laid down that the surplus staff on redeployment was not subject to any test or interview in the recipient organisation as they are already in Government service. The provisions of all recruitment rules in regard to the educational qualifications, age-limit and the mode of recruitment are to be treated to have been relaxed in respect of surplus staff under the Redeployment of surplus staff against the vacancies in Central Civil Services, Post and Class III, Rules 1967. It is thus apparent that Shri S.R.Roy Choudhary was granted the exemption on the basis of the aforesaid decision of the Government of India which was attributable to surplus staff. It is not disputed that Shri S.R.Roy Choudhary, in fact, is found a place in the surplus staff.

6. As regards Shri P.B.Pillay, it is stated in the counter affidavit that even he had not passed in the said examination, he was not reverted to his parent department in accordance with the Controller & Auditor General of India's letter dated 13.7.88 as he was due

8  
for superannuation on 31.8.92 i.e. within four months from the date of declaration of his results of D.A.G.E held in March 1992.

7. As regards Shri H.S.Nigam, the averments are these. He was repatriated to his parent department due to non passing of D.A.G.E and he joined his parent department on 9.5.1988.

8. It is thus apparent that the cases of the aforesaid three persons are dissimilar to those of the petitioners. Therefore, the question of any discrimination being practised against the petitioners does not arise. No further point need be gone into.

9. With the above observation, the OAs are disposed of finally. There shall be no order as to costs.

10. A copy of this order be placed in each of the five case files.

(B.N.DHOUNDIYAL)  
MEMBER(A)

(S.K.DHAON)  
VICE-CHAIRMAN(J)

SNS

Alleged line copy

Anil Lalwani

Co. CII

14-07-93