

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

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 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/Sh. S.R. Roy Choudhary, P.B. Pillay and Harishankar Nigam, 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 cases of the aforesaid three persons

stand on a 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, Shri 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

surplus staff against the vacancies in Central

Civil Services, Posts Class III. Rules 1967.

It is thus apparent that Shri S.R. Roy Choudhary

was granted exemption on the basis of the

aforsaid decision of the Government of India

which was attributable to surplus staff. It

is not disputed that Shri S.R. Roy Choudhary,

in fact, found a place in the surplus staff.

6. As regards Shri P.B. Pillay, it is stated

in the counter-affidavits that even he had

not passed in the said examination, he

not reverted to his parent department in

accordance with Comptroller & Auditor General

of India's letter dated 13.7.88 as he was due

that the cases of the aforsaid three persons

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

Attached two copy

Anil Kumar

Co. Cl

14.07-93