

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.



Date of decision: 14.07.1993.

(1) OA No. 640/93 /T Petitioner
Sh. K. K. Saxena ... vs.

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

(2) OA No. 637/93 /T Petitioner
Sh. R. P. Yadav ... vs.

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

(3) OA 638/93 /T Petitioner
Sh. Ram Prasad Banafer ... vs.

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

(4) OA 639/93 /T Petitioner
Sh. G. K. Ohri ... vs.

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

(5) OA 641/93 /T Petitioner
Sh. A. R. Keshwani ... 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. DHOUDIYAL. 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

ers were not of national (S) that of the
stand on a footing different from that of the
petitioners. With respect to Shri S.R.Roy

or Dr. 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.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 Cells 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, Posts Class III. Rules 1967.

It is thus apparent that Shri S.R.Roy Choudhary
was granted 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, 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 was
not reverted to his parent department in
accordance with Comptroller & Auditor General

of India's letter dated 13.7.88 as he was due
to the Comptroller & Auditor General

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) **(S.K.DHAON)**
MEMBER(A) **VICE-CHAIRMAN(J)**

SNS *Attested copy*
Antidevdas

C.O. CII

14.07.93