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O.A. 69/2004

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

✓ Original Application No.387 of 1997.

With

Original Application No.69 of 2004.

Allahabad this the 24th day of May 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.

Hon'ble Mr. S.K. Hakra, A.M.

1. Group C and D employees Association, Accountant General, U.P. (Audit), Allahabad through its President Sri Surendra Nath, Auditor CR-47 Accountant General, U.P. Audit I, Allahabad, Resident of 160/5 "Geeta Nityam" Ram Chandra Puram Saleri, Allahabad.
2. Arvind Kumar Asthana son of late K.P. Asthana, Senior Auditor RA (C)/IDT Group IV A.G. (Audit) II, U.P. Allahabad, Resident of House No.2/64, Rama Nand Nagar, Bhardwaj Puram, Allahabad.
3. Awadhesh Mohan son of C.L. Mathur, Senior Auditor, WAP, Accountant, General, U.P. (Audit) I, Allahabad, resident of B-183 Menhdauri Colony, Allahabad.

.....Applicant In O.A.387/97.

(By Advocate : Sri D.K. Mishra/
Sri A.S. Diwaker)

Versus.

1. Union of India through Comptroller and Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi.
2. Accountant General (Audit) I, U.P. Allahabad.
3. Ashok Kumar Mishra son of not known, Section Officer A.G. (Audit) I, Accountant General Office, Allahabad 99-A Baghambhari Housing Scheme, Allahpur, Allahabad.
4. Babu Ram Sharma sons of not known, Section Officer, A.G. (Audit) I, Accountant General Office, Allahabad.
5. Satyendra Kumar son of not known, Section Officer A.G. (Audit) II, Accountant General Office, Allahabad 28 B/52-B Allahpur, Allahabad.
6. Principal Accountant General U.P. Allahabad.

.....respondents in O.A. 387/97.

(By Advocate: Sri S Chaturvedi/Sri A Mahiley)

WITH

Original Application No.69 of 2004.

1. Group C & D Employees (Audit Association A.G.

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at U.P. Allahabad, Satya Nishtha Bhawan,
15 A Dayanand Marg, Allahabad through its
General Secretary, Shri P.R. Rajvedi.

2. Shri P.R. Rajvedi son of late D.K. Rajvedi, resident of New Katra, Allahabad, presently posted as Senior Auditor in the Office of Principal Accountant General Audit-I, U.P. Allahabad.
3. Rajendra Kumar son of late G.S. Singh, Resident of Type-11/255, Phase Kendranchal, Colony, Dhoomanganj, Allahabad posted as Senior Auditor in the office of Principal Accountant General (Audit), U.P. Allahabad.
4. Ajay Krishna Mishra, Son of Shri J.N. Mishra, Resident of 210/1M, Anand Puram Chakiya, Allahabad, posted as Senior Auditor in the office of Principal Accountant General (Audit), U.P. Allahabad.

*...Applicants in O.A. 69/04.

(By Advocate : Sri Abhishak Tripathi)

Versus.

1. Union of India, through Secretary, Ministry of Personnel, Public Grievances and Pension (Department of Personal Training), New Delhi.
2. Comptroller and Auditor General of India, 10 Bahadur Shaj Jafar Marg, New Delhi.
3. Principal Accountant General Audit-I, U.P. Allahabad.
4. Accountant General (A&E) I & II, U.P. Allahabad.

.....Respondents in O.A.69/04.

(By Advocate : Sri Satish Chaturvedi)

O R D E R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri D.K. Mishra learned counsel for the applicant in O.A. No.387/97, Sri V Budhwar holding brief of Sri Abhishak Tripathi learned counsel for the applicant in O.A. No.69/04 and Sri S Chaturvedi learned counsel for the respondents in both the O.As.

2. The No.387/97 was posted for hearing, vide order dated 20.05.2004, for July 13th 2004 but on a mention being made by learned counsel for the applicants the case ^{was} ordered

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to be put up today and that is how the O.A. has come up before the Bench today. It may certainly be mentioned that the O.A. as it stood originally prayed for issuance of a direction to the respondents to make appointments on the post of Section Officer (Audit) from amongst Personnels from Audit cadre and not from Accounts Cadre. Relief of setting aside the order whereby the representation was rejected, has also been claimed. By means of an amendment application No. 4780 of 2003, the applicants of O.A. No. 387/97 have prayed for issue of writ, order or direction in the nature of certiorari quashing the order dated 12.08.2003 which is the subject matter of impugment in O.A. No. 69/04. The amendment prayed for is allowed and there is no objection by Sri S Chaturvedi learned counsel for the respondents. Since the questions of facts and law involved in these O.As are common, it would be convenient to dispose of both the O.As by a common order.

3. By means of impugned circular dated 12.08.2003, the staff of A&E Account & ~~Entitlement~~ has been permitted to appear in the Section Officer Grade Examination (Civil Audit) for their eventual absorption in Audit Stream. The applicant herein belong to Audit Stream and their objection to the impugned circular is that it permits the staff of Account Stream to appear in the examination for recruitment by absorption to the post of Section Officer (Civil Audit) whereas the Indian Audit and Accountant Department Section Officer (Accounts) and Section Officer (Audit) Recruitment Rules, 1988 do not permit for appointment to the post of Section Officer (Civil Audit) by way of absorption of any staff belonging to Account Stream.

4. Sri V. Budhwar and Sri D.K. Mishra learned counsel for the applicants have submitted that recruitment to the post of Section Officer (Civil Audit) under Rules

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is permissible by promotion, failing which by transfer/
transfer on deputation, and failing both by direct recruitment.
In case of recruitment by promotion departmental candidates
who have passed Section Officer Grade Examination conducted
by Comptroller and Auditor General of India may be appointed.

5. Sri V Budhwar has submitted that Audit and Accounts
department are two separate departments and the staff of one
cannot be held eligible for recruitment to the post of Section
Officer in other stream.

6. Sri S Chaturvedi learned counsel for the respondents,
on the other hand invited the attention of the Tribunal
to the Indian Audit and Account Department, Section Officers
(Civil & Audit) (Amendment) Rules, 2002 which now permits
absorption by making suitable amendment in column 12 of the
Schedule to the original Rules.

7. In view of the amendment to the Rules, the Challenge
to the impugned circular on the ground that it is contrary
to Rules, no longer survives. It may certainly be observed
that the impugned circular dated 12.08.2003 permits, the
candidates from A&E stream to appear in the Section
Officer Grade Examination (Civil Audit). For the aforesaid
reasons, we are of the view that the impugned circular
cannot be termed as violative of the statutory rules.

8. In para 4 of the counter affidavit, it is provided
that the Circular contains the following safeguards
for the staff of Civil Audit offices against A&E
staff getting absorbed:-

"(i) Candidates of A&E offices after passing
SOGE (Civil Audit) will be absorbed in Civil
Audit Offices only against such vacancies in
Section Officers cadres which remains
unfilled due to non-availability of eligible
audit staff for promotion.

(ii) The seniority of audit staff getting promotion
as Section Officer will be protected against

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A&E Staff getting absorbed in the cadre as per existing rules/instructions".

9. In view of the amended Rules, it is now permissible for the staff of Accounts stream to appear in the Section Officer Grade Examination along with Audit stream subject, of course, to rider and conditions stipulated in the circular and safe-guards indicated in the counter affidavit.

10. For the aforesaid reason, O.As. are dismissed being devoid of merit. No costs.

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