

Photo (68) OA. 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. Hairs, 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 Nilyam" 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. Diwakar)

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 Baghambari Housing Scheme, Allahpur, Allahabad.
4. Babu Ram Sharma son 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-II/255, Phase Kendranchal, Celony, Dheemanganj, 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 Shah Jafer 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 Bushwar 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

(R.C.)

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 Persons 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 impugnment 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.A.s are common, it would be convenient to dispose of both the O.A.s by a common order.

3. By means of impugned circular dated 12.08.2003, the ~~ct~~
A&E Account & ~~Ent~~ staff ~~of~~ Entitlement has been permitted to appear in the Section Officer Grade Examination (Civil Audit) for their eventual absorption in Audit Stream. The applicant herein belongs 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 cadre 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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