

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 16th day of May 2001.

Original Application no. 236 of 1994.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman  
Hon'ble Maj Gen KK Srivastava, Member-A.

Nawab Ali, S/o Karamat Ali, Accountant,  
HRO, RMS, A-Division, Allahabad.  
R/o B/9Gulabwadi Quarter,  
Allahabad.

... Applicant

C/A Shri A.S. Diwakar  
Shri C. Prakash

Versus

1. Union of India through the Director, General Posts, New Delhi.
2. The Chief Post Master General, UP Circle, Lucknow.
3. Senior Supdt. A-Division, Allahabad.

... Respondents

C/Rs Km. Sadhana Srivastava

...2/-

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O R D E R(Oral).

Hon'ble Mr. Justice RRK Trivedi, VC

By this OA the applicant has prayed for quashing of order dated 12.2.1993 (Annexure 1A to the Suppl affidavit) by which the applicant was informed ~~request of~~ that the applicant can not be acceded to as ~~the~~ ~~the~~ ~~candidate~~ has neither got exemption in paper VI in the previous years nor he appeared in this paper in the above said examination. The 95 marks secured by the applicant in the year 1990 Exam. in paper VI are out of 200 and not out of 150. That is why his name did not figure in the list of candidates who were granted exemption in various papers. ~~The candidate~~ ~~may be informed accordingly.~~

2. The facts in short giving rise to this controversy are that the applicant appeared in Junior Accounts Officer examination (JAO) part I in the year 1984. He passed the same. The applicant appeared part II in JAO/examination in the year 1990, but the applicant could not pass the same. He obtained 95 marks in paper VI. According to syllabus and the rules applicable to this examination, if the candidate could secure at least 60% marks in a paper, he could claim exemption in the next examination of that paper. The controversy in the present case is that though in the paper served for answer, total marks were shown as 200, ~~but~~ in revised syllabus, which came in force before 1990 exam, for sixth paper, maximum marks ~~shown~~ were 150. The applicant

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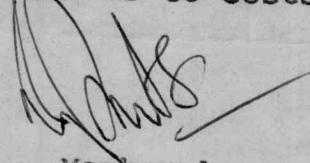
claimed exemption on the basis of marks shown in the syllabus. The respondents, however, refused to accept this claim of the applicant on the ground that paper no. 6 was for total marks of 200 and the marks obtained by the applicant were less than 60%. Therefore, he was not entitled for exemption. Thus the point which requires determination by this Tribunal is, whether paper no. 6 of JAO examination part II of 1990 was for 200 marks or should it be treated as 150 marks.

3. In para 9 of the counter affidavit, the respondents have taken a stand that, in the revised syllabus, total marks, ~~in~~ <sup>part II</sup> which paper VI of JAO exam. for the year 1990 was to be held, ~~had~~ <sup>Thought</sup> inadvertently been shown as 150, it would have to be 200. It has been asserted that paper no. 6 of JAO part II exam was held ~~on~~ 200 marks. Correctness of this averment in the counter affidavit can be tested by, paper VI provided in the subsequent exam of 1992 and 1993. Alongwith RA the applicant has filed paper no. 6 of JAO part II exam of 1992. It is for 150 marks, alongwith another copy of RA filed in file B, he has also filed paper no. VI of JAO part II of 1993 exam. in which also total marks mentioned ~~as~~ <sup>are</sup> 150. Had the syllabus been in respect of paper VI for 200 marks, ~~that~~ <sup>of having 150 marks</sup> mistake could not have been repeated in 1992 and 1993 examinations. The natural conduct on the part of the respondents ~~should~~ <sup>would</sup> have been to correct ~~the~~ <sup>the</sup> syllabus and not to repeate the same mistake in the subsequent years. No material has been placed before us showing that any charge or modification was brought about in syllabus after 1990.

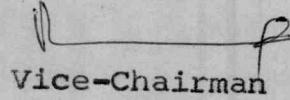
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4. In these facts and circumstances the averment in para 9 of the counter affidavit does not appear to be correct. It appears that in paper VI of the year 1990 of JAO part II examination, 200 marks were wrongly shown by mistake and the respondents instead of admitting their mistake tried to carry it by taking incorrect ~~stand~~ <sup>stand</sup> instant. In our opinion, the applicant was entitled for exemption as per rules and it has been wrongly denied.

5. For the reasons stated above, the OA is allowed. Order dated 12.2.1993 is quashed. The respondents shall grant exemption to the applicant in paper VI and reassess his result of JAO part II examination. No order as to costs.



Member-A



Vice-Chairman

/pc/