

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHBAD BENCH
ALLAHABAD

Date: This the 2nd day of FEBRUARY 2006.

Original Application No. 412 of 2000.

Hon'ble Mr. K.B.S. Rajan, Member (J)
Hon'ble Mr. A.K. Singh, Member (A)

Ved Vyas Mishra, S/o Late Sri R.C. Mishra,
Resident of Posted as Assistant Audit Officer,
I.C. (Central) A.G. Audit-I, UP, Allahabad.

.....Applicant

By Adv: Sri Uma Kant & Sri A.K. Shukla

V E R S U S

1. Union of India through Comptroller and Auditor General of India, 10 Bahadur Shah Jafar Marg, NEW DELHI.
2. The Principal Accountant General (A&E) I UP, 1 Sarojani Naidu Marg, ALLAHABAD.
3. Senior Audit Officer (Admin) O/O Accountant General, Audit-I, AG UP, ALLAHABAD.

.....Respondents

By Adv: Sri S. Chaturvedi

O R D E R

By K.B.S. Rajan, JM

For Applicant: Sri Uma Kant

For Respondents: Sri P. Srivastava for Sri S. Chaturvedi

The applicant was functioning as auditor in April 1993 and at that time the Audit and Account divisions were together. With effect from 1.3.1984 the cadre was bifurcated as Audit and Account and the applicant was sent to the Audit department. Provision exists for qualifying in the examination

for the post of Section Officers and the applicant was successful in the examination conducted in 1989, vide order dated 16.03.1990. As a waitlisted accountant the applicant was relieved of his duties on 30.4.1990. Later on vide order dated 9.4.1992 the applicant was again promoted as Section Officer Audit in the scale of Rs. 1640-2900. He was accorded seniority from 9.4.1992. The applicant claims his seniority from 11.5.1990 when his junior Sri Ram Achal Singh was promoted as Section Officer.

2. Respondents have contested the OA. As per their version the request of the applicant could not be acceded to in view of circular No. 12 of 1988. According to them Sri Ram Achal Singh was junior to the applicant at initial stage who also opted for Audit cadre and was transferred to Audit Officer on 1.3.1984 but he was not waitlisted accountant.

3. Pleadings were perused and arguments heard. The respondents' counsel raised preliminary objection as to limitation and non-joinder of necessary parties. The issue of limitation has to be out-rightly rejected as order impugned is dated 31.8.1999 and the application has been filed on 17.4.2000, which is within the limitation period. As regards non-joinder of necessary parties, the same also does not stand judicial scrutiny as all that the applicant seeks is parity with the junior and not to replace the junior in the higher post.


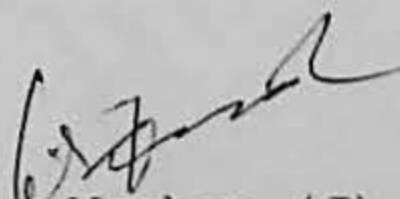
4. Circular No. 12 of 1988 reads as under: -

"In continuation of the orders contained in Head-quarter's Office Circular No. 20 of 1984 issued vide No. 567-Exam./2-1984, dated 12.6.1984, the Comptroller and Auditor General of India has been pleased to permit the wait listed Accountants in A. & E. Offices to appear in Part II of the Section Officer Grade Examination (Civil Audit Branch) under the terms and conditions mentioned below: -

- i. The wait listed Accountants in A&E Officers (Where there is no waiting list in S.Os cadre) who have already passed part I of Section Officers Grade Examination Civil Branch (Accounts) would have option to appear in Section Officers Grade Examination (Civil Branch Audit) Part II.
- ii. Option once exercised would be final.
- iii. They would be considered for promotion as Section Officers (Audit) only on their transfer as Auditors to Audit Office from the waiting list in their normal turn.
- iv. They would be placed below the Section Officers Grade Examination qualified staff of Audit Office on the date of their transfer to Audit Office. The inter-se position among the qualified wait listed Accountants would be according to their inter-se position in the waiting list irrespective of the year of passing."

5. The question to be decided is whether the applicant is entitled to treatment at par with Sri Ram Achal Singh. Admittedly, Ram Achal Singh was junior to the applicant. He was also sent to Audit side alongwith the applicant on 1.3.1984. He also had qualified in the Section Officer's examination alongwith the applicant in the year 1989. Order dated 30.4.1990 clearly indicates that the applicant

was relieved from the post of Accountant and paragraph 2 thereof shows that the applicant was sent on deputation. It appears that this deputation is not based on any specific reason, as there is no need to treat the applicant as on deputation. The applicant was not paid any deputation allowance as well, as confirmed by the counsel at the time of hearing. Whatever good grounds were available for promoting Ram Achal Singh on regular basis from 11.5.1990 are equally available with the applicant as well. Both of them are similarly placed from all angles. As such the applicant has made out a case in his favour. Circular 12/88 does not apply. The OA is therefore, allowed. Order dated 31.8.1999 is quashed and set aside. The applicant shall be treated to be on regular post of section officer without any shade of deputation from 30.4.1990 to 8.4.1992 and this period shall be treated for the purpose of seniority and consequential benefits. The respondents are directed to revise the seniority of the applicant accordingly and all the benefits flowing there from i.e. promotion, if any, to the higher post and monetary benefit at par with the junior shall accrue. Necessary order in this regard be passed within a period of four months from the date of communication of this order.


Member (A)
Member (J)

/pc/