

B

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 284 OF 2000
Cuttack, this the 14th day of December, 2000

Shri Padma Charan Jena Applicant

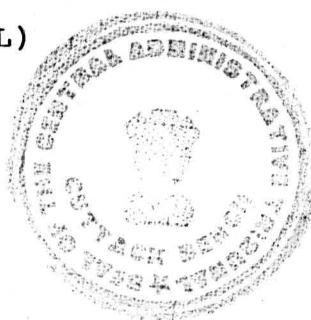
Vrs.

Union of india and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

(G.NARASIMHAM)
MEMBER (JUDICIAL)



Somnath Soni
(SOMNATH SONI)
VICE-CHAIRMAN
14.12.2000

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 284 OF 2000
Cuttack, this the 14th day of December, 2000

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....
Shri Padma Charan Jena,
aged about 38 years, son of Budhiman Jena,
Village Ransinghpur, Post-Narasinghpur, Dist.Cuttack, at
present working as Junior Cashier, South Eastern Railway,
posted at Carriage Repair Workshop, S.E.Railway, Mancheswar
Bhubaneswar-17....
...Applicant

Advocates for applicant -M/s A.K.Mishra
B.B.Acharya
D.Panda
J.Sengupta
P.R.J.Dash
G.Sinha

Vrs.

1. Union of India, represented through its General Manager, South Eastern Railway, Garden Reach, Calcutta-43.
2. Financial Advisor-cum-Chief Accounts Officers, S.E.Railway, Garden Reach, South Eastern Railway, Calcutta-43.
3. Senior Divisional Accounts Officer, S.E.Railway, Khurda Road, Jatni ... Respondents

Advocate for respondents-Mr.Ashok Mohanty
&

.....
O R D E R

Mr.R.Ch.Rath

SOMNATH SOM, VICE-CHAIRMAN

In this application, the petitioner hasprayed for quashing the order dated 24.5.2000 (Annexure-4) rejecting his application for appearing at Appendix 3 (IREM) Examination and also for a declaration that the applicant is entitled to appear at Appendix 3 (IREM) Examination. By way of interim relief he had prayed

that his application for sitting in the Examination scheduled to be held on 19th/20th December 2000 should be forwarded. In order dated 23.6.2000 the prayer for interim relief was posted to 14.7.2000 and direction was also issued that in the meantime the petitioner should file detailed application for sitting in the above examination and the application of the petitioner should not be rejected till the prayer for interim relief is disposed of. On 14.7.2000 because of certain submissions made by one of the learned counsels for the petitioner we declined to deal with this matter any further and no order on the prayer for interim relief was passed. Thereupon on 25.10.2000 the learned counsel for the petitioner, who had made submissions on 14.7.2000 on account of which we had declined to hear the matter, made further submissions on the basis of which the order dated 14.7.2000 was recalled and the matter was taken up for final hearing.

2. The respondents have filed showcause and also counter, and the applicant has filed a rejoinder. After conclusion of hearing the learned counsel for the petitioner has filed a memo on 5.12.2000. From the memo it does not appear if the copy of the same has been served on the other side. We have checked up from the Registry that no receipt of service of this memo on the other side has also been filed. Along with this memo certain documents have also been filed. In view of the fact that there is no record that the copy of the memo has been served on the other side, this is not being taken into consideration.

S. J. Som

3. Facts relevant for determination of this matter are not in dispute. The subject matter of the

present OA only involves the interpretation of various rules, circulars and instructions. The admitted position is that the applicant is working as Junior Cashier in Carriage Repair Workshop (CRW), Mancheswar, under the S.E.Railway. It is also the admitted position that he initially joined the Railways in Commercial Department as Probationary Commercial Clerk in the pay scale of Rs.975-1540/- on 21.3.1990 and worked as such till 9.11.1994. Thereafter he changed his cadre from Commercial Department to Accounts Department and joined as Probationary Accounts Clerk in the pay scale of Rs.950-1500/- on 10.11.1994 in the office of Deputy Chief Accounts Officer (Traffic), Garden Reach, Calcutta. While he was working as Accounts Clerk, in response to a selection notice, he applied for the post of Junior Cashier in the cadre of Cashier in the pay scale of Rs.4000-6000/- (pre-revised Rs.1200-2040/-). He was selected and was appointed as Junior Cashier in Cash & Pay Office, Coach Repairing Workshop, Mancheswar, on 1.2.1997.

It is also the admitted position that the applicant is a Post-Graduate and has passed Appendix 2 (IREM) Examination.

4. According to the applicant, he is eligible to appear at Appendix 3 (IREM) Examination because he has the requisite eligibility. Appendix 3 (IREM) Examination is scheduled to be held on 19th and 20th December, 2000 and in response to a notice asking for applications from candidates intending to take the examination, he applied for permission to appear at Appendix 3 (IREM) Examination and his application was forwarded to FA & CAO (Administration), S.E.Railway,



Garden Reach. F.A.& C.A.O. in his impugned letter dated 24.5.2000 (Annexure-4) has rejected his candidature on the ground that he does not belong to Accounts Cadre and therefore is not entitled to appear in the Appendix 3 (IREM) Examination. Being aggrieved by this order, the petitioner has approached the Tribunal.

5. The applicant and respondents have enclosed the relevant pages of Indian Railways Establishment Manual Appendix 3 and we have perused the same. Paragraph 6 of Appendix 3, which relates to eligibility to take this examination, is quoted below:

"6. No railway servant will be permitted to appear for the examination unless :-

(a) he has passed the examination laid down in Appendix 2 for promotion above the rank of Clerks Grade II or he has exempted from passing that examination under the provision of any general rule laid down in this Manual or separately by the Railway Board or holds the post of a Clerk Grade I substantively.

Provided that no such railway servant will ordinarily be considered eligible for appearing in this examination unless he is permanent and has completed 5 years continuous service in a Railway Accounts Office, or three years if he is a Graduate."

From the above, it is clear that for taking the Appendix 3 Examination, the requirements are that the concerned railway servant should have passed or has been exempted from Appendix 2 Examination. In the instant case, the applicant has admittedly passed Appendix 2 Examination. The proviso lays down that no railway servant will ordinarily be considered eligible for taking this examination unless he is permanent and has completed five years continuous service in a Railway Accounts Office or



S. J. D.

three years if he is a Graduate. It is also necessary to note at this stage that the applicant has been confirmed in service. As he is a Post-Graduate, the required service for him is only three years. The only point of controversy is whether he has completed three years of continuous service in a Railway Accounts Office as the proviso requires.

6. We have heard Shri Aswini Kumar Mishra, the learned counsel for the petitioner and Shri Ashok Mohanty and Shri R.Ch. Rath, the learned panel counsel for the respondents.

7. The first point urged by Shri A.K.Mishra, the learned counsel for the petitioner and this has also been admitted by the respondents in page 4 of the showcause that Accounts Department have five cadres, namely, (1) Shroffs, (2) Cashiers, (3) Accounts Clerks/Junior Accounts Assistants/Accounts Assistant/Section Officer(Accounts)/Inspector of Store Accounts/T.I.A, (4) Finger Print Examiners, and (5) Electronic Data Processing staff. This break-up of five cadres in the Accounts Department has been mentioned in the relevant pages of the Establishment Manual enclosed by the respondents at Annexure-A to their showcause. It has been urged by the learned counsel for the petitioner that from Annexure-A it is clear that Cashier belongs to Accounts Department. He has also referred to Indian Railway Code of Accounts Department, Part-I, paragraph 1902, copy provided at Annexure-5 to the OA, which mentions that Chief Cashier and his staff will work under the administrative control of the Financial Adviser and Chief Accounts Officer. Paragraph 103 of the same Code,

S. J. S.

14

copy of which is at Annexure-6 of the OA, lays down that for the management of cash receipts and disbursements, the Financial Adviser and Chief Accounts Officer is assisted by the Chief Cashier and the Assistant Chief Cashier commonly referred to as "Cashier". The learned counsel for the petitioner has also referred to Paragraph 106 of the Code which lays down that for cash receipts and disbursements the subordinate staff dealing with the work are Divisional Cashiers, Assistant Cashiers, Senior Cashiers, Junior Cashiers, Shroffs and Clerical establishment. In addition, there are Inspectors of Cashiers whose job is to inspect the accounts of the Cashiers. Relying on all these provisions, it has been urged that the applicant's service as Junior Cashier has also to be counted as eligible service for computing the service requirement of three years. At this stage it is necessary to note that it is the admitted position, as mentioned by the respondents in paragraphs 4 and 5 of their counter that the applicant joined as Probationary Accounts Clerk on 10.11.1994 and worked there till he joined as Junior Cashier on 1.2.1997 in the Cash & Pay Office, Coach Repairing Workshop, Mancheswar. He has thus admittedly completed two years, two months and 21 days as Accounts Clerk. The sole point for consideration is whether his service from 1.2.1997 as Junior Cashier will count towards the service required for acquiring eligibility to take Appendix 3 Examination. Before considering the matter, another aspect has also to be noted. This Examination is held for promotion to any of the three classes of appointments which are Section Officer (Accounts), Inspector of Station Accounts and



SSM.

Inspector of Stores Accounts. The respondents have taken the stand that after the applicant had voluntarily joined as Junior Cashier, he has gone away from the accounts line and his period of service as Junior Cashier cannot be taken into consideration for the purpose of computing eligibility for taking the examination. The second stand of the respondents is that this examination is for the purpose of promotion to one of the three promotional posts of which the petitioner has opted for taking the examination for Inspector of Stores Accounts and the applicant is not eligible to be promoted to the post of Inspector of Stores Accounts from his present post of Junior Cashier. It has been pointed out by the respondents that according to the Railway Board's circular dated 16.5.1980 dealing with re-organisation of the Accounts Department of Railways, Junior Cashiers are not entitled to be promoted to the post of Section Officer (Accounts), Inspector of Station Accounts or Inspector of Stores Accounts. The avenues of promotion for these posts have been mentioned in Annexure to this letter which is at Annexure-R/III of the counter. It has been further pointed out that according to Establishment Serial No.298 of 1979, dated 25.9.1979 which deals with classification of non-gazetted posts in Cash & Pay Department, the channel of promotion from Cashier is to Senior Cashier, then Inspector of Cashiers/Assistant Divisional Cashiers and then two levels of Divisional Cashiers. The respondents have stated that by voluntarily opting for Cashier cadre, the applicant has severed his relation with Accounts Department and his future chances of promotion now lie in the Cashier Cadre ending with Divisional Cashier. It has

So fm

been mentioned that Establishment Serial No.134 of 1980, which is the circular dated 16.5.1980, referred to earlier, provides in the Annexure that Group-C service of the Accounts Department of Railways consists of following grades in the ascending order: Clerks Grade-II, Clerks Grade-I, and Selection Grade Clerks, 20% of which posts is termed as Stock Verifiers. Only Appendix 3 examination qualified staff, who are Clerks Grade-II, Clerks Grade-I, Selection Grade Clerks and Stock Verifiers can be promoted to Section Officer (Accounts), Inspector of Station Accounts and Inspector of Stores Accounts. The respondents have stated that as the applicant is not in the channel of promotion to the post of Inspector of Stores Accounts and he has not put in three years of service in the Accounts Office, he is not entitled to take the examination. We have considered the rival submissions of parties carefully. Annexure-A to the counter shows Accounts Department as having five cadres as noted by us earlier and these include Cashier. Under Rules 169, 170, 171 and 172, these five categories have been detailed out. Rule 170 deals with Cashiers and in the heading to this Rule, Cashiers have been mentioned as belonging to Cash & Pay Office. Paragraph 6 of Appendix 3, quoted by us earlier, speaks of three years or five years of service in Railway Accounts Office and not in Railway Accounts Department. From Rules 169 to 172, referred to earlier, it is clear that Cashiers belong to Accounts Department, but it cannot be said that they belong to Accounts Office. Against the post of Cashier, it is clearly written that Cashiers belong to Cash & Pay Office. Rule 105 of Indian Railway Code for Accounts Department, which has been enclosed by



SJm

the applicant at Annexure-6, provides as follows:

"105. Non-Gazetted Establishment of the Accounts Department:- The subordinate accounts establishment of a railway consists of both indoor and outdoor staff. The indoor or office staff is divided into two main classes, viz., Section Officers (Accounts)/Sub-Heads and Clerks. Section Officers (Accounts) are employed as Superintendents in various branches of the Accounts Offices. Some minor charges of sections and sub-sections are supervised by Sub-Heads. The clerks are generally divided into two classes, a lower class (grade II) and a higher class (grade I) the latter being employed on more important work. The outdoor staff comprises Inspectors of Station Accounts, Inspector of Stores Accounts and Stock Verifiers. There are, in addition, Finger Print Inspectors who examine the finger prints on paid pay bills for comparison with those on Service Registers."

From this it is seen that subordinate accounts establishment consists of indoor staff and outdoor staff. Indoor or office staff are divided into two main classes, namely, Section Officers (Accounts)/Sub-Heads and Clerks. The outdoor staff comprise Inspectors of Station Accounts, Inspector of Stores Accounts and Stock Verifiers. Besides there are Finger Print Experts. This does not speak of Cashiers and Shroffs. Rule 106 of Indian Railway Code for Accounts Department, which has been referred to earlier, deals with cash receipt and disbursement, and this rule mentions different levels of Cashiers including Junior Cashiers, Shroffs and Clerical establishment. Thus, from the above rules, it is clear that even though Cashiers work under the Financial Adviser and Chief Accounts Officer and comes under the broad parameter of Accounts Department as seen from Annexure-A to the counter, they cannot be said to be belonging to an Accounts Office. In view of this, it cannot be said that the applicant is at present working in a Railway Accounts Office.

S Jum.



8. The applicant has no doubt worked as Accounts Clerk from 10.11.1994 to 31.1.1997. This works out to two years, two months and 21 days and falls short of the requirement of three years for an Accounts Clerk who is a Graduate. Therefore, on account of his previous service experience as Accounts Clerk, the petitioner is also not entitled to sit for this Appendix 3 Examination because he does not have three years experience as Accounts Clerk. There is one more angle to this. This Examination is meant for promotion to Section Officer (Accounts), Inspector of Station Accounts or Inspector of Stores Accounts. This has been laid down in paragraph 8.1 of Appendix 3 enclosed by both the parties. A person taking the examination has to opt for any of the above three posts for promotion because optional papers in the examination for promotion to the above three posts are different. This has been clearly mentioned in paragraph 2 of Appendix 3 and the different optional papers for Section Officer (Accounts), Inspector of Station Accounts and Inspector of Stores Accounts have been mentioned clearly in sub-paragraphs A, B and C. During hearing it was submitted that the applicant has opted for qualifying in the examination meant for promotion to the post of Inspector of Stores Accounts. The respondents have enclosed Establishment Serial No.134/80, which is Railway Board's letter dated 16.5.1980 dealing with re-organisation of Accounts Department of Railways, at Annexure-C. As an annexure to this letter, organisational chart has been given and from this it appears that promotions to the posts of Section Officer (Accounts), Inspector of Station Accounts and Inspector of Stores Accounts have to be made by way of promotion from Appendix

3 Examination qualified staff who are Clerks Grade-II, Clerks Grade-I, Selection Grade Clerks and Stock Verifiers. A Junior Cashier does not come within this channel of promotion. The applicant has averred in paragraphs 12, 14 and 15 of the OA that mere passing the examination will not give a right to him to be promoted, but he will have the eligibility criteria for promotion if he passes Appendix 3 Examination. It is also stated that the Department's refusal to him to take the Appendix 3 Examination will result in denial of possibility of promotional avenue to him and he will stagnate throughout his service career. From this averment it is clear that the applicant's object in trying to take this examination is for the purpose of acquiring eligibility for promotion to the post of Inspector of Stores Accounts to which post according to Establishment Serial No.134/80 (Annexure-C to the counter) he is not entitled to be promoted. This is also another ground for not allowing him to take the examination.

S. Jom.
9. The applicant in his rejoinder has mentioned about the case of one Kunjaban Behera working as Section Officer in the office of FA & CAO(Construction). He was in the Stenographer Cadre and on being qualified in Appendix 2 and Appendix 3 Examinations, he has been promoted to the post of Section Officer (Accounts). He has also given an example of one Gadadhar Sahoo, Senior Typist in the office of Accounts Officer, C.R.W., who has passed Appendix 2 Examination and whose candidature for Appendix 3 Examination has been accepted by the Railway administration. As these examples were given for the first time in the rejoinder, the learned Senior Panel Counsel



for the Railways, wanted to take time and make submissions on this point and it was later on submitted by Shri Ashok Mohanty, the learned Senior Panel Counsel (Railways) that Kunjaban Behera, who was Junior Stenographer originally, was absorbed in Clerical cadre as Junior Accounts Assistant in the order dated 24.2.1994, a copy of which was filed by the respondents. In view of this, it is clear that Kunjaban Behera was absorbed as Junior Accounts Assistant and therefore, on his qualifying in Appendix 3 Examination, as alleged by the applicant himself, he could have been legally promoted to the post of Section Officer (Accounts). As regards Gadadhar Sahoo, it has been submitted by the learned Senior Panel Counsel (Railways) that he was also absorbed as Junior Accounts Assistant and had also passed Appendix 2 Examination. We have earlier noted the instructions in Establishment Serial No. 134/80 that Typists, Machinists, Stenographers, Comptometer Operators, etc., are permitted to appear at Appendix 2 Examination. Thus, Gadadhar Sahoo, as alleged by the applicant, could have legally appeared at Appendix 2 Examination, and after his becoming Junior Accounts Assistant and putting in the requisite period of service, he would have been entitled to take Appendix 3 Examination. Cases of these two persons, therefore, do not go to support the case of the applicant.

SSJM

10. In the light of our above discussion, we hold that the applicant is not entitled to take Appendix 3 Examination firstly because he has not put in three years of service as Accounts Clerk, and secondly because he has gone away from Accounts Office and joined



Cash & Pay Office and he belongs to a different cadre where channel of promotion is quite different. The Original Application is accordingly rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)

VICE-CHAIRMAN

14.12.2000



December 14th, 2000/AN/RS/47/2000