

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.177/06

Thursday this the 9th day of November 2006

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER**

1. Mohandas.T.P.,
S/o.P.Parameswaran Nair,
Junior Accountant,
Lakshmi Bhai National College of Physical Education,
Kariavattom P.O., Thiruvananthapuram – 81.
Residing at Quarter No.4, Type III,
LNCPE Quarters, Kariavattom P.O.,
Thiruvananthapuram – 695 581.
2. Lathika.M.P.,
D/o.late T.R.Govinda Pillai,
Junior Accountant,
Lakshmi Bhai National College of Physical Education,
Kariavattom P.O., Thiruvananthapuram – 81.
Residing at TC 26/810, Chempaka Nagar 37,
Bakery Junction, Trivandrum – 1.

...Applicants

(By Advocate Mr.O.V.Radhakrishnan,Sr.)

Versus

1. Sports Authority of India
represented by its Director General,
Jawaharlal Nehru Stadium,
Lodhi Road Complex, New Delhi – 3.
2. Director General,
Sports Authority of India,
Jawaharlal Nehru Stadium,
Lodhi Road Complex, New Delhi – 3.
3. Union of India
represented by its Secretary,
Ministry of Youth Affairs and Sports,
Shastri Bhavan, New Delhi.

...Respondents

(By Advocate Mr.Govindh K Bharathan[R1-2]
& Mr.Sunil Jose,ACGSC[R3])

This application having been heard on 9th November 2006 the
Tribunal on the same day delivered the following :-

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicants herein are working as Junior Accountants in the office of the Lakshmi Bhai National College of Physical Education. In response to Annexure A-5 notification calling for applications for the Limited Departmental Examination for Junior Accounts Officer Grade I, the applicants submitted their application for the Limited Departmental Examination for Junior Accounts Officer Part I which was held on 1st and 2nd March, 2003. The result of the above examination published in 24.6.2003 and the applicants have been included in the list of qualified candidates. Thereafter, the respondents conducted Limited Departmental Examination for Junior Accounts Officer Part II on 9th and 10th August, 2003. The applicants participated in the same. However, the results of the above examination were indefinitely delayed and after three years or so on 9.3.2006 the respondents have issued the impugned circular cancelling the SAI Accounts Examination Grade II (Part I and II) conducted for the post of Junior Accounts Officer in the year of 2003/04. On the same day another circular notifying the decision to conduct another examination to fill up the post of Junior Accounts Officer was also issued. The applicants then approached this Tribunal seeking the following reliefs :-

1. To call for the records leading to Annexure A-13 memo dated 9.3.2006 and to set aside the same.

2. To declare that the Junior Accountants who have already qualified in the JAO – Limited Departmental Examination Grade II (Part I) held on 1st and 2nd March, 2003 and included in Annexure A-9 list and those who qualify in the JAO Limited Departmental Examination Grade – II (Part II) held on 9th and 10th August 2003 over again for being for appointment to the cadre of Junior Accounts Officer against the vacancies set apart for appointment by Limited Departmental Examination.

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3. To issue appropriate direction or order directing the respondents 1 and 2 to announce the result of the Limited Departmental Examination for Junior Accounts Officer Grade II (Part II) expeditiously and at any rate within a time frame that may be fixed by this Hon'ble Tribunal.
4. To issue appropriate direction or order directing the respondents not to proceed with Annexure A-14 for conducting Limited Departmental Examination for Junior Accounts Officer Grade II (Part I and II) for the purpose of filling up the vacancies for which the Limited Departmental Examination was conducted during the year 2003/04.
5. To issue appropriate direction or order directing the respondents 1 and 2 to appoint the applicants to the cadre of Junior Accounts Officer Grade II on the basis of the result of Limited Departmental Examination for Junior Accounts Officer Grade II (Part II) conducted on 9th and 10th of August 2003 from the date of their respective entitlement with all consequential benefits.

2. It was stated that no good or valid reason to cancel the said examination has been provided.

3. When the matter came up, the learned counsel for the respondents urged before the Court that the examination had to be cancelled due to administrative reasons. The Tribunal did not find the cancellation justified and stayed the notification at Annexure A-14 on 20.3.2006.

4. Respondents have now filed a reply statement.

5. Meanwhile, the applicants have filed a MA producing an additional document, namely, the judgment of the Central Administrative Tribunal, Bangalore Bench dated 11.8.2006 in O.A.116/06. Learned senior counsel appearing for the applicants submitted before us that the applicant before the Bangalore Bench is also a similarly placed Junior Accountant whose name figures in the Annexure A-13 impugned order in this O.A at Serial No.7. The applicants in this O.A are placed in the same list at Serial

Nos.4 and 14. The prayers of the applicant in O.A.116/06 before the Bangalore Bench of the Tribunal are also identical and the grounds urged by the respondents in the reply statement are also identical. The view that the respondents have taken is that though there was a delay of three years between the conduct of the examination and declaration of the results it was due to the fact that the papers of the said examination were set by an outside agency and the answer sheets had to be sent to the same agency for evaluation which was a time consuming process. The Bangalore Bench has outrightly rejected this contention of the respondents in paragraphs 13 to 15 of its order which is as under :-

13. The apprehension of the respondents in declaring the results of the LDE Grade II Exam conducted on 9th and 10th of August 2003 and for applicant in the Chandigarh Bench case stated in paragraphs 6 to 8 of the reply which we have already extracted earlier, according to us, is no ground for withholding the results of JAO LDE Grade II Examination conducted on 9th and 10th of August 2003. Paragraph 4 of the reply which we have extracted earlier states there was a delay in announcing the result of Grade II Examination because the paper of the said examination was set by an outside agency and the answer sheets had to be sent to the same agency for evaluation which is a time consuming process. We are astonished to note such a submission. There were only 13 applicants who sat for the examination as could be seen from Annexure A-14 circular. For valuing those answer papers 2 1/2 years?

14. The apprehension of the respondents stated in paragraphs 6 to 8 of the reply, if such a situation was caused solely due to the lapses, laches and negligence of the respondents in the timely conduct of the SAI Accounts Examination Grade II which is obligatory, it is a matter for consideration and rectification by the respondents. For that the applicant and other similarly situated persons need not suffer. The cancellation of examinations conducted long before is not the remedy. The respondents have to apply some other methods.

15. In the circumstances, we direct the respondents to declare the results of the JAO LDE Grade II Examination conducted on 9th and 10th August 2003 within a period of 3 months from the date of receipt of this order. If the vacancy of JAO exists as on today and if the respondents want to fill

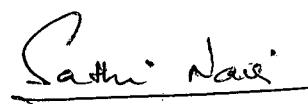
.5.

up those vacancies the respondents will fill up the 50% vacancies under LDE quota from Senior Accountants/Junior Accountants who fulfilled the conditions of SAI Staff Recruitment Rules, 1992. However, we leave open the question of inter se seniority of promotees under the 50% promotional quota and the appointees under the 50% LDE quota to be decided later after promotions in the 50% promotional quota are also filled up. We also make it clear that by the mere fact that 50% LDE quota is filled up earlier will not confer any preferential right/seniority to the JAO appointees under LDE quota in the peculiar circumstances of this case.

6. We are in respectful agreement with the above order of the Bangalore Bench. The applicants herein are identically placed. The Bangalore Bench has already directed that the results of the examination in toto may be declared, therefore, no further order in this regard is required in this O.A as it covers these applicants also. The interim order in this O.A., therefore stands vacated. The respondents shall comply with the order of the Bangalore Bench of the Tribunal in O.A.116/06 within the time limit fixed therein. This O.A is, accordingly, allowed.

(Dated the 9th day of November 2006)


K.B.S.RAJAN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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