

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 549/89
~~T.A.~~ No.

198

DATE OF DECISION 26.2.1990

Shri R.C.Mathias Petitioner

Shri R.C.Kotiankar Advocate for the Petitioner(s)

Versus

Union of India & ors. Respondents

Shri S.R.Atre for Shri P.M.Pradhan Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.B.Mujumdar, Member (J)

The Hon'ble Mr. M.Y.Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

DA.NO. 549/89

Shri R.C.Mathias

... Applicant

vs.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (J) Shri M.B.Mujumdar
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Mr.R.C.Kotiankar
Advocate
for the Applicant

Mr.S.R.Atre
for Mr.P.M.Pradhan
Advocate
for the Respondents

JUDGMENT

Dated: 26.2.1990

(PER: M.Y.Priolkar, Member (A))

The prayer in this case of the applicant, who is an employee of the Department of Telecommunication, is that he may be declared as passed in December 1988 P&T Junior Accounts Officers Part II examination (Telecom Wing), with consequential benefits.

2. The facts of the case, which are not in dispute, may be briefly narrated. In the Ministry of Communications which now comprises two separate departments, namely, Department of Posts and Department of Telecommunications, a departmental examination is conducted for appointment as Junior Accounts Officer. The examination is conducted in two parts. A candidate is entitled to a maximum number of six chances to appear in Part I and Part II examination. The minimum marks for passing are 40% in each subject and 45% in the aggregate. A candidate failing at an examination but passing in any subject with at least 60% of the marks is not required to appear again in that subject at any of the three consecutive departmental examinations.



3. A new syllabus for the examination came into effect from February 1985. Under the old syllabus, there was one paper in Part I on Book-keeping and one paper in Part II on Advanced Accountancy. With the introduction of the new syllabus, Advanced Accountancy has been removed from Part II and added in Part I, combined with Book-keeping and now forms Paper No. VI under Part I, Advanced Accountancy and Costing. A special provision was also made in February 1985 orders that candidates who have already qualified in Part I, are to appear in Advanced Accountancy as per the old syllabus in addition to other papers of Part II as per the new syllabus. This special paper on Advanced Accountancy will be specifically set for three consecutive years only, after the introduction of the new syllabus, during which period, those who have qualified earlier in Part I should qualify in Part II including the paper on Advanced Accountancy. If they fail to qualify, they will have to appear again in Book-keeping and Advanced Accountancy (combined paper) prescribed for Part I under the new syllabus and qualify before they are declared passed in Part II of JAO Examination. As a special case, in relaxation of February 1985 orders, by an order dated 26.5.1988 of the Department of Posts, it was provided that a candidate who has secured passing marks in the paper on Advanced Accountancy (old syllabus) in any of the three years 1985, 1986 and 1987 in which this additional paper was set, need not appear afresh in Paper No. VI of Part I.

4. The applicant had passed JAO Part I Examination in 1980. Though he could not qualify in the Part II Examination, in his fifth attempt in January 1985, he passed in the paper on Advanced Accountancy (old syllabus) but could not get exemption marks. He appeared ^{in December 1988} for the sixth attempt (his last chance) for Part II Examination with Advanced Accountancy paper (old syllabus) and passed in all papers except the paper on Advanced Accountancy.

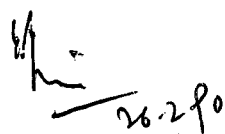
The applicant's grievance is that, had similar orders been issued by the Department of Telecommunications as issued on 26.5.1988 by the Department of Posts, he would have been declared as passed in Part II Examination since he had passed in the Advanced Accountancy paper in the January 1985 examination.

5. After hearing the learned Advocates on both sides, we do not think this grievance of the applicant is justified. Firstly, the Department of Posts and the Department of Telecommunications are now separate independent Departments with separate recruitment rules for posts of Junior Accounts Officers, and the examinations are also separately and independently conducted, with some difference in syllabus under Part II of the examination. The applicant cannot, therefore, compare his case with Postal candidates, as the Department of Telecommunications will have to decide on any relaxations, if at all, depending on its requirement of qualified candidates and after assessing how many candidates have failed to qualify after availing of the three chances, as was done by the Postal Department. Secondly, the January 1985 examination in which the applicant secured pass marks (40%) and not exemption marks (60%) in the paper on Advanced Accountancy, was conducted by the Telecommunications Wing of the P.T. Department under the old syllabus. This examination was actually programmed to be held on 17.11.1984 but had to be postponed to January 1985 for some reason and was thus in effect Part II Examination for 1984. The special relaxation order dated 26.5.1988 of the Department of Posts being applicable only to those candidates who had appeared in Part II examination as per new syllabus with the paper on Advanced Accountancy as per old syllabus in the years 1985, 1986 and 1987, the applicant could not have got the benefit of this order even if a similar order had been issued by the Department of Telecommunications. Lastly, the examination conducted by the Department of Telecommunications in December 1988

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as per the new syllabus in which the applicant failed to pass in the paper on Advanced Accountancy was the applicant's sixth and last chance and the facility of appearing for two more years cannot be enjoyed by the applicant. The respondents have produced before us a communication dated 27.11.1989 confirming that the Department of Posts have also not permitted any Part I candidate to appear in the three chances for the special paper on Advanced Accountancy in Part II under the old syllabus without applying the limitation of six total chances.

6. For all these reasons, we feel that this is not a fit case for interference by this Tribunal. Evidently, a postponed examination of 1984 held in early 1985 by the Department of Telecommunications prior to revision of syllabus, cannot be equated with the examination held in 1985 by the Department of Posts after revision, to derive the same benefit. There is also no ground to assume that the applicant would have passed in the paper on Advanced Accountancy, had examinations been conducted in 1985, 1986 or 1987 in the Department of Telecommunications under the new syllabus, when he could not clear that paper, even after acquiring some more experience, in 1988. We do not, therefore, see any merit in this application which is accordingly dismissed, with no order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(M.B. MUJUMDAR)
MEMBER (J)

Judgement dt. 26.2.90
Served on P. Nos on d. 2.
NII


16/4/90