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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
BOMBAY 400001

O.A. NO. 663/90

Gangadhar Govindrao Anantwar
Itwari
Near Datta Mandir
Nagpur

..Applicant

V/s.

The Director General (Postal)
New Delhi through Director of
Accounts (Postal)
Nagpur

..Respondents

Coram: Hon.Shri P S Chaudhuri, Member (A)
Hon.Shri T C Reddy, Member (B)

JUDGMENT
(PER: P S Chaudhuri, Member (A))

DATED: 13-09-1991

This application under section 19 of the Administrative Tribunals Act, 1985 was filed on 6.9.1990. In it the applicant who is working as Senior Accountant in the respondent's office is seeking a direction that he is entitled for the inclusion of his name in the list of successful candidates in the November 1988 JAO Part-I examination and so is eligible to appear in the Part-II examination.

2. The rules for this examination lay down that the minimum number of marks required to qualify in each Part will be 40% in each subject and 45% in the aggregate. In the November 1988 examination the applicant obtained 40% or more in each paper but failed to qualify as he got only 44.4% in the aggregate. He made representation on 15.10.1989 and 4.5.1990. As he got no reply, he filed this application.

3. The respondents have opposed the application by filing their written statement. During ^{the} Circuit Sitting at Nagpur we have heard Mr. S V Gole, learned counsel for the applicant and Mr. Ramesh Darda, learned counsel for the respondents.

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4. We may pause here for a moment to note that a revised syllabus was to come into force from the examination scheduled for September 1990. This revised syllabus provided that, inter alia, the number of papers for Part-I and Part-II examinations would be reduced from 6 to 5 to 5 to 4 respectively and that the paper of Advanced Accountancy would be shifted from Part-I to Part-II. By order dated 12.3.1990 it was directed that since the paper on Advanced Accountancy has now been shifted to Part-II, such of those candidates who had qualified/passed in the remaining subjects but had failed in Advanced Accountancy would be deemed to have passed part-I.

5. By order dated 3.5.1990 a list of four such candidates who were deemed to have passed/qualified in Part-I examination of 1987 and 1988 was notified.

6. It is the applicant's case that he should be given the same benefits. Three grounds are put forward in support of this plea. The first ground is that the ~~implied~~ effect of the use of the terminology "qualified/passed" is that the distinction between 'qualifying' and 'passing' has been removed. It is the applicants case that he 'passed' in every subject but failed to 'qualify'. We are not impressed with this sophistry. The rules that we have mentioned earlier make it quite clear that there is no such distinction. The applicant qualified in all papers but failed to qualify in the aggregate. Alternatively, he passed in all the papers but failed to pass in the aggregate.

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7. The second ground is that the effect of the instructions is to relax the standards. As any beneficial scheme is to be interpreted liberally the applicant, too, should get the benefits. This submission is not well founded. As mentioned by us earlier the syllabus was revised. The syllabus was not relaxed. The respondents contend that there has been no relaxation of standards in any way. Against this background we see no merit in this submission.

8. The applicant's final submission was that others who have both failed in the paper in Advanced Accountancy as also in the aggregate when the results of the paper in Advanced Accountancy were included in the aggregate, have now been deemed to have passed because their marks in the aggregate have gone up above 45% as a consequence of no longer considering the below pass marks obtained by them in Advanced Accountancy. On the otherhand, he had not failed in any subject and yet was not being given a chance. But it is not for us to interfere with the scheme of any departmental examination. The scheme now lays down that Part-I will now have five subjects and it also lays down that to be successful a candidate must obtain 40% in each of these residual five subjects and 45% in the aggregate based on these five residual subjects. We cannot fault with this scheme. The applicant has failed to come up to the standards prescribed therein and so has failed.

9. In this view of the matter we see no merit in the application and are of the opinion that it deserves to be dismissed.

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10 We accordingly dismiss the application.

In the circumstances of the case there will be no orders as to costs.

T. Chandrasekhar Reddy
(T C Reddy)
Member (J)

P. S. Chaudhuri
(P S Chaudhuri)
Member (A)

13-9-1991

(13)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

Review Petition No.129/92

in
O.A.663/90

Gangadhar G. Anantwar,
r/o. Itwari,
Near Datta Mandir,
Nagpur.

.. Review Petitioner

versus

Director General (Postal)
New Delhi
through
The Director of Accounts,
(Postal)
Nagpur.

.. Respondent

Coram: Hon'ble Shri Justice S.K. Dhaon,
Vice-Chairman.

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

Appearances:

1. Mr. S.V. Gble,
Advocate for the
Review Petitioner.
2. Mr. Ramesh Darda
Counsel for the
Respondents.

TRIBUNAL'S ORDER: Date: 17-9-1992
{Per S.K. Dhaon, Vice-Chairman}

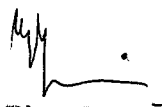
This is an application seeking
the review of order dt. 13th September, 1991
passed by this Tribunal in O.A.663/90.


2. Admittedly the applicant had to
appear in five papers in the Part-I exami-
nation. It is also not in dispute that a
candidate who appeared for the said exami-
nation was not only required to pass in
all the five papers but he was also required
to obtain an aggregate of 45%. It is also
not in dispute that the applicant passed
in five papers but he failed to achieve
the aggregate of 45%; he secured 44.4%

in aggregate. This fact has been noticed by the Tribunal and therefore this consideration was the predominant one which resulted in the dismissal of this O.A. The argument advanced before us is that the Tribunal committed an error apparent on the face of the record as it failed to take into account a circular dt. 12th March, 1990 which was brought to its notice. This is not correct. The Tribunal has noticed the circular. The Tribunal has rejected the argument of the applicant that by means of this circular there was a relaxation in the condition that a candidate should secure 45% marks in aggregate. It has taken the view that the circular was issued because there was a change in the syllabus insofar as the paper of Advanced Accountancy which form^{ed} part of syllabus^{or} part-I examination had been shifted to Part-II examination. With the result that a candidate was required to appear only in five papers at the part-I examination.

3. We have gone through the circular ^{are} ourselves and we/also satisfied that its purpose was not to relax the condition that a candidate must obtain a minimum of 45% marks in aggregate.

4. There is no substance in this application. The review petition is rejected.


(M.Y. PRIOLKAR)
Member (A)


(S.K. DHAWON)
Vice-Chairman