

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT  
HYDERABAD

O.A.NO. 968 of 1989:

DATE OF ORDER: 29/01/1990

Mohd. Akthar Ali

...Applicant

Versus

1. The Accountant General (A&E)  
A.P.Hyderabad.

2. The Comptroller and Auditor General  
of India, 10, Bahadur Shah Jafar Marg,  
New Delhi.

...Respondents

...

FOR APPLICANT: MR.I.DAKSHINA MURTHY, Advocate.

FOR RESPONDENTS: MR.PARAMESWAR RAO, Standing Counsel for the  
Department

...

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI J.N.MURTHY: MEMBER (JUDICIAL)

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(Judgment Delivered by Shri B.N.Jayasimha, Vice Chairman)

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1. This is an application filed by a Clerk  
in the office of the Accountant General (A & E), Andhra  
Pradesh, Hyderabad. He seeks quashing of the orders of  
Respondent no.2 communicated in letter no. Admn II/A&E/  
Exams/8-32/1988-89/TR No.202, dated 12-7-1989, and to  
hold that the applicant is eligible for writing the  
departmental examination for Accountant held in February  
1989 and for declaration of the results with consequential  
benefits.

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2. The applicant states that he joined the service of the 1st respondent as Group D official on 21-4-1983. He was given the substantive appointment on 1-4-1988. He appeared for the limited departmental competitive examination for Group 'D' staff held in 1987. On his coming out successfully in the said examination, he was promoted as clerk on 24-12-1987.

3. A new promotion scheme was introduced enabling Group 'D' staff with three years of service and who are graduates to appear for the Departmental Examination for the post of Accountants. According to Rule 3.3 of Indian Audit and Accounts Department (Accountant) Recruitment (Amendment) Rules 1988, 'Graduate Group 'D' with 3 years continuous regular service in the grade are now eligible to appear at the Departmental Examination for Accountants and can be promoted against examination quota vacancies under the Amended Rules.' As the applicant satisfied the conditions <sup>regarding</sup> in service and qualifications, he was permitted to write the Departmental Examination in February, 1989. Accordingly, he appeared for the examination. Just before the announcement of the result, the applicant received a communication in No. Admn II/A&E/Exams/8-22/1989-90/TR No.501, dated 7/10-4-1989, whereby he was informed that his candidature for the Examination for Accountants held in February, 1989 be treated as cancelled. It is stated in the said letter that the service rendered in Group D cannot be combined with the service rendered as a Clerk to determine the eligibility to appear in the Departmental Examination for Accountants. The applicant contends that this contention

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of the respondents is not correct for the following reasons:

- (a) As per the rules there is no necessity to count the service in the Clerk cadre as he had already completed more than 3 years service in Group 'D' cadre from 21-4-83 to 24-12-1987;
- (b) The service in Clerk post over and above three years in Group D post is an additional qualification and not a disqualification; and
- (c) Having correctly processed the application and allowed him to write the examination, the respondents cannot arbitrarily cancel his candidature.

Hence, the applicant has filed this application.

4. We have heard the learned counsel for the applicant Shri I.Dakshina Murthy and the learned Standing Counsel for the Department, Shri G.Parameshwar Rao.

5. Before we consider the arguments advanced, we may notice the relevant part of the Indian Audit and Accounts Department (Accountant) Recruitment (Amendment) Rules, 1988:

" 11. Method of recruitment, whether by direct recruitment or by promotion or by deputation/transfer and percentage of vacancies to be filled by various methods:

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- (a)  $33.\frac{1}{3}\%$  by promotion of Clerks, with five years regular service in the grade on seniority basis, subject to rejection of unfit, failing which by direct recruitment.
- (b)  $33.\frac{1}{3}\%$  by promotion of graduate Group-D officials or Matriculate Clerks with three years continuous

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service on passing the Departmental Examination for Accountants or Clerks on passing the Section Officer's Grade Examination Part-I, failing which by direct recruitment (The interse ranking of those who so qualify will be in the order of their interse seniority, those qualifying in any earlier examination ranking enbloc higher than those who qualify in a later examination; Group 'D' officials will rank below Clerks). "

Shri Dakshina Murthy contends that the applicant has put in more than three years of service in Group 'D' itself before his promotion as a Clerk. Although he has not put in three years of service as a Clerk, he cannot be denied the right to appear for the examination ignoring his service eligibility in the Group-D service.

6. Shri Parameshwar Rao contends that the Departmental Examination of the Accountants was conducted as usual in February 1989. The applicant had applied for the said examination. The applicant was already working as a Clerk on the relevant date i.e. 1-2-1989 and had also put in a service of 1 year, 1 month and 8 days in that cadre. To become eligible for appearing in the examination, the applicant should have completed a minimum three years of service in that cadre. The applicant was, however, allowed to take the examination purely on a provisional basis though he was not found eligible to take the examination. There is, therefore, no irregularity in the impugned order.

7. We have considered these submissions. According to the amended rules,  $33 \frac{1}{3}$  % posts are to be filled on t

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basis of passing the Section Officer's Grade Examination, Part-I, by promotion of (a) Graduate Group-D officials with 3 years continuous service, and (b) Matriculate Clerks with 3 years continuous service. The applicant has completed 3 years of service in Group-D post and is also a graduate. He, therefore, qualifies under category (a) of the rules. Shri Parameswara Rao's contention is that the applicant loses his eligibility as Group-D official once he is promoted as an L.D.C. In the L.D.C. category, one must have completed three years. We are unable to accept this view. The rules contemplate a common examination for Group-D and Clerks. All employees, who have the qualification prescribed are eligible to compete for the examination irrespective of their seniority. The applicant cannot be disqualified on the ground that he has not completed three years as Clerk even though as a Group-D official he fulfills the requirements. Otherwise while a group-D official, who is junior to the applicant, but did not compete for the post of L.D.C. / did not get selected for the L.D.C. post, would be entitled to appear for the examination for the Accountant's post, the applicant would remain disqualified.

Q. 9 We are, therefore, of the view that according to the rules, the applicant is eligible to appear for the Accountants' examination. This view is fortified by what is stated in the rules in regard to assignment of seniority between Group-D and Group-C officials, who qualify in the examination. All Group-D officials/ would be placed below the Group-C officials. When the applicant qualifies in the examination, as a Group-D official, his placement

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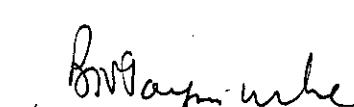
would be below that of the Group-C officials, who qualify in the examination.

9. In the result the application is allowed and the respondents are directed to declare the result of the applicant in the examination conducted in February 1989.

- In the event of the applicant passing the examination, he will be placed below the group-C officials, who have qualified in the examination and he will be entitled for promotion in accordance with the ranking so given.

The application is allowed with the above directions.  
No costs.

(Dictated in Open Court)



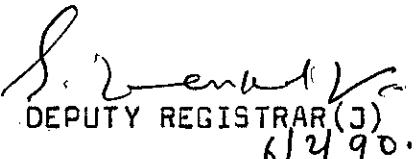
B.N.Jayasimha

(B.N.Jayasimha)  
Vice Chairman



J.N.Murthy  
Member (Judicial)

Dated: 29th January 1990



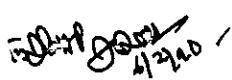
S. Venkateswaran  
DEPUTY REGISTRAR (J)  
6/4/90.

TO:

1. The Accountant General(A&E) A.P.Hyderabad.
2. The Comptroller and Auditor General of India, 10, Bahadur Shah Jafar Marg, New Delhi.
3. One copy to Mr.I.Dakshina Murthy, Advocate, 10-1-18/25, SOH, Shyamnagar, Hyderabad-500 004.
4. One copy to Mr. G.Parameswar Rao, SC for A.G.'s office,CAT,Hyd. <sup>NSR</sup>
5. One spare copy.

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k.j.



1/2/90

Draft by: Checked by: Approved by  
D.R.(J)

Typed by: \_\_\_\_\_ Compared by: \_\_\_\_\_

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

HON'BLE MR. B.N. JAYASIMHA: (V.C.)  
AND

AND

HON'BLE MR.Q. SURYA RAO: MEMBER (JUD)

ANS

HON'BLE MR.D.K.CHAKRAVORTY: MEMBER: (A)  
AND

ANS

HON'BLE MR. J. NARASIMHA MURTHY: MEMBER (J)

DATED: 29 1-90

**ORDER/JUDGMENT**

~~M.A./R.A./C.A./No.~~

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T.A. No.

(W.P.No.)

O.A.No. 968 | 88

Admitted and Interim directions issued.

Allowed. ✓ No Cost

Dismissed.

~~Disposed of with direction~~

M. A. ~~Ordered~~

No order as to costs.

Central Administrative Bureau  
of DISPATCH  
782-430  
HYDEN MUNCH.

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