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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.761/92

Date of Order: 2.3.94

N.Sivarajaiah

.. Applicant.

A N D

Union of India represented by:

1. Secretary to the Govt. of India
and Chairman, Telecom, Commission,
Dept. of Telecommunications,
New Delhi.
2. Member Finance,
O/o. the DOT New Delhi.
3. Chief General Manager,
Telecommunication, A.P.Circle,
Hyderabad.
4. General Manager,
Telecommunications,
Telephone District,
Suryalok Complex,
Hyderabad.
5. Divisional Engineer,
Telecommunications (Rural),
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.N.V.Raghava Reddy

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO : VICE CHAIRMAN

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

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O.A.NO.761/92.

JUDGMENT

Dt. 2.3.1994.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri KSR Anjaneyulu, learned counsel for the applicant and Shri N.V.Raghava Reddy, learned standing counsel for the respondents.

2. The applicant is working as officiating Junior Accounts Officer (JAO) in the office of the Divisional Engineer, Telecommunications (Rural), Hyderabad. He passed Part-I examination prescribed for Junior Accts. Officer prior to February 1985. The revised syllabus had come into existence in February 1985. As per the pre-revised syllabus, ~~and~~ there were 8 papers in Part-I and 5 papers in Part-II. One of the papers in Part-I then was Book Keeping. Advanced Accountancy was one of the papers in Part-II as ^{per} the pre-revised syllabus. As per the revised syllabus, there are 6 papers in Part-I and 5 papers in Part-II. There is a combined paper of Book Keeping and Advanced Accountancy in Part-I as per the revised syllabus. New paper of Civil works is included in Part-II as per the revised syllabus.

3. Para 2(i) of the DGP&T letter No.17-1/83-SEA, dated 13.2.1985 postulates as to how the cases of those ~~who~~ passed Part-I prior to February 1985 have to be considered and it reads as Under:-

"2. The following procedure will be adopted in respect of the candidates who have already qualified in Part-I of the Junior Accounts Officers

Examination or secured exemption in
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Book Keeping paper of the present Part-I Junior Accounts Officer Examination.

i) Those who have qualified in "Book Keeping" paper of the existing Part-I of the JAOs examination, will be required to take the paper on "Advanced Accountancy" in Part-II under the existing syllabus, in addition to the other papers prescribed for Part-II of the JAOs Examination in the revised syllabus. This paper will be especially set for three consecutive years, during which period those^{who} have now qualified 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 paper of Advanced Accountancy (combined) prescribed for Part-I examination along with other candidates appearing in Part-I examination and qualify before they are declared to have qualified in Part-II of the JAOs examination.

As regards, the candidates who have secured exemption in "Book Keeping" paper, but have not qualified

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in the Part-I examination as a whole, they will be required to appear afresh in the "Book Keeping" paper under the revised syllabus."

The applicant appeared for the five papers in Part-II as per the revised syllabus and also Advanced Accountancy in April, 1990. He got less than 45% when the aggregate of the 5 papers of Part-II as per the revised syllabus ^{were} taken into consideration and he got 45.3 per cent when the marks in the Advanced Accountancy paper were also added to the said aggregate. The minimum qualifying mark for Part-II is 45% ^{required to} in the aggregate, subject to the condition that one should secure atleast 40% in each of the papers. The applicant was not declared as passed in Part-II by holding that for the purpose of qualifying marks in the aggregate, the marks secured in the 5 papers in the Part-II as per the revised syllabus alone ^{have} ~~has~~ to be taken into consideration and the marks obtained in the Advanced Accountancy should not be taken for the said purpose. Being aggrieved, this OA was filed praying for a direction to the respondents to take the aggregate of six papers ^{be} under Part-II ~~in~~ which the applicant appeared and to declare him qualified in the JAO Part-2 examination held in November 1990 and to direct the respondents to post him as Junior Accounts Officer with all consequential benefits.

4. It may ^{be} stated at the outset that the applicant secured 40% or more marks in all the 5 papers in Part-~~2~~ ^{II} as per the revised syllabus and also in the

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Advanced Accountancy. If the contention for the applicant that the Advanced Accountancy paper also should be treated as a part of Part-~~2~~^{II} and hence marks in all the 6 papers should be aggregated in order to consider whether he scored 45% or more is accepted, then the applicant should be declared as passed in Part-~~2~~^{II}.

5. Thus, the short point for consideration is as to whether the marks secured in the Advanced Accountancy have to be taken into consideration for determining as to whether one got 45% or more in the aggregate. Para 2(i) of the DGP&T letter dated 13.2.85 does not specifically indicate as to whether the marks in the Advanced Accountancy have to be included or excluded in order to determine as to whether one is qualified in Part-2. ^{For} the sake of convenience, the relevant ^{portion} ~~part~~ in Para 2(1) of the said letter can be again referred to.

"This paper will be sepecially set for three consecutive years, during which period those who have now qualified 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 paper of Advanced Accountancy (combined) prescribed for Part-I examination along with other candidates appearing in Part-I examination and qualify before they are declared to have qualified in Part-II of the JAOs examination."

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It is evident from the above that one who passes in Part-I prior to February 1985 has to be given a chance to appear in 3 consecutive years whereby he can appear for the Advanced Accountancy paper and other 5 papers in Part-2 at the same time. If one does not qualify in the Part-II even after availing those 3 chances, then he has to appear ^{for} the Book Keeping paper and the Advanced Accountancy (combined) along with the other candidates who appeared for Part-I examination subsequent to February 1985. Unless he is qualified in that combined paper of Book Keeping and the Advanced Accountancy, he cannot be permitted to even appear for Part-II. Hence, by combined reading of the ^{book} ~~later~~ ~~two~~ two limbs of the Para 2(i) of the letter dated 13.2.1985, it can be stated as under:-

One who passed Part-I prior to February 1985 is allowed to appear for three successful chances for Part-2 and then he has to appear for the Advanced Accountancy paper also. But if ~~he~~ he failed to qualify even after appearing ⁱⁿ ~~for~~ those three successful years or if he ^{had} ~~is~~ not appeared for those three successful years, he cannot be permitted to appear for Part-2 unless he qualifies in Book Keeping and Advanced Accountancy, a combined paper. Thus, it means that for the first three chances, the candidates are permitted to appear for the Part-2 even without first qualifying in the Advanced Accountancy. It means that while appearing for Part-2 they have ~~to~~ also to appear for the Advanced Accountancy. When after availing later three chances, marks in Book Keeping and the Advanced Accountancy paper are not added to the aggregate

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gate in the five papers in Part-2 in order to determine whether one got atleast 45% in the aggregate, then we feel that it was not the intention to include the marks obtained in the Advanced Accountancy even when one was permitted to appear for the Part-2 even without passing ~~the~~ in the Advanced Accountancy. Thus, the relevant part of Para 2(i) of the letter dated 13.2.1985 has to be construed to the effect that one should qualify in the Advanced Accountancy in the sense that one should get not less than 40% in the said paper and he should also get 45% on the aggregate of the five papers referred to in Para-2 as per the revised syllabus. Thus, one should qualify not only in Part-2 but also ⁱⁿ Advanced Accountancy.

6. It has to be further noted that those should ^{have} ~~the~~ ^{same} qualifying marks for pass in Part-2 for, not only for those who appeared for Part-1 and Part-2 subsequent to February 1985 but also for those who pass^{-ed} in Part-1 prior to February 1985 and appeared for Part-2 subsequent to February 1985. If the contention for the applicant has to be accepted, then the aggregate that has to be considered for one who pass^{-ed} Part-1 subsequent to February 1985 will be different from the aggregate that has to be considered in regard to the one who pass^{-ed} Part-I prior to February 1985. Ofcourse, there cannot be reasonable classification. If there is nexus between such classification and the object which is sought to be achieved. There is no material to indicate that those who pass^{-ed} Part-I prior to February 1985 have to be given some consession than to

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those who pass Part-I subsequent to February 1985. The object of Para 2(1) is clear, ^{that} ~~that~~ the Advanced Accountancy paper is now ^a part of Part-I. Unless one passes Part-I, he cannot be permitted to appear for Part-2. Then the question had arisen as to whether an employee who passed Part-I prior to February 1985 should or should not be allowed to appear for Part-2 before he passes the Advanced Accountancy test. If he is not allowed to appear for Part-2 unless he passes ~~Part-I~~ the Advanced Accountancy paper, then he may lose some time, and ~~probably~~ for that reason, three chances were ~~intended to be~~ given to those candidates, ^{passed Part I prior to Feb 1985, &} who appeared for Part-2 even before he qualifies in the Advanced Accountancy paper and one should be declared as passed in Part-2 if he passes in the Advanced Accountancy paper. The concession is given only to that extent. Further, we do not find any other reason as to why any further concession should be given ^{to them}. It is made clear from the last line of that Para 2(1) of the above letter that the marks in the Book Keeping and Advanced Accountancy (combined) paper would not be taken into consideration for determining as to whether one qualified on the basis of the marks obtained in the aggregate in Part-2 paper.

7. For the reasons stated above, we are ~~not~~ in full agreement with the stand taken by the respondents that the marks obtained ⁱⁿ in the Advanced Accountancy paper should not be included for considering as to

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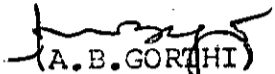
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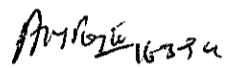
whether one got 45% on the aggregate of the marks obtained in Part-2.

8. In the result, the OA is dismissed. No costs.


(A.E. GORTHI)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 2nd March, 1994.
Open court dictation


Deputy Registrar(J)CC.

vsn

To

1. The Secretary to the Govt. of India and Chairman, Union of India, Telecom Commission, Dept. of Telecommunications, New Delhi.
2. The Member, Finance, O/o the DOT New Delhi.
3. The Chief General Manager, Telecommunication, A.P. Circle, Hyderabad.
4. The General Manager, Telecommunications, Telephone District, Suryalok Complex, Hyderabad.
5. The Divisional Engineer, Telecommunications (Rural), Hyderabad.
6. One copy to Mr. K.S.R. Anajaneyulu. Advocate, CAT. Hyd.
7. One copy to Mr. N.v. Raghava Reddy, Addl. CGSC. CAT. Hyd.
8. One copy to Library, CAT. Hyd.
9. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. R. RANJAN : MEMBER
(ADMN)

Dated: 23-1994.

~~ORDER~~/JUDGMENT:

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

in

O.A.No.

761/92

T.A.No.

(W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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