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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1524/97

Date of Order : 13.11.97

BETWEEN :

K.Rama Krishna

.. Applicant.

AND

1. The Accountant General
(Audit)-II, A.P.
Hyderabad.

2. The Comptroller & Auditor General
of India, New Delhi.

.. Respondents.

Counsel for the Applicant

.. Mr.K.Venkateswara Rao

Counsel for the Respondents

.. Mrs.Shakti for

Mr.G.Parameshwara Rao

CORAM:

HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

Mr.K.Venkateswara Rao, for the applicant and Ms. Shakti for Mr.G.Parameshwara Rao, on behalf of the respondents.

2. The applicant in this OA is a Senior Auditor in the office of the Accountant General (Auditor-II). He duly passed the preliminary examination, thereby earning eligibility for appearing at SOG Part-I examination which is to be held from 18.11.97. The applicant was placed under suspension from 16.5.97 as he was detained in police custody exceeding 48 hours from the evening of 16.5.97. A case under Section 498 (A) of ^{the} IPC and Section 4 of ^{the} Dowry Prohibition Act was contemplated against him. The case is said to be pending. However, it is also noted that subsequent to the initiation of the criminal case, an OP has been filed in the Family Court at Hyderabad wherein the applicant and his spouse have petitioned for annulment of their marriage by mutual consent.

3. The applicant is desirous of appearing at the SOG Part-II examination due to be held from 18.11.97. His grievance is that no hall-permit has so far been issued to him to appear for the said examination. Mr.K.Venkateswara Rao for the applicant argues that while a criminal case is no doubt pending at present, there is a distinct possibility - in view of the subsequent case for a divorce by mutual consent filed in the Family Court - that the earlier case ^{may} ~~will~~ not survive and may well be dropped ultimately. In such a situation, the loss of a legitimate opportunity for appearing at the SOG ^{Part I} examination may never be compensated even if the applicant comes out clean in the pending criminal case.

4. Ms. Shakti for Mr.G.Parameshwara Rao draws our attention to the following two rules in the Manual of Standing Orders (Administrative) issued by the Comptroller Auditor General of India :

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9.2.8 Subject to any general or special instructions issued by the Comptroller and Auditor General from time to time arrangements for holding training classes should be made by the Principal Accountants General/Principal Directors of Audit for the benefit of candidates for Part I and Part II of the Examination. In addition to the theoretical instructions, the candidates should be given training in practical work of the Department. Ordinarily, candidates who do not attend training classes should not be allowed to appear at the examination but the Principal Accountant General/Principal Director of Audit/Accountant General at his discretion, allow a candidate to appear at the examination, even though he may not have attended the training classes, if he finds that the candidate is otherwise fit to take the examination and likely to pass it. (*Emphasis supplied*)

9.2.11 Candidates satisfying the conditions set out in paragraphs 9.2.5 to 9.2.7 are eligible but have no claim to appear for the examination. The Principal Accountant General/Principal Director of Audit/Accountant General should certify at the foot of the statement required in paragraph 9.2.3 with due responsibility, and not as a matter of form, that the candidates recommended are regular in attendance, energetic, of good moral character and business like habits and are not likely to be disqualified for appointment to the Section Officers Service as not possessing the aptitude for the work of a holder of a post in the Section Officers' Service and that they have a reasonable prospect of passing the examination.

5. It is disclosed that the applicant fell short of the requisite attendance at the training class held for the candidates for SOG Part-I examination. The shortfall is stated to be ^{of} about a week. This is the first impediment to a hall-ticket being issued to the applicant. It is, however, seen that the rule itself contains

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a proviso whereby the Principal Accountant General at his discretion may allow an official to appear for the examination even where a candidate has not attended the training classes if it is found or decided that the candidate is otherwise fit to take the examination and is also likely to pass the same. The request of the applicant could indeed be examined under the terms of this provision.


6. Turning to the question of the applicant's continued suspension and his current involvement in a criminal case, a possible situation has been hinted at in para -3 above. In order to safeguard the interest of the applicant in the event of his eventual acquittal, R-1 may examine if the applicant can be provisionally permitted to take the examination, subject to final determination ^{of fitness} on the outcome of the criminal case. The requirement of having to issue a certificate by the said respondent (regarding possession by the candidate of a good moral character) can be decided and determined in the light of the eventual result of the criminal case, if the applicant, in the opinion of AG (Audit-II), bears a good moral character in all respects other than the fortuitous circumstances of involvement in the criminal case. The result of the applicant need not be announced until the disposal of the ongoing criminal case. ^{being found guilty by the concerned court, the result} In the event of the applicant need not ^{and} at all be announced ^{his} entire candidature at the examination shall have to be ignored. If, however, the criminal case results either in an acquittal or the dropping of charges against the applicant, the question of announcing his result could be decided in the light of the actual position emerging at that point of time.

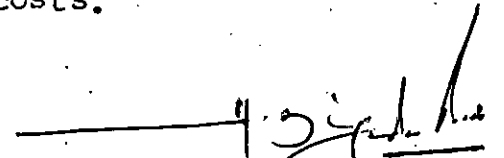
7. R-1 may take a further suitable decision in the light of the above observations *and explore the feasibility of issuing a hall-permit to the applicant and permitting him to take the examination.*

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8. Thus the OA is disposed of. No costs.

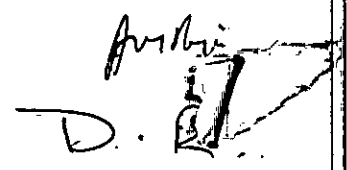

(B.S. JAI PARAMESHWAR)
Member (Judl.)



(H. RAJENDRA PRASAD)
Member (Admn.)

13.11.97

Dated : 13th November, 1997

(Dictated in Open Court)


D. [illegible]

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OA.1524/97

Copy to:-

1. The Accountant General (Audit)-II, A.P. Hyderabad.
2. The Comptroller and Auditor General, of India, New Delhi.
3. One copy to Mr. K. Venkateswara Rao, Advocate, CAT., Hyd.
4. One copy to ~~Mrs. Shakti~~ for Mr. G. Parameshwara Rao, Addl. CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.
7. *one copy to Mr. H.H.R.*

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