

A. V. Sharma

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

D.A.Nos.1041 of 1997, 1190 of 1997, 1191 of 1997,  
1263 of 1997, 1264 of 1997, 1265 of 1997,  
1266 of 1997 & 1267 of 1997

DATE OF ORDER: 24th MARCH, 1999

D.A.No.1041 of 1997:

Between:

- |                           |                       |
|---------------------------|-----------------------|
| 1. K.Narayana.            | 10. B. Balaram.       |
| 2. K.Sambasiva Rao.       | 11. D.R.V.S.Ch.Sarma. |
| 3. Chinna Chanaiah.       | 12. N.Sambasiva Rao.  |
| 4. K.R.Ali Khan.          | 13. S.S.Prakasa Rao.  |
| 5. D.V.Ramana Rao.        | 14. S.N.Christopher.  |
| 6. M.Audinarayana Murthy. | 15. K.Muralidhar.     |
| 7. P.J.Mohan Rao.         |                       |
| 8. K.Anjaiah.             |                       |
| 9. G.Nageswara Rao.       |                       |

.....Applicants

a n d

1. The Union of India, rep. by its Secretary, Ministry of Personnel & Training, New Delhi.
2. The Financial Adviser (Defence Services), Ministry of Defence (Finance), New Delhi.
3. The Controller General of Defence Accounts, R.K.Puram, New Delhi.
4. The Controller of Defence Accounts, Secunderabad.

.....Respondents

D.A.No.1190 of 1997:

Between:

- |                        |                       |
|------------------------|-----------------------|
| 1. A.Venkateswarlu.    | 11. C.Sridhara Rao.   |
| 2. V.V.Kamaraju.       | 12. D.Subba Rao.      |
| 3. V.K.Soundar Rajan.  | 13. V.Satyanarayana.  |
| 4. C.E.Arunachalam.    | 14. S.Gangadhara Rao. |
| 5. G.Bhavani Shanker.  | 15. T.Sukumar.        |
| 6. A.Ramakrishna.      |                       |
| 7. B.S.Prased.         |                       |
| 8. K.G.K.Murthy.       |                       |
| 9. K.Rama Rao.         |                       |
| 10. M.Venkata Ramaiah. |                       |

.....Applicants

a n d

1. The Union of India, rep. by its Secretary, Ministry of Personnel & Training, New Delhi.
2. The Financial Adviser (Defence Services), Ministry of Defence (Finance), New Delhi.

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*Handwritten marks: a checkmark and a signature.*

3. The Controller General of Defence Accounts,  
R.K.Puram, New Delhi.
4. The Controller of Defence Accounts,  
Secunderabad.

.....Respondents

O.A.No.1191 of 1997:

Between:

- |                      |                      |
|----------------------|----------------------|
| 1. C.Bhadraiah.      | 12. Y.L.Anjanayam.   |
| 2. V.Venk ataramana. | 13. K.V.S.K.Prasad.  |
| 3. T.L.Reddy.        | 14. D.Nageswara Rao. |
| 4. D.Srinivasa Rao.  | 15. V.Suresh.        |
| 5. D.S.Sarma.        |                      |
| 6. A.Venkanna.       |                      |
| 7. C.H.Narasaiah.    |                      |
| 8. S.H.Hassan.       |                      |
| 9. N.R.Guruswamy.    |                      |
| 10. S.Sambu Prasad.  |                      |
| 11. P.S.Lakshmanan.  |                      |

.....Applicants

a n d

1. The Union of India, rep. by its Secretary,  
Ministry of Personnel & Training, New Delhi.
2. The Financial Adviser(Defence Services),  
Ministry of Defence(Finance) New Delhi.
3. The Controller General of Defence Accounts,  
R.K.Puram, New Delhi.
4. The Controller of Defence Accounts,  
Secunderabad.

.....Respondents

O.A.No.1263 of 1997:

Between:

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|-----------------------|------------------------|
| 1. R.N.Deshpande.     | 11. M.Kamaraju.        |
| 2. R.Viswanathan.     | 12. S.D.Chetty.        |
| 3. A.R.Noik.          | 13. N.H.Babu Rao.      |
| 4. P.Sadasivan.       | 14. N.S.Subramanyam.   |
| 5. D.V.Sitarama Rao.  | 15. N.Ramachandra Rao. |
| 6. P.V.Satyanarayana. |                        |
| 7. KVSR.Murthy.       |                        |
| 8. B.Rama Rao.        |                        |
| 9. M.Harindranath.    |                        |
| 10. B.V.Sastry.       |                        |

.....Applicants

a n d

1. The Union of India, rep. by its Secretary,  
Ministry of Personnel & Training, New Delhi.
2. The Financial Adviser(Defence Services),  
Ministry of Defence(Finance), New Delhi.

3. The Controller General of Defence Accounts,  
R.K.Puram, New Delhi.
4. The Controller of Defence Accounts,  
Secunderabad.

.....Respondents

D.A.No.1264 of 1997:

Between:

- |                       |                        |
|-----------------------|------------------------|
| 1. L.G.K.Rao.         | 11. V.Chandrasekhar.   |
| 2. Smt.N.K.M.Lakshmi. | 12. K.Visweswara Rao.  |
| 3. S.B.Kulkarni.      | 13. A.B.Chakbrothy.    |
| 4. V.Krishnamachari.  | 14. Ranga Krishna Rao. |
| 5. M.R.Murthy.        | 15. J.Satyanandam.     |
| 6. K.Rama Mohan,      |                        |
| 7. P.C.Victor Babu.   |                        |
| 8. Vamana Dongre.     |                        |
| 9. V.V.Phani Kumar.   |                        |
| 10. N.Viswanathan.    |                        |

.....Applicants

a n d

1. The Union of India, rep. by its Secretary,  
Ministry of Personnel & Training, New Delhi.
2. The Financial Adviser(Defence Services),  
Ministry of Defence(Finance), New Delhi.
3. The Controller General of Defence Accounts,  
R.K.Puram, New Delhi.
4. The Controller of Defence Accounts,  
Secunderabad.

.....Respondents

D.A.No.1265 of 1997:

Between:

- |                       |                     |
|-----------------------|---------------------|
| 1. T.Sanjooa Rao.     | 11. R.V.Ramana Rao. |
| 2. G.V.Ramana Murthy. | 12. M.R.Anjaneyulu. |
| 3. V.Kishore.         | 13. K.P.Sasarath.   |
| 4. Rajan U.V.         | 14. Smt.K.Geetha.   |
| 5. K.M.K.Charyulu.    | 15. N.Om Prakash.   |
| 6. Smt.D.Revathi.     |                     |
| 7. Smt.P.Srilakshmi.  |                     |
| 8. S.Jayakumar.       |                     |
| 9. Mohd.Shamsuddin.   |                     |
| 10. Smt.Susan Thomas. |                     |

.....Applicants

a n d

1. The Union of India, rep. by its Secretary,  
Ministry of Personnel & Training, New Delhi.
2. The Financial Adviser(Defence Services),  
Ministry of Defence(Finance), New Delhi.

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3. The Controller General of Defence Accounts,  
R.K.Puram, New Delhi.

4. The Controller of Defence Accounts,  
Secunderabad.

..... Respondents

O.A.No.1266 of 1997:

Between:

1. D.Ramakrishna.  
2. K.David Raju.  
3. Md.John.  
4. P.Madhava Rao.  
5. D.H.V.V.S.N.Murthy.  
6. P.Raja Rao.  
7. T.S.Venkatasubramanyan.  
8. P.Rama Rao.  
9. Smt.S.Susheela.  
10. C.Sham Sunder.

11. S.Krishnan.  
12. N.S.R.L.Rao.  
13. N.Sudheer Reddy.  
14. N.V.S.Rao.

..... Applicants

a n d

1. The Union of India, rep. by its Secretary,  
Ministry of Personnel & Training, New Delhi.  
2. The Financial Adviser(Defence Services),  
Ministry of Defence(Finance), New Delhi.  
3. The Controller General of Defence Accounts,  
R.K.Puram, New Delhi.  
4. The Controller of Defence Accounts,  
Secunderabad.

..... Respondents

O.A.No.1267 of 1997:

Between:

1. P.Ramakrishna Raju.  
2. V.Srirama Rao.  
3. V.S.R.Murthy.  
4. T.Padduranga Rao.  
5. P.Vamana Rao.  
6. G.T.Jayaraj.  
7. J.Anjaneyulu.  
8. P.Indra Kumar.  
9. V.Shagavan.  
10. B.V.S.Poornachandra Rao.

11. M.Achutaram.  
12. S.B.Poredi.  
13. P.Ramamurthy.  
14. Md.Firasat Ali.  
15. M.R.Ashok Kumar.

..... Applicants

a n d

1. The Union of India, rep. by its Secretary,  
Ministry of Personnel & Training, New Delhi.  
2. The Financial Adviser(Defence Services),  
Ministry of Defence(Finance), New Delhi.

3. The Controller General of Defence Accounts,  
R.K.Puram, New Delhi.

4. The Controller of Defence Accounts,  
Secunderabad.

.....Respondents

COUNSEL FOR THE APPLICANTS :: Mr.A.Venkateswara Sharma

COUNSEL FOR THE RESPONDENTS :: Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWARA, MEMBER (JUDL)

: COMMON ORDER :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A) )

Heard Mr.A.Venkateswara Sharma, learned Counsel  
for the Applicants in all the OAs and Mr.V.Vinod Kumar,  
learned Standing Counsel for the Respondents in all  
the OAs.

2. The contentions raised in all the OAs are same  
so as also the reliefs asked for. Hence, all the OAs  
are disposed of by this Common Order.

3. In DA.No.1041 of 1997, there are 15 applicants.  
They are Senior Auditors under Respondent No.3.

In DA.No.1190 of 1997, there are 15 applicants.  
They are Senior Auditors under Respondent No.3 in that  
OA.

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In OA.No.1191 of 1997, there are 15 applicants. All of them are Senior Auditors under Respondent No.3 in that OA.

In OA.No.1263 of 1997, there are 15 applicants. They are all also Senior Auditors under Respondent No.3 in that OA.

In OA.No.1264 of 1997, there are 15 applicants. All of them are Senior Auditors under Respondent No.3 in that OA.

In OA.No.1265 of 1997, there are 15 applicants. All of them are Senior Auditors under Respondent No.3 in that OA.

In OA.No.1266 of 1997, there are 14 applicants. All of them are Senior Auditors under Respondent No.3 in that OA.

In OA.No.1267 of 1997, there are 15 applicants. All of them are Senior Auditors under the control of Respondent No.3 in that OA.

4. The prayer of the applicants in all these OAs are for a declaration that the rules framed under Article 309 of the Constitution by the Ministry of Finance-S.O.No.4025, dated:23-7-1971, and amendment in SRO.No.68, dated:18-6-1993, so far as the condition of the passing SAS examination in case of recruitment by promotion to the higher post Accountant now re-designated as Section Officer (SO(A) for short) is illegal, arbitrary and unconstitutional, and for a consequential direction to the respondents to consider all the applicants herein for promotion to

the post of SOA from the date of their eligibility with attendant benefits.

5. Similar OA in a batch case ~~was disposed of~~ i.e., DA.No.145 of 1997 & Batch was disposed of by this Bench by Order dated: 11-3-1999. There also the prayer is same. The applicants in all these OAs also pray for the same relief and the contentions raised in all these OAs are also same. Hence, we do not find any need to further analyse the various contentions raised in these OAs except one or two points made by Sri A.Venkateswara Sharma, learned Counsel for the applicants in these OAs.

6. The main contention over-and-above the contentions raised in the previous OAs are as follows:-

(i) <sup>respondents</sup> The ~~applicants~~ by insisting on the pre-requisite qualification of pass in S.A.S. examination for promotion to the post of S.O.A., the applicants are put to a very great disadvantage as they have to retire without even a single promotion in <sup>their</sup> ~~that~~ career; and

(ii) There are certain guidelines which should have been followed and merely sticking to the recruitment rules framed under the <sup>proviso of</sup> Article 309 of the Constitution is not in order and valid.

7. The above two contentions were also examined. If the applicants are to retire in the same post without any promotion, the relief lies elsewhere and

not in this DA. They should represent their case to the appropriate authorities to provide them a channel of promotion so that they will get one promotion atleast in that career. Hence, this contention has got no nexus with the prayer made in this DA. Hence, this contention is rejected. However, the applicants are at liberty to approach the appropriate authorities for further promotion in accordance with the rules.

The recruitment rules framed under Article 309 of the Constitution is sacrosanct. No guidelines can over-rule the provisions of the recruitment rules framed under Article 309 of the Constitution. The submission of the Counsel for the Applicant that guidelines are to be followed and not the recruitment rules framed under Article 309 of the Constitution of India is absolutely invalid. We reject this contention. Further, we asked the learned Counsel for the Applicant to show <sup>us</sup> in the guidelines in regard to the relaxation of the passing of the examination for promotion to the post of S.O.A.,. If such a relaxation is given in the guidelines atleast the cases can be examined further. But the learned Counsel for the Applicant did not take any effort to show that the guidelines provides for relaxation of the passing of the SAS examination for promotion to the post of S.O.A.,. Merely stating that the guidelines are to be followed is neither a valid submission nor can be considered.

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In view of the recruitment rules available before us, an opportunity was given for the learned Counsel for the Applicants to show the rule but he could not show any rule.

When a similar OAs had already been disposed of, repeated adjournments need not be given and it is only to keep the OA open without any <sup>purpose or</sup> reason or regime of reason. Hence, this contention is rejected.

8. The contentions raised in these OAs and the relief asked for are one and the same as the contentions and relief asked for in the Batch cases referred to above. As the batch case has been dismissed as having no merits, these OAs are also liable only to be dismissed.

9. In the result, the OAs are dismissed as having no merits. No costs.

प्रमाणित प्रति  
CERTIFIED TRUE COPY

प्रमाणित  
DA. 1041/97 & batch  
2.4.98  
8.4.98

*[Signature]*

प्रमाणित अधिकारी  
Court Officer  
Administrative Tribunal  
HYDERABAD BENCH.