

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 20<sup>th</sup> September, 2001

OA No.51/2000

Harikesh Meena s/o Shri Prahlad Meena r/o V.P.O. Padhana, Distt. and Teh. Sawai Madhopur presently holding the post of Audit Clerk in A.G. Office, Jaipur

...Applicant

Versus

1. The Comptroller and Auditor General of India, Indian Audit and Accounts Department, 10, Bahadur Shah Jaffar Marg, Inder Prasth Estate, New Delhi.
2. The Accountant General (Audit-I), A.G. Office, B.D. Road, Near Statue Circle, Jaipur

.. Respondents

Mr. Vinod Goyal, counsel for the applicant

Mr. Bhanwar Bagri, counsel for the respondents

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.A.P.Nagrath, Administrative Member

ORDER

Per Hon'ble Mr. A.P.Nagrath, Administrative Member


This Original Application has been preferred against the order dated 7.10.99 by which the applicant has been offered appointment in the cadre of Audit Clerk as a fresh recruit w.e.f. 7.10.99 or from the date he takes over as a Clerk, whichever is later. The applicant has assailed this order for the reason that he was initially appointed as direct recruit on the post of Auditor in the pay scale Rs. 1200-2040 (revised to Rs. 4000-6000 w.e.f. 1.1.1996) vide order dated 1.8.1995. The applicant is a Scheduled Tribe candidate. Though he has already joined on the post of Audit Clerk in the pay scale of Rs. 3050-4590, his grievance is that he was illegally discharged from the post of Auditor. By filing this OA, he has made a



prayer that the respondents be directed to reinstate him on the post of Auditor w.e.f. 7.10.99 with all consequential benefits.

2. According to the prescribed rules in CAG's Manual (Admn.), Volume-I, Third Edition, 1994 (hereinafter referred to as Manual), all direct recruit Auditors and Clerks promoted as Auditors are required to pass a departmental examination for confirmation and promotion to higher scale of Senior Auditors. This departmental examination has to be passed in six chances in six consecutive examinations held after they become eligible. Para 9.4.6. of the Manual prescribes the syllabus and subjects of the departmental examination for Auditors. A candidate is required to pass in the three papers and according to para 9.4.4, a candidate is required to get atleast 40% marks in each paper. Paper-I is divided into two parts. Part 'A' carries maximum of 40 marks and part 'B' carries maximum of 60 marks. The applicant has availed of all the six chances and admits that he is short of only one or two marks in the papers. His plea is that the respondents should have allowed grace marks as he being an ST candidate, ~~and~~ is entitled to be extended the concession of relaxation in standards. It is stated that he was short of only one or two marks, he should have been compensated by allotting grace marks. For this, the applicant refers to DOPT's letter dated 23.12.1970 wherein it had been decided that in matters of promotion/confirmation made through departmental examinations, SC/ST candidates who have not acquired general qualifying standards in such examinations could also be considered for promotion/confirmation by relaxing the qualifying standards. It appears from the relief clause that the applicant was short of six marks, as per the directions sought by him to award six grace marks to the applicant.

3. In the reply filed by the respondents, it has been



stated that the applicant has availed of all the chances by actually appearing in the aforesaid examinations held in August, 96, February, 1997, February, 1998, August, 1998 and February, 1999, but he could not pass the examination. The applicant could not secure 40% marks in paper-I (both Groups) and paper-III. He submitted a representation for allowing relaxation in marks as admissible to SC/ST category. This representation was rejected as the respondents contend that relaxation of marks was permissible prior to 1996 i.e. in terms of CAG's letter dated 23.12.1996. Subsequently, these relaxed standards were withdrawn by the CAG's letter dated 23.12.1996.

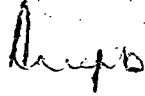
4. We have heard the learned counsel for the parties. The sole ground on which the learned counsel for the applicant defended the applicant's case was that being an ST candidate, the applicant was entitled to be assessed by relaxed standards. He could not counter the arguments of the learned counsel for the respondents that this concession was no more admissible after issue of letter dated 23.12.1996. During the period the applicant appeared in the six examinations, the rule of relaxation was not in force.

5. We have carefully perused the averments of the applicant, reply of the respondents and rejoinder filed by the applicant as also the annexures attached thereto. The admitted position is that the applicant has failed to obtain the qualifying marks in paper-I and paper-III. After issue of letter dated 23rd December, 1996, the provisions of relaxing the qualifying standards also ceased to exist. If there is no rule to relax the qualifying standards, no direction can be given to the department to allow grace marks or relax standards in individual cases. Such an action would not be in keeping with the rules of service jurisprudence. We do not find any merit in this application. The applicant has already joined on the

8

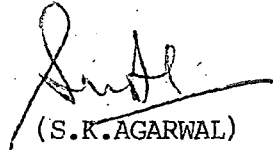
post of Audit Clerk as a fresh recruit. He is not entitled to any other benefit arising out of this application.

6. We, therefore, dismiss this application with no order as to costs.



(A.P.NAGRATH)

Adm. Member



(S.K.AGARWAL)

Judl. Member