

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 377 of 2001

Jabalpur, this the 26th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)  
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

Ashok Kumar Jain, S/o Late Shri  
Phundilal Jain, Working as  
Clerk, in the Office of  
Accountant General  
(Accounts) First, M.P. Gwalior,  
R/o Gwalior (M.P.)

APPLICANT

(By Advocate - Shri Manoj Sanghi)

VERSUS

1. The Union of India, through  
Its secretary, Department  
of Finance and Accounts  
New Delhi.
2. The Accountant General  
First, Madhya Pradesh and  
Chhattisgarh, Gwalior (M.P.)
3. Accounts Officer,  
Administration-II, Lekha  
Bhawan, Jhansi Road,  
Gwalior (M.P.)

RESPONDENTS

(By Advocate - Shri P. Shankaran)

ORDER (ORAL)

Mf. Shanker Raju, Member (J):

Applicant impugns respondents' order dated 17.4.2001 whereby he has been reverted from the post of Accountant to that of Clerk. He has sought quashment of the same with all consequential benefits and seeks grant of additional chances for appearing in the departmental examination. Applicant has also impugned respondents' order dated 10.5.2001, whereby recovery has been sought from his salary on account of having not reverted immediately and performed duties of Accountant despite a Clerk.

3. Applicant was working as a Clerk and was promoted on ad hoc basis as Accountant. One of the conditions for regularisation was to qualify the departmental examination, within six chances for confirmation to the aforesaid post. Applicant availed all the six chances but could not qualify. Moreover, three additional chances given to him were also resulted in his failure. In pursuance thereof he was reverted to the post of Clerk and inadvertently was allowed to perform the work of Accountant for which recovery has been sought. Learned counsel for applicant by referring to MSO (Admn.) Vol. I, wherein Section III pertaining to departmental examination for Accountants/Auditors contains a note, whereby following decision has been taken:

"NOTE:- Grant of two additional chances for appearing at the Departmental Examination can be considered on merit alone for those candidates who have exhausted all the six chances but could not avail of one or two chances due to genuine reasons like natural calamity, compelling family circumstances, illness of self and family and any other such circumstances considered by the Head of Department to be genuine. These chances may not be counted against the limit of six chances."

In the aforesaid background it is stated that applicant could not avail two chances to qualify departmental examination because of serious illness of his daughter who ultimately died on 16.5.97 and as such due to compelling circumstances due to illness of his members of the family and the ground being genuine he should be allowed to avail the two additional chances for appearing in the departmental examination

despite he has availed the six available chances.

In so far as recovery is concerned, it is stated that though applicant had continued to perform his duties till 17.4.2001 as Accountant yet he is now paid the salary of Clerk and recovery has been sought from his salary.

3. On the other hand, respondents' counsel Sh. P. Sankaran strongly rebutted the contentions and stated that having failed to qualify after availing six permissible chances and for no compelling circumstances applicant is not eligible for any additional chances. However, it is stated that as per para 9.4.2 of Manual on Standing Orders having appeared thrice in August, 1999 as well as February, 2000 applicant has failed to clear examination and his pay on reversion was wrongly fixed and once it has come to the notice it was re-fixed and excess payment ordered has been sought to be recovered.

4. We have carefully considered the rival contentions of parties and perused the material on record. In the light of the instructions contained in Note-2 para 9.4.2 of the Manual referred to above one is entitled for grant of two additional chances for appearing in the departmental examination on genuine reasons when the incumbent has failed to avail the same on account of compelling family circumstances or illness of the family.

5. In this view of the matter without interfering with the order of reversion and recovery OA is disposed of with the direction to the respondents to consider the case of applicant for availing two more additional chances for appearing in the departmental examination

in the light of the genuine reasons and compelling family circumstances referred to above. In the event it is decided to allow applicant to avail the chances and he is qualified, his case may be dealt with in accordance with rules and instructions in so far as it pertains to his reversion and recovery of excess salary. No costs.

महिना अवृत्ति

(R.K. Upadhyaya)  
Member (A)

S. Raju

(Shanker Raju)  
Member (J)

'San.'

प्रकाशन संगठन द्वारा..... नवलपुर, दि.....  
यदिगिरिला द्वारा दिला  
(1) राज्य  
(2) जनरल  
(3) प्रकाशन  
(4) विद्युत  
राज्याचा दृष्ट अवृत्ति दिला

*Mr. Sanghji Adl  
P. Shankar anilade*

*1.4.03*

*Issued  
on 11/4/03  
SS*