

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

(O. APPLICATION NO.: 55715)

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

21-8-2007

Mr. Omot Nath Mathur counsel for applicant
Mr. Gaurav Jain counsel for Respondent No. 1 & 2
Mr. Shantanu Sharma proxy counsel for
Mr. Sanyas Parcet counsel for Respondent No. 4

Heard. The OA has been
disposed of by a separate order.

R. R. Bhandari
(R. R. Bhandari)
Administrative Member

Kuldip Singh
(Kuldip Singh)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 21st day of August, 2007

ORIGINAL APPLICATION No.557/2005

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR. R.R.BHANDARI, ADMINISTRATIVE MEMBER

1. G.P.Saxena s/o Sh. B.P.Saxena r/o 5/7 Malviya Nagar, Jaipur, presently working as Inspector, Circle-5, Jaipur.
2. G.L.Parewa s/o Sh. Lal Chand, r/o 2/79 Mohalla Nakkasa, Sambher Lake, Jaipur, presently working as Inspector, in the Office of ITO, TDS, Ajmer.
3. G.L.Bairwa s/o Sh. Bhoora Lal r/o 86, Pollutary State, Agra Road, Jaipur.
4. Rajpal Singh s/o Sh. Mahindra Singh r/o 52, Ganesh Colony, Khatipura Road, Jaipur
5. G.L.Kumawat s/o late Shri Surajmal r/o A-8, Khatipura, Jaipur
6. V.L.Verma s/o Shri Tulsi Ram, r/o 103, Shri Kalyan Nagar, Jaipur
7. R.S.Khandelwal s/o late Sh V.N.Khandelwal r/o 1031 Baba Harishchand Marg, Chandpole Bazar, Jaipur
8. S.P.Goyal s/o late Shri B.L.Agarwal, M-29, Income tax Colony, Durgapura, Jaipur
9. Arvind Seth s/o late Sh. B.D.Seth, r/o 5/291, S.F.S.Agarwal Farm, Mansarovar, Jaipur
10. N.S.Panwar s/o late R.S.Panwar r/o D-190, Malviya Nagar, Jaipur
11. Mahnohar S.Thawani s/o late Sh. S.M.Thawani, r/o 494, Vijay Marg, Adarsh Nagar, Jaipur
12. D.V.Bhandari s/o late Sh. H.L.Bhandari r/o 253, Adarsh Nagar, Jaipur



13. Shambhu Dayal s/o Shri Prabhu Dayal, r/o plot No.2A -113, Om Shiv Colony, Shastri Nagar, Jaipur
14. Shanker Lal Sain s/o Sh. Ram Charan r/o 62, Income Tax Colony, Jyoti Nagar, Jaipur
15. R.P.Jaluhuria s/o Sh. G.R.Jaluthuria r/o Dev Path, Hari Marg, Malviya Nagar, Jaipur

(Applicant No. 3 to 15 are working as Inspector in the office of respondent department at Jaipur)

.. Applicants

(By Advocate: Shri Amit Nath Mathur)

Versus

1. Union of India through the Secretary Finance, Department of Revenue, North Block, New Delhi.
2. Central Board of Direct Taxes through its Chairman, North Block, New Delhi.
3. Chief Commissioner of Income Tax (Cadre Controlling Authority) Income Tax Department, Statue Circle, Jaipur
4. Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi.

.. Respondents

(By Advocates: Shri Gaurav Jain for res.No.1 to 3, Shri Shantanu Sharma proxy counsel for Mr. Sanjay Pareek for res. No.4)

O R D E R (ORAL)

The applicants have filed this OA seeking following reliefs:-



- "i) That the impugned amendment recruitment rules dated 23.3.2005 may be set aside.
- ii) That respondents may be directed to consider the case of applicant for promotion to the post of ITO in accordance with the recruitment rules notified on 21.12.2004.
- i) The respondents may further be directed to convene the DPC for promotion to the post of ITO in accordance with the unamended rules of 2004.
- ii) Any other order or relief which this Hon'ble Tribunal thinks just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
- iii) Cost of the original application be awarded in favour of humble applicant.

2. Facts, in brief, are that all the applicants are working as Inspectors under the Chief Commissioner of Income Tax i.e. respondent No.3. The respondents carried out certain amendments in the recruitment rules for the post of Income Tax Officer. The applicants are aggrieved of that amendment as they allege that the earlier rules were framed in the year 1994 and in accordance with these rules Inspectors were eligible for the post of ITO on passing the departmental examination, apart from three years service. This led to anomaly in the service as the Inspectors and the ITOs were performing same nature of duties and senior Inspectors having a longer length of service were deprived from promotion and juniors were given promotion to ITO after passing the qualifying examination. So, now the new recruitment rules have been ~~modified~~ and under the new recruitment rules the proviso which was applicable earlier with regard of qualifying examination has been given go bye which has

been done in consultation of the Union Public Service Commission and Department of Personnel and Training.

It is further submitted that the new rules were not helping some persons and therefore under pressure from those persons, para 12 of new rules was amended within a period of three months and in the order of amendment it was mentioned that a mistake has been found in the rules of 2004 as the provision of qualifying examination has been omitted. However, the applicants submit that the provision of qualifying examination was intentionally left out keeping in view the anomaly created by that. ^{As such 2nd} ~~So~~ the amendment carried out was not in order as the same was not made with the consultation with the UPSC and DOPT. It is further stated that the amendment was carried out by the respondents to help few employees and the reason given in the amendment that 'by mistake' the qualifying examination was not included in the new rules, is totally illegal, unjust and arbitrary. So it is prayed that the ^{2nd} ~~the~~ amendment carried out by corrigendum dated 24th March, 2005 may be set aside and respondents may be directed to consider case of the applicants for promotion to the post of ITO in accordance with the recruitment rules notified on 21st December, 2004.

3. Respondents are contesting the OA. They have stated that it was a left out case of the word

'qualifying examination', so a corrigendum was rightly issued.

4. We have heard the learned counsel for the parties and gone through the record.

5. At the outset, we may mention that similar OAs were filed by various persons before the Principal Bench of this Tribunal at New Delhi. Those OAs were heard at length and disposed of on 23rd September, 2005 and all the grounds taken in the present OA have also been discussed in that judgment. The grounds taken were found bereft of merit and no infirmity was found in the action of the respondents. The learned counsel for the respondents submitted that the issue involved in this case is no longer res-integra and the present OA is liable to be dismissed on this ground alone.

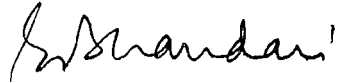
The learned counsel Shri Amit Nath Mathur appearing for the applicants admitted that similar OAs were also dismissed by the Principal Bench. However, he submits that Writ Petition was filed against the said judgment before the Delhi High Court, but no stay was granted in the Writ Petition.

In these circumstances, we also find that the present OA has to be decided on the same lines of the judgment given by the Principal Bench and thus, this OA is also liable to be dismissed on the same ground. However, if any variation is made by the Delhi High

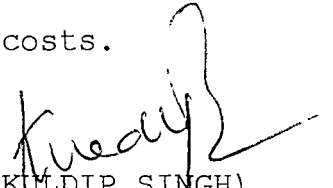


Court when the Writ Petition is decided, the same shall also apply to the parties of the present OA.

6. The OA is accordingly dismissed. No costs.



(R.R. BHANDARI)
Administrative Member



(KULDIP SINGH)
Vice. Chairman

R/