

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 04th day of February, 2010

ORIGINAL APPLICATION NO. 25/2010

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Lalit Mohan Sharma son of Shri Brij Mohan Sharma, aged about 48 years, resident of Plot No. 67, Tara Nagar-A, Jhotwara, Jaipur. Posted at A.G. Office, B.D. Road, Statue Circle, Jaipur.

.....APPLICANT

(By Advocate: Mr. Bharat Saini)

VERSUS

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

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

Heard learned counsel for the applicant.

2. This is the second round of litigation. Earlier the applicant has filed OA No. 242/2009 thereby challenging the order dated 16.06.2008 whereby the request of the applicant for grant of three grace marks was rejected by the respondents. The aforesaid OA was decided on 03.07.2009. However, this Tribunal has upheld the validity of the order dated 16.06.2008 on the ground that there is no provisionⁱⁿ of any rule to grant three grace marks. Therefore the request of the applicant could

not have been acceded to. However, this Tribunal examined the matter in the light of the earlier decision rendered by this Tribunal in OA No. 50/2000 decided on 20.09.2001, **Suresh Verma vs. The Comptroller and Auditor General of India**, whereby this Tribunal has held that applicant has qualified Paper I i.e. Government of India Accounts Regulation, which consists of Group 'A' & 'B'. In case a person has obtained passing marks in one paper then he cannot be declared failed. Since the applicant has not taken this plea in the earlier OA, opportunity was given to the applicant to make representation to the authorities in the light of the decision rendered by this Tribunal in the case of **Suresh Verma (supra)**. Accordingly, the applicant made representation. Vide impugned order dated 27.08.2009 (Annexure A/3), the said representation of the applicant has been rejected by the respondents. It is this order, which is also under challenge before this Tribunal.

3. As can be seen from order dated 27.08.2009 (Annexure A/3), the respondents have categorically stated that the applicant, who is Auditor Clerk, appeared in the Departmental Examination for Auditor conducted in the month of February, 2004. Therefore, he was required to qualify the examination as per scheme, syllabus and instructions, which was involved at the relevant time. According to the respondents, the procedure for departmental examination for Auditor in Civil Audit offices, which was involved in earlier occasion, has been modified vide Para 9.4.6 of Comptroller & Auditor General's Manual of

standing order (Administrative) Vol. I Page No. 238 vide CAG's Office letter No. 14-Audit/M&C/256-2002 dated 27.1.2004. As such according to the respondents, the applicant cannot take any assistance from the judgment rendered by this Tribunal in the case of **Suresh Verma vs. The Comptroller and Auditor General of India (supra)**.

4. We have perused the order dated 27.08.2009 (Annexure A/3). We see no infirmity in the action of the respondents whereby the representation of the applicant was rejected. It may be stated that earlier the scheme, syllabus and instructions for departmental examination for Auditors was in the following terms:-

"SCHEME AND SYLLABUS FOR THE DEPARTMENTAL EXAMINATION FOR AUDITORS (CIVIL AUDIT OFFICES)

	<u>Paper</u>	<u>Duration</u>	<u>Maximum Marks</u>
I	Government Accounts and Service Regulations		
	(a) Group 'A' Accounts	2 ½ hours	40]
	(b) Group 'B' Service Regulations		60] 100
II	Government Audit – I	2 ½ hours	100
III	Government Audit – II	3 hours	100

Note- 1 Books are allowed to be consulted by the candidates in answering all the three papers.

Note -2 candidates will be declared to have passed if they obtain at least 40 per cent marks in each of the three papers. A candidate who does not pass the examination but obtains in any paper at least 50 per cent of the marks, will be exempted from appearing again in that paper at a further examination. Exemption in Paper II will be granted to those candidates who have already secured 50 percent or more marks in Paper III of the Departmental Confirmatory Examination, which is being replaced by the Departmental Examination for Auditors."

5. It was these notes nos. 1 & 2 which were taken into consideration by this Tribunal in earlier OA in the case of **Suresh Verma vs. The Comptroller and Auditor General of India** and it was held that the candidate will be declared to have passed if they obtained at least 40% marks in each of the three papers. It was held that there are only three Papers, Paper I, Paper II and Paper III. Paper I consists of Group 'A' Accounts and Group 'B' Service Regulations. It was on the basis of interpretation given to Note I and Note II, relief was given to Suresh Verma. However, the scheme of the departmental examination has been changed now by the respondents by making appropriate correction in Para No. 9.4.6 of Comptroller & Auditor General's Manual of Standing Order (Administrative) Vol. I (Page 238), which is in the following terms:-

Paper		Duration	Max. Marks
1.	Government Accounts and Service Regulations		
	(a) Group 'A' Accounts		40
	(B) Group 'B' Service Regulation	2 ½ hours	60
2.	Government Audit I	2 ½ hours	100
3.	Government Audit II	3 hours	100

Further correction slip No. 16 at page 238 to 238 to Para 9.4.6 states as under:-

In Para 9.4.6 of MSO (Admn.) Vol I, the following may be inserted as Note for Paper -I below the table.


"The minimum qualifying marks/exemption marks will be 40 percent/ 50 percent in each of the two parts of Paper I of Govt. Accounts and Service regulations i.e. (a) Group 'A' Accounts & (b) Group 'B' Service Regulations."

42

Authority – CAG's office letter No. 14-Audit/M&C/256-2002 dated 27.1.2004.”

6. Thus as can be seen from the new amended provisions, minimum qualifying marks/exemption marks will be 40%/50% in each of the two parts of Paper I of Government Accounts and Service Regulations i.e. (a) Group 'A' Accounts (b) Group 'B' Service Regulations. Thus in view of this specific provision in order to qualify the examination, the applicant is required ^{to} ~~obtained~~ minimum passing marks both in Group 'A' Accounts and Group 'B' Service Regulations under Item No. I. Since the applicant has not obtained requisite marks both in Group 'A' Accounts and Group 'B' Service Regulations, as such we see no infirmity in the action of the respondents whereby representation of the applicant was rejected. According to us, the eligibility has to be seen when the applicant has appeared in the examination and before that date, the respondents have carried out correction in Para No. 9.4.6 of the Comptroller & Auditor General's Manual of Standing Orders (Administrative) Vol. I (Page 238). Thus according to us, there is no force in this OA, which is accordingly dismissed at admission stage.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ