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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 165 of 1994

Date of decision 23.5.1997

Sri Jiban Kumar Roy

PETITIONER(S)

Mr. G.K. Bhattacharyya, Mr. G.N. Das,
Mr. B. Chakraborty

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors. v. C.G.S.C.

RESPONDENT(S)

Mr. A.K. Choudhury, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 165 of 1994.

Date of decision : This the 23rd day of May, 1997.

Hon'ble Justice Shri D.N. Baruah, Vice-Chairman.

Hon'ble Shri G.L. Sanglyine, Administrative Member.

Shri Jiban Kumar Roy,
Son of Late Ch. Mangi Roy,
Divisional Accountant,
National Highway Division No. II,
P.W.D., Manipur. ...Applicant

By Advocate Mr. G.K. Bhattacharyya.

-versus-

1. Comptroller and Auditor General of India,
New Delhi

2. Accountant General (A&E)
Meghalaya etc. Shillong.
Meghalaya.

3. Chief Engineer, I & F.C.,
Manipur, Imphal

4. Executive Engineer,
National Highway Division
No. II, P.W.D., Manipur
Imphal ...Respondents

By Advocate Mr. A.K. Choudhury, Addl. C.G.S.C.

O R D E R

BARUAH J.(V.C.).

In this application the applicant has challenged the Annexure IV order dated 1.11.1993 by which the applicant was reverted and also Annexure VIII order dated 31.5.94 modifying the earlier order. The applicant further prays for consequential relief. The facts for the purpose of disposal of this application are :

...1. The

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2. The applicant was appointed L.D. Assistant under the Chief Engineer, P.W.D., Manipur and he was posted in the Highway North Division, P.W.D. Manipur. In July, 1971, he was promoted to the rank of U.D. Assistant and was posted in the office of the Executive Engineer, Lohtak Lift Irrigation Division No.1, I & F.C. Department, Manipur. In February, 1980 2nd respondent appointed him unqualified Divisional Accountant. He was posted in the Electrical Stores Division, Manipur.

3. Contention of the applicant is that as per manual of the standing order issued by the Comptroller and Auditor General, unqualified divisional accountant are required to pass the departmental examination within the stipulated number of chances. Number of chances available to unqualified divisional accountant as per the Rules are 6 chances. The Senior Administrative Officer (N.I) office of the Comptroller and Auditor General intimated that those extra-ordinary emergency divisional accountant who were working on the date of issue of the said letter dated 2.12.1993 and had completed all the normal chances but could not come out successfully, as an one time measure, two more chances were to be made available to them. It was also mentioned that the special chances could be availed of before 31st December 1994. Relying on the said circular the applicant approached the authority with a view to avail of the aforesaid two chances by his Annexure VII letter to the Comptroller and Auditor General of India. However,

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the applicant was denied the benefit of the aforesaid chances. Situated thus the applicant approached this Tribunal. The application was admitted on 23.8.1994. An interim order was passed staying operation of the orders dated 1.11.1993 and 31.5.1994. On 7.9.1994 the Ad interim order was made absolute. In due course the respondents appeared and filed written statement and also modified the written statement. In para 6 of the modified written statement the respondents have stated inter alia that the circular was not applicable to the applicant in as much as he had exhausted all the chances before the aforesaid Annexure VI letter came into operation.

3. We have heard Mr. G.K.Bhattacharyya, learned counsel appearing on behalf of the applicant and Mr. A.K.Choudhury, learned Addl. C.G.S.C. Mr. Bhattacharyya submits that as per Annexure VI letter dated 2.12.1993 issued by the Senior Administrative Officer to all the Accountant Generals special chances were given to those unqualified accountants who could not come out successful in normal four chances as a one time measure. The applicant has fulfilled all the conditions necessary as per the Annexure-VI. Mr. A.K.Choudhury on the other hand submits that benefit of Annexure VI letter would not be available to the applicant in as much as that the applicant had exhausted all the normal chances prior to 2.12.1993.

4. We have perused the Annexure VI letter. The letter does not indicate such view. On the other hand the letter very clearly suggests that the

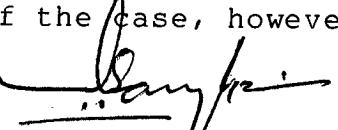
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applicant must exhaust the normal chances prior to the issuance of the said Annexure VI letter dated 2.12.1993. The other conditions mentioned in the said letter it is admitted by the parties that the applicant had fulfilled those conditions.

5. In view of the above, we are of the opinion that the applicant is entitled to get the benefit of two additional special chances. This was unreasonably and unfairly denied to him. Though the letter indicates that the special two chances ought to be availed of by the candidates before 31.12.1994. The benefit of this special chance cannot be denied to the applicant on the ground that the 31.12.1994 had long past. The applicant by Annexure VII letter dated 20.6.94 wanted to avail of the aforesaid two chances. We have already held that the benefit of the aforesaid letter can be availed by the applicant. Therefore we allow the application and direct the respondents to give the applicant the additional two chances in the next available examination.

6. We, therefore, set aside the Annexure VI and VII orders. The applicant shall remain in the present post, which he is continuing on the strength of Interim order passed by this Tribunal till next two chances are over.

7. Considering the facts and circumstances of the case, however, we make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman