

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

M.A. No. 350/00432/2018 in
O.A. No. 350/00829/2018

Date of Order: 29.6.18

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

1. The Union of India
Represented by the Secretary to the Government of India
Ministry of Communication, Department of Posts
New Delhi, Pin – 110001.
2. The Secretary (Posts)
Department of Posts, Postal Directorate
Government of India, Sansad Marg
New Delhi – 110001.
3. The Director, (Budget and Administration)
Department of Telecommunication
Head Quarter, Sanchar Bhawan
Ashoka Road, New Delhi – 110001.
4. The Deputy Director General
(Finance & PAF), Department of Posts
Postal Accounts Wing, Postal Directorate
Sansad Marg, New Delhi – 110001.
5. The General Manager, Finance (PAF)
Department of Posts, West Bengal Postal Circle
Yogayog Bhawan, Kolkata – 700012.
6. The Secretary, Union Public Service Commission
Dholpur House, Shajahan Road, New Delhi – 110069.

.....Petitioners.

-VS-

Shri Kallol Dutta
Son of Late Manindra Nath Dutta
Senior Accountant at the Office of the
General Manager, Finance (PAF), West Bengal Circle
Yogayug Bhawan, Kolkata – 12.
Residing at 9/19 Yonisasani, Kolkata-700104.

....Applicant/Opposite Party.

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For the Applicants : Mr. A. Ahmed
 For the Petitioners/Respondents : Mr. B.P. Manna

ORDER

Per Ms. Bidisha Banerjee, Judicial Member:

This Tribunal on 14.06.2018 passed the following order in the matter:

"After perusal of the orders passed by the co-ordinate Benches, I found that it is not reflected from the orders that whether there was an interim order sought for or was rejected.

...10. I am of the view that in the present juncture if no interim order is granted the applicant may suffer irreparable loss as much as if the examination is going to be held, the very aspect of the adjudication of sustainability of the amended Recruitment Rules dated 02.04.2018 will be frustrated. The balance of convenience is in favour of the applicant. As such the respondents are hereby directed not to give effect to the notification dated 02.04.2018 and consequential notification dated 19.04.2018, till the next date however, liberty is granted to the Respondents to make an application for vacation/modification/alteration/cancellation of the interim order passed today."

The instant M.A. has been moved in order to seek vacation or variation/modification of the said order to allow the Department to conduct the selection process as per schedule of notification dated 19.04.2018 or pass appropriate orders as deemed fit.

2. The applicants (Respondents in O.A.) have averred that a fast-track time bound Limited Departmental Competitive Examination (LDCE) would be held

from 5th to 8th July 2018 for promotion to AAOs cadre, to give fair and equal opportunity to all eligible candidates to appear and qualify on merit to the cadre of AAO, a Gr. 'B' Gazetted Cadre of the Government. Against this, the Department has received more than 5000 applications from all over the country which includes applications of many Senior Accountants (SAs) alike Shri Kallol Dutta, the applicant who although eligible to apply he did not apply. It has been prayed that this Tribunal may not ignore the interest of 5000 persons/officials due to grievance of the applicant who claims himself as a leader and an aspirant of one such post. It has been urged that the Department has toiled hard to formulate the AAO's RR as per extant guidelines after diligent discussions and consultations with various nodal agencies, has got the said RR approved and vetted from the DOPT, UPSC and DOLA after long protracted correspondence, examined all the issues raised by various stakeholders and resolved them and then only notified the RRs. The Department has mobilized huge resources and money for this purpose and halting the examination process at this stage would lead not only to wastage of huge government resources and funds but also would crush the aspirations of thousands of candidates apart from leaving two government departments DOP and DOT in the extreme debilitating condition of functioning with a vacancy of 1010 posts in the cadre of AAO.

3. It has been further averred that identical issues were raised before various other Benches of this Tribunal but no stay was granted therein. In support orders passed by Principal Bench in O.A. No. 2134/2018, M.A. No. 2399 of 2018, 2400 of 2018, O.A. No. 2275/2018; by Chennai Bench in O.A. 554 of 2018, by

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Ernakulam Bench in O.A. No. 360/2018 have been brought to the fore which demonstrates that prayers for grant of interim orders were rejected.

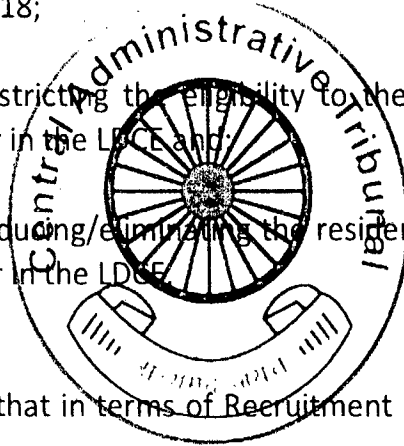
4. In the aforesaid backdrop it was noticed that in accordance with the recommendations of 6th CPC accepted by the Govt., JAO and AAO cadres were merged into a single cadre namely AAO Group "B" (Gazetted) in PB-2 with grade pay of Rs. 4800/- vide office letter No. 38(2)/2009/PA-Admn on 25.06.2009. The Group "B" cadres of Accounts and Finance of DoP and DoT consisting of AAO, AO and Sr. AO were amalgamated with the new nomenclature of IP&TAFS Group "B" cadre. On account of the amalgamation vide Govt. of India, Gazette Notification No. S.O. 2198 (E) dated 20th August, 2009 and the cadre of AAO (erstwhile JAO and AAO cadre merged into single cadre of AAO by 6th CPC which was a Circle Cadre in DoP/PAO, became an All India cadre having All India Transfer liability with Member (Finance) Telecom Commission as cadre controlling authority. Prior to such amalgamation of IP&TAFS Group 'B' cadre of Assistant Accounts Officer of DoT and DoP on 20.08.2009, there were four sets of RRs in operation, two each in DoT and DoP, for JAO and AAO cadres respectively, viz:

- (i) The Department of Telecommunications, (Junior Accounts Officer) Group 'C' Recruitment Rules, 1986.
- (ii) The Department of Telecommunications, (Assistant Accounts Officer) Recruitment Rules, 2000;
- (iii) The Department of Posts, (Junior Accounts Officer), Group 'B' (Non-Gazetted) Recruitment Rules, 2002; and
- (iv) The Department of Posts, (Assistant Accounts Officer) Group 'B' Recruitment Rules, 2005.

5. The notification of the new RR of the Gr. 'B' IP&TAFS officers consisting of Accounts Officers cadre and Assistant Accounts Officers cadre of DoT and DoP which was notified on 02.04.2018 became necessary primarily because of two reasons viz. the amalgamation of the Gr. B cadres of DoT and DoP and recommendations of the Sixth Pay Commission.

6. The applicant has assailed the new Recruitment Rules and subsequent selection notification on the following grounds:

- (i) Non-provision of Seniority cum Selection quota in the AAO RRs-2018;
- (ii) Not restricting the eligibility to the Accounts cadre alone to appear in the LDCE and;
- (iii) Not reducing/eliminating the residency period to be eligible to appear in the LDCE.



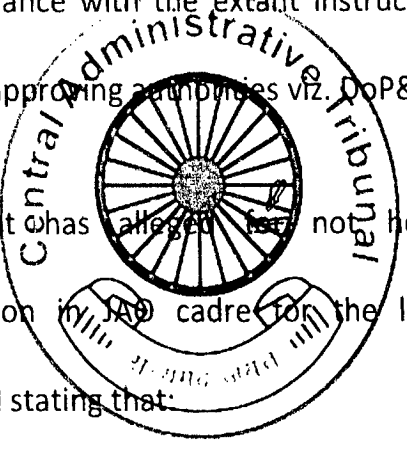
7. It is noticed that in terms of Recruitment Rules 2002, in Department of Posts JAO was operated as Group 'B' Non-Gazetted in the scale of Rs. 5500-9000/- and only 10% of 154 posts were available to Sr. Accountant in 5000-8000/- with 3 years regular service, to be promoted on the basis of seniority while 90% were to be filled up through LDCE. It was a Circle Cadre there. Such JAO 's were not entitled for AAO (Group B Gazetted) until and unless they qualified the Junior Accounts officer both part I and part II examination. Thus qualifying the prescribed Departmental Examination viz. Junior Accounts Officer Part I and II examinations was sine qua non for appointment/promotion in Assistant Accounts Officer cadre was always there.

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8. In regard to the restriction on eligibility for appearing in the Departmental Examination to the accounts cadre only, it has been averred that the provision for candidates of operational side to appear in the Departmental Examination for promotion to the cadre of JAO is not a new provision. The RRs of Department had always had the provision for candidates of operational side to appear in the Departmental Examination for promotion to the cadre of JAO.

9. In regard to reduction in residency period for appearing in the LDCE, it has been averred that the qualifying service for promotion at various levels have been kept in accordance with the extant instructions on the subject and after due approval of the approving authorities viz. DoP&T and UPSC.

10. The applicant has alleged for not holding of Departmental Examination for promotion in JAO cadre for the last 25 years which the respondents have clarified stating that:

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- (i) Prior to JAO RRs-2002 (DoP), this examination had been a qualifying one irrespective of vacancies. Because of its qualifying nature, a large number of officials appeared and qualified in the above examinations against a limited number of vacancies. As a result, after filling up of all the vacancies with JAO Part II qualified candidates, still a large number (1140) qualified candidates (JAO Part-I & II) were waiting for promotion in the Department of Posts.
 - (ii) Across the country who were awaiting promotion in 1995, considering the circumstances prevailing at the time, the Department took an administrative decision to defer the holding of JAO Part-II examination till the position improved.
 - (iii) The waiting list could be exhausted only after the amalgamation of Group 'B' cadres of DoP & DoT in 2009

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because of the amalgamation & merging of the JAO/AAO cadres of DoP and DoT, no examination for the cadre of JAO could be conducted in the Department till such time as the new RR for AAO cadre be finalized. The Department succeeded in getting the new AAO RR approved by the competent authority which was notified on 02.04.2018.

11. In terms of Recruitment Rules 2005 for AAO in the General Central Service Group 'B' Gazetted (Non Ministerial) in the scale of Rs. 7450-11500/- against 616 posts to be filled up by promotion from JAO (6500-10500/-) who qualified JAO Part I & II Examination JAO with two years service were entitled while Senior Accountants alike the applicant were not eligible.

12. In terms of Recruitment Rules of 2000 for AAO of Telecom Department, JAO's in 5500-9600/- were eligible to be considered for promotion, Senior Accountants were not

13. Vide Recruitment Rule of 2018, 1208 posts of AAO clarified as General Central Service Group 'B' Gazetted Non-Ministerial Level 8 (Rs. 47600-1,51,100), the mode of filling up is:

By promotion failing which by deputation failing both by direct recruitment.	<p>Promotion:</p> <p>Departmental candidates who have passed the Subordinate Accounts Service Examination or equivalent examination conducted by Department of Posts and Telecommunications or Competent Authority specified by the Department.</p> <p>1. Senior Accountant or Junior Accountant of Department of Posts and Department Telecommunications with three years or Six years regular service in level-6 in the pay</p>
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	<p>matrix (Rs. 35,400-1,12,400) and in level 5 in the pay matrix (Rs. 29,200-92,300) respectively.</p> <p>2. All other officials of the Department of Posts or Department of Telecommunications in Group 'C' cadre possessing a bachelor's degree from a recognized University or Institute with the following regular qualifying service:</p> <ul style="list-style-type: none"> (i) in level-1 with fourteen years regular service, or (ii) in level-2 with thirteen years regular service, or (iii) in level-3 with eleven years regular service, or (iv) in level-4 with nine years regular service, or (v) in level-5 with seven years regular service, or (vi) in level-6 with four years regular service.
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14. The Senior Accountants, like the applicant who never stood a chance of promotion to AAO, have thus been allowed to participate with three years regular service in level-6. Therefore vide the new Recruitment Rules the Senior Accountants who in 2002 stood a chance of getting promoted to JAO against 19 vacancies (10% of 194) have been bestowed with the benefit of chance of promotion to AAO (higher to JAO) with certain conditions. The applicant a Sr. Accountant who was eligible in 2002 to apply only for JAO has now become eligible in 2018 to appear at the selection for AAO against much larger number of vacancies.

15. Therefore, for the sake of such 19 Sr. Accountants who stood a chance of promotion to JAO, the fate of 5000 aspirants for AAO could not be sealed or even temporarily affected by continuing with the stay. However the

question of allowing participation of Accounts cadre in exclusion of others have to be examined.

16. In the aforesaid backdrop the interim relief of the respondents is modified to the extent that the respondents are allowed to proceed with the selection notification and conduct the examination proposed to be held on 5th - 6th July 2018. Let no results be published without the leave of this Tribunal and the selection would be subject to outcome of the O.A.

(Bidisha Banerjee)
Member (J)

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