

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SMT. LAKSHMI SWAMINATHAN, MEMBER (J)
HON. SHRI R.K. AHOOJA, MEMBER (A)

NEW DELHI, THIS 19 DAY OF SEPTEMBER 1997

OA NO.1386/1996

1. Dr. Sunand Kumar Jha
r/o B-2/164 Yamuna vihar
Delhi-110053.

...APPLICANT

(By Advocate - N.S. Verma)

VERSUS

1. UNION OF INDIA, through
The Government of India
Staff Selection Commission
(D/o Personnel & Training)
Block no.12, Kendriya Karyalaya Parisar
Lodi Road, new Delhi.
Through its chairman

2. The Secretary
Government of India
Ministry of Home Affairs
D/o Per. & Admn. Reforms
New Delhi

3. Miss Reet Sharma
posted as DGS&D (Hindi Section)
Jeevan Tara Building
Sansad Marg, new Delhi
R/o Government Basi School
Kanke Ranchi

4. Shri Hemant Kumar Mishra
posted at Controller of Def. Accts.
Patna, and
r/o Flat No.492,
Lal Bahadur Shastri Nagar,
Patna

..RESPONDENTS

1. Whether it be referred to the Reporter or not? *Ys*
2. Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not? *NO*

DRS
(R.K. AHOOJA)
MEMBER(A)

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(By Advocate - Shri S.M. Arif)

ORDER

R.K. AHOOJA, MEMBER (A)

The SSC, respondent No.1, advertised for an examination to be held for making recruitment to the post of Senior/Junior Hindi Translators in various offices of the Government of India. The Educational Qualifications were prescribed as follows:-

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JUNIOR HINDI TRANSLATORS of categories 'B' and 'C':-
Master's degree in English/Hindi with Hindi/English as a compulsory and elective subject at degree level;

OR

Bachelor's degree with Hindi and English as main subject (which includes the term compulsory and elective).

SENIOR HINDI TRANSLATORS of category 'A':-

Master's degree of a recognised university in Hindi/English with English/Hindi as a main subject (which includes the term compulsory and elective) at degree level

OR

Master's degree of a recognised university in any subject with English and Hindi as main subjects (which includes the term compulsory and elective) at degree level.

2. The applicant states that he holds an M.A. in English degree from Banaras Hindu University and Bachelor's degree from Bhagalpur University with following subject:-

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B.A. Pass course (with First Division)

Rashtrabhasa and Matri bhasa - Hindi (as a compulsory subject of maximum marks 100 additive);

Classical Language and Literature - Sanskrit (Optional of maximum marks 300)

Modern European Language - English (Optional of maximum marks 300)

Psychology (Optional of maximum marks 300)

B.A. Honours in English of maximum marks 800.

3. The applicant submits that the SSC in reply to his application sought photo copy of the degree certificate with Hindi/English subjects in original. Since the degree certificate in original had not been issued to him for the B.A. (Pass) course in 1986 and Honours Examination 1987 from Bhagalpur University, he submitted a copy of the printed marksheet which showed that he studied Hindi as Matribhasha. He was thereafter asked

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for an attested copy of degree certificate with Hindi/English compulsory subject. The applicant visited the office of SSC and pointed out that the word "compulsory" has not been written in the revised format of marksheet but he obtained a certificate (copy at A-10) in which the Controller of Examination, Bhagalpur University, certifying that Rashtrabhasha and Matribhasha Hindi was his compulsory subject. He is aggrieved that ~~instead~~ of being satisfied with this information that he had studied Hindi as a compulsory subject as required by the advertisement issued by SSC, the latter cancelled his candidature on the ground that he did not possess the requisite educational qualifications. He submits that the action of respondent No.1 (SSC) was arbitrary and illegal and also discriminatory since a number of persons including respondent No.3 and 4 with similar qualifications were allowed to take the examination and have since been selected and appointed. He has therefore sought a direction to respondent No.1 to have his name recommended for appointment as junior/Senior Hindi Translator.

4. The respondents in reply state that the applicant had been allowed to take the examination and in the final result published in the Employment News of 24-30th December 1994 he was recommended for appointment against category 'C' post in Delhi Zone purely on provisional basis subject to fulfilling all the conditions of eligibility. It was clearly indicated in the Press Note that any ineligible candidate found at any stage will not be nominated. Before the applicant's nomination, a scrutiny of his application was done and his certificates were carefully checked. It was found that he did not fulfill the essential qualifications in as much as he possessed the qualification of English Honours in B.A./M.A. but he had studied Hindi only as a subsidiary

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subject and not as a compulsory and elective subject at the degree level. Hence his candidature was rightly cancelled.

5. We have heard the counsel on both sides. The main question that needs decision is whether the applicant fulfills the requirement of having studied Hindi as a "main" subject (which includes the terms compulsory and elective) at degree level. A copy of the marksheet for B.A. (Pass) is at Annexure A-8. According to this, the applicant obtained 160 out of 300 marks in Classical Language, 203 out of 300 in Modern European Language and 185 out of 300 in Psychology, while he got 47 out of 100 marks in Hindi as Rashtrabhasha or mother tongue. The case of the respondents is that Hindi had only a maximum of 100 marks compared to 300 of all the other subjects each and therefore could only be regarded as a subsidiary subject and not as a main and elective subject, which were Classical Language, Modern European Language and Psychology. The applicant on the other hand states that the university has certified that Hindi was a compulsory subject and the difference of marks does not affect its status as a compulsory and elective subject. The 1d. counsel also argues that the Classical Language studied by the applicant is Sanskrit which is in fact the mother of Hindi. We are however unable to agree with this reasoning. When all other subjects are of 300 maximum marks each and Hindi is of 100 marks only, it cannot be regarded as an elective and compulsory subject on the same footing as the main subjects carrying 300 marks. When the post itself is that of Hindi Translator, in the nature of

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things, the knowledge of Hindi language possessed by an aspirant cannot be of a subsidiary level. We therefore hold that the qualification possessed by the applicant in respect of Hindi is not of the standard required by the respondents by way of educational qualifications for the post of Hindi Translator.

6. The ld. counsel for the applicant has argued that the respondents in similar other cases, as of respondents No.3 and 4, have accepted a similar certificate. He has annexed a copy of certificate issued in respect of Hemant Kumar Mishra (respondent No.4) according to which the total marks for Hindi were also 100, while that for English, History, Modern Matrihan language they were 300 each. Similarly in the case of Ms. Reeta Sharma (respondent No.3), he has produced a copy of certificate issued by Ranchi University which indicates that the marks of the main subject of Hindi compulsory were 100 only (total marks are not indicated, but the actual marks obtained clearly indicate that). It is also stated in that certificate that Hindi is regarded by the university as a main and compulsory subject because these marks are added to the aggregate and affect the result. The ld. counsel for the applicant submits that the same is the situation in respect of the applicant. The ld. counsel for the respondents has submitted that SSC conduct examination on zonal basis and it may be that in certain cases one of the zones may have accepted these qualifications. However, he has produced a list signed by the Under Secretary, SSC, which has been taken on record, which gives a list of candidates who are similarly placed as the applicant and in whose case in similar circumstances, their candidatures were cancelled. We have

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carefully considered this aspect and consider that since we find that the qualification of Hindi, where the marks assigned to it were less than those of other subjects, does not meet the criteria laid down by respondent No.1, it makes no difference whether any irregularity has been committed in respect of some other candidates. It is a settled position that no right accrues on account of a wrong order by Government to claim parity or equality.

As held in STATE OF HARYANA VS. RAM KUMAR MANN JT 1997 (3) SC 450, doctrine of discrimination is based on existence

of enforceable right and Article 14 applies only when invidious discrimination is meted out without any rational basis. Therefore the action in respect of respondents No.3 and 4 does not justify a similar illegality in respect of the applicant, more so when a large number of candidates similarly placed as the applicant have not been allowed to take the examination.

7. In view of the above discussion and the facts and circumstances of the case, we find no ground for interference and the O.A. is dismissed. No costs.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER (A)

Lakshmi Swaminathan
(SMT. LAKSHMI SWAMINATHAN)
(MEMBER (J))

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