

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

- 1) O.A. NO. 1223/89
- 2) O.A. NO. 1386/89
- 3) O.A. NO. 1459/89

New Delhi this the 25th day of April, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. P. T. THIRUVENGADAM, MEMBER (A)

1) O.A. NO. 1223/89.

1. Rajan Khanna S/O S. B. Khanna,
working as Junior Hindi Translator
in the Deptt. of Revenue,
Ministry of Finance,
New Delhi.
2. Chanchal Mathur W/O Rakesh Mathur,
working as Junior Hindi Translator
in the Ministry of Home Affairs,
New Delhi.
3. Sunita Chhabra W/O Rajesh Chhabra,
working as Jr. Hindi Translator,
in the Ministry of Home Affairs,
New Delhi.
4. Sunita Arora W/O Harish Arora,
working as Jr. Hindi Translator,
Ministry of Finance, Deptt.
of Expenditure, New Delhi.
5. Satish Kumar Ahuja S/O Harsukh
Lal Ahuja working in the office
of Deptt. of Revenue, Ministry
of Finance, New Delhi as Junior
Hindi Translator. ... Petitioners

Versus

1. Union of India through
Secretary, Deptt. of
Official Languages,
Ministry of Home Affairs,
Govt. of India, New Delhi.
2. Secretary,
Deptt. of Revenue,
Ministry of Finance,
North Block,
New Delhi.
3. Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.

4. Secretary,
Deptt. of Expenditure,
Ministry of Finance,
North Block, New Delhi. ... Respondents

2) O.A. NO. 1386/89

Mrs. Manjeet Nayyar W/O Ashok Kumar,
R/O BH-144 (Purvi Shalimar Bagh),
Shalimar Bagh, Delhi. ... Petitioner

Versus

1. Union of India through
Secretary, Department of
Official Languages,
Ministry of Home Affairs,
Govt. of India, New Delhi.

2. The Secretary,
Department of Women & Child
Development, Ministry of
Human Resources Development,
6th Floor, A-Wing,
Shastri Bhawan, New Delhi. ... Respondents

3) O.A. NO. 1459/89

Sri Krishan Pandit S/O Mange Ram,
R/O A-147, Near Bus Stand,
Ghonda, Delhi. ... Petitioner

Versus

1. Union of India through
Secretary, Department of
Official Languages,
Ministry of Home Affairs,
Govt. of India, New Delhi.

2. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi. ... Respondents

All the Applicants by Advocate Shri Jog Singh

All the Respondents by Advocate Mrs. Rajkumari Chopra

O R D E R (CHAL)

Shri Justice V. S. Malimath -

As common questions of law and fact arise for
considerations in these cases, they were heard
together and are being disposed of by this common
judgment.

(8)

2. Shri Jog Singh, learned counsel appearing for the petitioner submitted that in O.A. No. 1223/89 there are five petitioners and in O.A. Nos. 1386/89 and 1459/89 there are one petitioner each. All the petitioners were holding certain posts in different departments. They were appointed on ad hoc basis as Junior Hindi Translators pending regular recruitment to the said posts in accordance with rules. Though the initial appointment was only for a period of six months, it was continued by subsequent orders on the same terms from time to time. It is enough to state that the petitioners came to be appointed on ad hoc basis between 1.2.1983 and 14.8.1987. They have in these cases prayed for a direction not to revert or demote them from the posts of Junior Hindi Translators and to regularise them in the said post which post they have been holding since long, and for consequential and incidental reliefs.

3. None of the petitioners is fresher in the sense all of them were holding one post or the other in different departments before they came to be appointed on ad hoc basis as Junior Hindi Translators. The appointment to the post of Junior Hindi Translator is governed by the statutory rules framed by the President under proviso to Article 309 of the Constitution entitled the Central Secretariat Official Language Service (Group 'C' Posts) Rules, 1981. These Rules came into force on 19.9.1981. Rule 5 of the Rules says that the Service consists of (1) persons appointed to the Service at the commencement of these Rules under Rule 6, from the date of such commencement; and (2) persons appointed to duty posts after the commencement

of these rules, from the date they are so appointed. So far as the induction by way of initial constitution of the service is concerned, it is confined to the departmental candidates whose names are specified in Schedule-I to the Rules. The expression "departmental candidate" is defined in Rule 2 (c) to mean a person who has been appointed otherwise than on tenure basis* and who holds a post or holds lien on a post specified in Schedule-I on the date of commencement of the Rules.

4. There are only two statutory modes of induction into service, one by way of initial constitution of service and the other by way of direct recruitment through selection by the Staff Selection Commission.

Regularisation of the petitioners' services is claimed on the ground that several others have been regularised in service who had similarly come to the department on ad hoc basis. It has been pointed out in the reply filed by the respondents that in accordance with the statutory rules referred to above it is only those who had come to be appointed before the Rules came into force on 19.9.1981 who were considered and inducted by way of initial constitution of service. They have taken the stand that the petitioners having been appointed on ad hoc basis after the new Rules came into force, they cannot claim regularisation of their services by their being inducted by way of initial constitution of service. Initial constitution of service is confined to those who were in service on the date of commencement of the Rules, namely, on 19.9.1981. As none of the petitioners was in service

* Vide notification dated 14.1.1983, the words 'appointed otherwise than on tenure basis' have been substituted by the words 'appointed to'.

on 19.9.1981, the statute forbides their being inducted by way of initial constitution of service. We cannot, therefore, grant relief contrary to the statutory provisions.

5. So far as the induction after 19.9.1981 is concerned, it could be by selection by the Staff Selection Commission in accordance with the rules. The petitioners, if they are eligible, have the right to compete like every other candidate for regular recruitment to the post. Having regard to the fact that the petitioners were serving in different departments and have come on ad hoc basis pending regular recruitment in accordance with the rules and have had served for quite some time, a decision was taken at one point of time on 5.1.1988 to hold a special examination for these persons by the appropriate selection committee to adjudge their suitability for induction into service. Before any steps could be taken in accordance with the said order, the authorities obviously had second thoughts and revoked the said order by order dated 23.9.1988 produced as Annexure-7. At the same time, by the said order the power of relaxation was exercised in favour of the existing incumbents as one-time measure of upper age limit beyond 40 years to those Junior Translators who were holding the posts including in the C.S.O.L. service on 1.1.1988. Thus an opportunity was given to those who had become age bar^{red} in accordance with the statutory rules of competing with other candidates and getting selected in accordance with the rules. The petitioners

have stated in their applications that some of them availed of the opportunity, appeared in the test, and failed. The respondents have taken the stand in their reply that the petitioners either failed to appear in the test or appeared and failed. It is clear that none of the petitioners was able to get relaxation of selected taking advantage of age qualifications made in their favour. Thus, the petitioners have failed in their attempt to get themselves inducted in service as Junior Hindi Translators in accordance with the second statutory mode. Hence, the petitioners cannot, in the face of the statutory rules and the factual position, seek a direction for regularisation of their services as grant of any such relief would be clearly contrary to the statutory provisions.

6. That once the department had thought of giving the privilege of holding a special test for those in service by their order dated 5.1.1988 will not advance the case of the petitioners for, before that decision could be implemented the said order was cancelled and in its place another order was made granting age relaxation. The authorities had undoubtedly the necessary competence to revoke the earlier order dated 5.1.1988, particularly when that order had not yet been given effect to. We must bear in mind that that order was made not in recognition of any pre-existing rights of the petitioners but by way of concession. The former concession was withdrawn and another concession was conferred by the department by the subsequent order by which age relaxation was given.

7. It was pointed out that it is a hard case in which equitable considerations should weigh and relief granted to the petitioner by way of regularisation of their services. It was submitted that the petitioners have rendered long number of years of service and it would be very harsh on them if they are now required to vacate the posts. It is necessary to bear in mind that all the petitioners were holding one post or the other in different departments when they were offered ad hoc appointments as Junior Hindi Translators in the Department in question for short periods. The orders of appointment made it clear that these ad hoc appointments have been offered pending filling up of the vacancies in accordance with the rules. The respondents have stated in their reply that selection in accordance with the rules was held during the years 1984, 1987 and 1989. 1989 is also the year when the selection was held relaxing the age qualification. It was urged by the learned counsel for the petitioners that some of the petitioners did not avail of the test because the Tribunal had granted an interim order regarding maintenance of status quo. The very fact that some of the petitioners did take advantage of the opportunity afforded to them is sufficient to indicate that they did not understand the grant of interim order by the Tribunal as having the effect of precluding them or making it unnecessary for them to appear for the test held after relaxing the age qualification in their case. Such of them who appeared and failed cannot, in our opinion, make a grievance as they did not make the grade for selection. Those who did not at all appear for the test cannot be placed on a higher position as they did not care to take advantage

of the age relaxation made in their favour and offer themselves as candidates at the test. The order maintaining status quo had only the effect of preventing the petitioners from being required to vacate the posts held by them. Obviously it does not have the effect of precluding them from appearing for the test. If some of the petitioners did not appear in the test, they did so on their own volition. They cannot make it a ground for grant of relief. It is urged that we should bear in mind the fact that the petitioners have served for a long number of years for an equitable direction in their favour. In O.A. No. 1223/89, the first petitioner was appointed as Junior Hindi Translator on 1.2.1983, the second on 1.4.1985, the third on 1.8.1985, the fourth on 1.8.1987 and the fifth on 13.8.1986. The petitioner in O.A. No. 1386/89 was appointed on 16.4.1984 as Jr. Translator, and the petitioner in O.A. No. 1459/89 on 14.8.1987. The period spent during the pendency of these proceedings is not the period which we would be justified in taking into consideration. It is thus clear that the period of service rendered by the petitioners before they approached the Tribunal at the maximum was six years and at the minimum was two years. It is also necessary to bear in mind that in 1989 a test was held offering an opportunity to all the petitioners to appear in the test relaxing the age qualification. As already stated, some of them offered themselves and failed in the test. In this background, having regard to the period of service rendered by the petitioners, it is not possible to take the view that the situation

is so manifestly unreasonable as to justify any further indulgence being shown than one that has been shown by the department/State by relaxing the age qualification in favour of the petitioners as a one-time measure. We, therefore, do not find any good grounds to make any equitable direction in this behalf either.

For the reasons stated above, these applications fail and the same are dismissed. No costs.

(P. T. Thiruvengadam)
Member (A)

(V. S. Malimath)
Chairman

/as/

Attested
Suresh Kumar
2/5/99