

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1841
T.A. No.

1989.

DATE OF DECISION 28.9.1989.

(2)

Shri Raj Kishan Nigam, Applicant (s)

Shri Rakesh Tikku, Advocate for the Applicant (s)
Versus
Union of India & Ors. Respondent (s)

P.H. Ramchandani, Sr. Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P. Srinivasan, Administrative Member.

The Hon'ble Mr. T.S. Oberoi, Judicial 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. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(Delivered by Hon'ble Shri P.Srinivasan)

This application has come up before us for admission with notice to the respondents. Shri Rakesh Tikku, learned counsel for the applicant and Shri P.H.Ramchandani, learned counsel for the respondents have been heard. Shri Jog Singh, learned counsel present in the court sought to intervene in the matter as according to him his client Shri Vishwajit Burman has actually been selected for the post of Make-up Assistant to which the applicant here is laying claim. Having heard all the parties, we are of the view that this application can be disposed of at this stage itself and we therefore, proceed to do so.

2. The Director, Central Production Centre, Doordarshan, New Delhi issued an advertisement dated 15.12.1988 calling for applications, inter alia, for ^{the} ^{two} post of Make-up Assistant, one of which was reserved for a Scheduled Tribes candidate. The

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essential educational qualification prescribed for the purpose read as follows: -

"(i) Matriculation or equivalent. (ii) Diploma or certificate from a recognised institute with specialisation in Make-up, OR Three years practical experience of Make-up in Stage, film or television."

The applicant has passed the Praveshika examination from the Tiruhat Vidyapeet, Rathi Madhubani, Bihar as well as Madhyama Examination conducted by the Hindi Sahitya Sammelan, Allahabad. His candidature for the post was rejected by the respondents in a letter dated 17.8.1989 addressed to him. This is what the letter states:

"Please refer to your letter dated 3.8.1989 regarding your application for the post of Make-up-Assistant. "This office has given to understand that the "PRAVSHIKA" examination conducted by Tiruhit Vidhapeeth Madhuvani, Mithala, Bihar is not included in the list of Institutions Voluntary Hindi Organisations recognised by the Human Resources Development, Ministry of Education, Govt. of India, New Delhi. Your plea that the examination Pravashika is equivalent to Matriculation does not hold good. You do not, therefore, fulfil the requisite essential qualifications, as such you cannot be considered for the post."

The applicant is aggrieved with this decision. Shri Tikku submits that the requirement in the advertisement was that a candidate should have passed Matriculation examination or its equivalent. Even if the Pravashika examination of the Tiruhit Vidhapeeth Madhuvani were not to be recognised as equivalent to the Matriculation examination, the applicant had passed Madhyama examination from the Hindi Sahitya Sammelan, Prayag which was recognised by the Department of Education, Ministry of Human Resources Development as equivalent to B.A. (Hindi). In other words, the applicant possesses a qualification which was much higher than the Matriculation examination which has been prescribed in the advertisement. His candidature had, therefore, been invalidly rejected.

3. Shri P.H. Ramchandani vehemently pleaded for the respondents that the Madhyama examination of the Hindi

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Sahitya Sammelan was in Hindi and was recognised as equivalent to B.A. only in Hindi. The essential qualification for the post advertised was Matriculation covering all subjects and not merely Hindi. ~~This~~ Therefore, the applicant who had a qualification equivalent to a B.A. Degree only in Hindi did not fulfil the essential qualification and was rightly rejected.

4. Shri Jog Singh, speaking as intervener submitted that whatever order may be passed by this Tribunal should not affect the process of selection which has already been completed and that persons selected should not be affected by ^{our} ~~order in this application.~~

5. We have given the matter the most anxious consideration. We have carefully perused the advertisement. The essential educational qualification prescribed therein is "Matriculation or equivalent"; it does not show that the matriculation should be of a particular type. When the applicant has produced a copy of a letter from the Ministry of Human Resources Development, dated 10.7.1989 at Annexure A-4 page 15 of the application stating that the Madhyama examination conducted by the Hindi Sahitya Sammelan has been recognised as equivalent to B.A. (Hindi), we have to hold that he has more than the essential qualification required for the post under consideration. We do not see any merit in the contention that the equivalence is only in regard to Hindi. As we understand, the advertisement requires that a candidate should be an educated person and educated up to a certain ~~standing~~ ^{standard}. ^{M albeit} A person who has acquired a B.A. Degree, ~~all be it~~ in Hindi is certainly an educated person and possesses a qualification higher than a mere matriculation. In fact, a copy of the certificate filed with the application shows that the applicant passed in English also as one of the optional subjects. We, therefore, see no justification in the narrow interpretation sought to be placed by the respondents on the educational qualification prescribed in the advertisement.

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and thereby rejecting the candidature of the applicant.

6. Since the only reason cited in the impugned letter for rejecting the candidature of the applicant is that he did not possess the educational qualification of Matriculation and since we are of the view that the respondents were not right in doing so, we direct the respondents to consider the case of the applicant also for the post alongwith others.

7. We are told that in spite of the objection, the application has also been subjected to various tests along with the other candidates. If that be so, the case of the applicant for appointment may be considered on the basis of his performance in the said said tests already held. If he has not been called for any particular test, he may be allowed to take that test and final selection should be made on the basis of relative merits of the candidates including the applicant.

8. The application is disposed of on the above terms at the stage of admission itself, leaving the parties to bear their own costs.

T.S. Oberoi
(T.S. Oberoi)
Member (J)

28.9.89

P. Srinivasan
(P. Srinivasan)
Member (A)