

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 75/91
T.A. No.

199

DATE OF DECISION 14.2.1992

Miss Akhilesh Gaur	xPetitioner Applicant
Shri G.R. Chabria	Advocate for the Petitioner(s) Applicant
Versus	
Union of India & Another	Respondent
Shri P.H. Ramchandani	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? */M*
4. Whether it needs to be circulated to other Benches of the Tribunal? */M*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant is aggrieved by her non-appointment to the post of Junior Hindi Translator for which the Office of the Defence Research & Development Organisation, Ministry of Defence, had issued an open advertisement in the Central Employment Exchange. The applicant was selected for appointment but was denied the same on the ground that she was over-aged. She has, therefore, prayed that the respondents be directed to issue her the letter of appointment to the said post.

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2. The facts of the case in brief are as follows.

In August, 1988, the respondents advertised for the post of a Junior Translator in the Employment News on 13.9.88 as under:-

"Junior Hindi Translator:

PAY: Rs.1350-2200

AGE: 18 to 35 years

ESSENTIAL
QUALIFICATIONS:

(1) Degree of a recognised University with Hindi and English as two of the subjects.
OR
B.A.(Hons) in Hindi with English as a secondary subject.

OR

Degree of a recognised University with English as one of the subjects and Honours in Hindi of equivalent Hindi qualifications.

OR

Degree of a recognised University with English and Sanskrit as elective subject and Hindi as one of the subjects at least in Higher Secondary Examination

OR

Degree in Science of a recognised University in English medium with Hindi as one of the subjects at least in the Higher Secondary Examination.

(ii) One year's experience of translation from English to Hindi and vice versa.

(iii) Place of work: BANGALORE.

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3. The applicant applied for the said post. After scrutinising her application, she was given a call letter to appear for written test/interview, with the following certificates/testimonials:-

- (i) Original SSLC/Transfer Certificate in proof of her age.
- (ii) Original Degree Certificates.
- (iii) Original Caste Certificate duly verified by the Tehsildar in case she belongs to SC/ST community.
- (iv) Employment Exchange Registration Card.
- (v) Experience Certificate, if any.

4. The applicant appeared in the written test and was declared successful. She was interviewed on 2.3.1989. She has stated that at the end of the interview of all the candidates, she was called and informed by the Chairman of the Board that she had been selected for the post of Hindi Translator, and that official communication/confirmation regarding her selection and joining, would follow. She was further asked to resign from private employment, where she had been serving for the past five years as the post was to be filled up by 1st April, 1989. The applicant was also given an Attestation Form to be filled in by her. She complied with the same.

5. In good faith, the applicant resigned from her private job on 9.3.1989. Kudos Advertising and Sales Corporation in which she had worked as a Translator, Hindi to English and vice versa, has given a testimonial to her on 21.3.1989 stating that during her service prior to resignation, she was found to be extremely honest, hard-working and efficient in her profession. A copy of the testimonial has been produced by her at Annexure A-4, page 16 of the paper-book.

6. On 9th June, 1989, the respondents informed the applicant for the first time that as per the statutory rules and orders, the upper age limit of 30 years for the post of Junior Hindi Translator can be relaxed by five years in respect of Government servants only, and that as she had gained experience in a private organisation in the capacity of Translator, her case has been taken up with the higher authorities for relaxation of upper age limit. It was also added that mere attendance in the interview, did not constitute any guarantee for appointment.

7. The respondents did not contradict the version of the applicant that she had been duly selected by the authorities concerned for the post advertised by them.

8. The applicant has stated that in good faith, she did not apply for similar posts which had been advertised

by the National Textiles Corporation, Bangalore, some time in May, 1989 as she had already been selected for appointment in the office of the respondents. She has produced a copy of the application form furnished by the National Textiles Corporation at Annexure A-9, pages 47-48 of the paper-book.

9. The version of the respondents is that according to the relevant recruitment rules, the age-limit for direct recruitment is prescribed as 30 years. The rules provide for age relaxation upto 35 years in the case of Government servants only. The vacancy in question was notified by LRDE, Bangalore, which is a subordinate office of the Defence Research & Development Organisation who had processed the case for calling candidates through the local Employment Exchange. Since no eligible candidate was available on the live Register of the local Employment Exchange, they issued a non-availability certificate on 30.1.1988. Thereafter, the vacancy was notified to the Central Employment Exchange, New Delhi, which advertised the same in the Employment News. In the advertisement, it was stated that the age limit will be between 18 and 35 years. The respondents have stated that in the said advertisement, it had been mentioned that the upper age limit was relaxable upto 35 years in respect of Government servants, but on a perusal of a photocopy of the Employment News dated

13.8.1988, which has been produced as Annexure A-1, it is observed that [✓] p.10 of the paper-book, no such stipulation was included.

10. The respondents have stated that only four candidates, including the applicant, appeared for the written test/interview. The Selection Board recommended the names of two candidates, including the applicant, in the order of their merit for appointment as Junior Hindi Translator. The respondents have also admitted that the applicant was given the Attestation Form regarding verification of character and antecedents. They have not, however, stated as to when it came to their notice that she was over-aged. They, however, took up the matter with the higher authorities to get relaxation of age in her case. The relaxation was not given on the ground that candidates fulfilling all conditions, including that of age as prescribed in the recruitment rules, were available. In view of this, no steps ^{were 2} ~~were~~ taken for medical examination of the applicant and for offering the appointment to her.

11. We have carefully gone through the records of the case and have considered the rival contentions. The learned counsel for the applicant stated that there was no mention in the advertisement published in the Employment News that

the age limit was 30 years and that it was relaxable to 35 years in the case of Government servants only. The applicant did not mislead or misrepresent to the respondents about her date of birth. It was only after scrutinising her application and finding her eligible that she was allowed to appear in the written test as well as the interview. At a subsequent stage when she submitted the Attestation Form, the respondents noticed her age as 32 years, and, therefore, they, on their own, sought relaxation from higher authorities in respect of her age. In view of this, we are not impressed by the contention of the learned counsel for the respondents that this is an ~~instance~~^{instance} of an administrative mistake committed by the respondents. We have also been told at the Bar that no person has so far been appointed to the post for which the applicant was selected.

12. The learned counsel for both the parties have cited numerous rulings^{*} before us and we have duly considered them. The learned counsel for the respondents stated that any action taken in violation of the recruitment rules, will not be valid and that the principle of promissory estopp^{le} will not apply to such cases. The legal position

* Decision cited by the learned counsel for respondents:
1981 (1) SCC 11.

Decisions cited by the learned counsel for the Applicants:
1990 (2) SLJ 715; 1990 (5) SLR 238; 1981 (1) SLR 690; and
1988 (2) SLJ 143.

stated by him is unexceptionable. However, in the instant case, an innocent job seeker resigned her job with a private firm with the legitimate expectation that she would be offered appointment as Junior Hindi Translator for which she was selected and Attestation Form was given to her as a follow up of her selection. She also did not apply for the post of Hindi Translator in the National Textiles Corporation for the same reasons. It is to cover such ^{like} cases that the power of relaxation is built in the statutory rules. As the advertisement published in the Employment News mentioned only the age-limit as 18 to 35, we are of the opinion that in the interest of justice and fairplay, the respondents must be deemed to have waived the age limit in the case of the applicant before us.

13. Accordingly, we allow the present application and direct the respondents to issue the offer of appointment to the applicant within a period of two months from the date of receipt of this order. The application is disposed on the above lines.

There will be no order as to costs.

D. K. Chakravorty
(D.K. Chakravorty) 14/2/92
Administrative Member

P. K. Kartha
14/2/92
(P.K. Kartha)
Vice-Chairman (Judl.)