

12

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.103/2004

New Delhi, this the 9th day of December, 2004

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)**

Mrs. Tithi Halder
W/o Pradip Ranjan Deb
R/o L-1/209-C
DDA Flats, Kalkaji
New Delhi - 110 019. ... Applicant

(By Advocate: Sh. R.V.Sinha)

Versus

1. The Staff Selection Commission
Department of Personnel & Training
Ministry of Personnel, Public Grievances
& Pension, Block No.12, CGO Complex
Lodhi Road, New Delhi - 110 003.
(Through: The Secretary).
2. Union of India, through:
Department of Official Language
Ministry of Home Affairs
Lok Nayak Bhawan, Khan Market
New Delhi - 110 003.
(Through: Secretary)
(Through: Nominated Counsel). ... Respondents

(By Advocate: Sh. S.M.Arif)

17

- 2 -

ORDER(Oral)

By Mr. Justice V.S. Aggarwal:

Applicant (Mrs. Tithi Halder) by virtue of the present application seeks quashing of the order of 28.11.2003 whereby her candidature has been cancelled for the post of Junior Translator and to declare that she meets the essential educational qualifications in accordance with the advertisement issued by Respondent No.1 in the Employment News [31 May - 06 June, 2003].

2. The relevant facts are not much in dispute. Respondent No.1 had issued an advertisement for recruitment of Junior Translators. The applicant had applied for the said examination. In August, 2003, she had appeared in the written examination which she had qualified. In September, 2003, a letter was issued to the applicant requiring her to submit certain documents. Thereafter, the applicant was called for interview but her candidature has been cancelled holding that she does not meet the essential qualifications prescribed in the notice of examination. The impugned order reads:

“Sub: Recruitment of Junior Translators
Examination 2002.

The undersigned is directed to invite attention of Ms. Tithi Halder Roll No.1210241 to her candidature for the above examination and to pay that on detailed scrutiny of his qualification in consultation with Deptt. of Official Language. It has been opined that he does not meet essential qualifications as laid down in the notice of examination. Hence her candidature is being cancelled for this examination.”



3. The plea of the applicant is that she meets the essential educational qualifications and, therefore, in this backdrop she has filed the present application.

4. At this stage, it would be relevant to mention that the educational qualifications prescribed in the advertisement were:

"6. EDUCATIONAL QUALIFICATION:

Master's Degree of a recognized University or equivalent in Hindi as a subject or medium of examination with English as a compulsory/elective subject or medium of examination at degree level; OR

Master's Degree of a recognized University or equivalent in English as a subject or medium of examination with Hindi as a compulsory/elective subject or medium of examination at degree level; OR

Master's Degree of a recognized University or equivalent in any subject with Hindi and English as a compulsory/elective subject or medium of examination at degree level; OR

Master's Degree of a recognized University or equivalent in any subject with Hindi as a compulsory/elective subject and English as medium of examination at degree level; OR

Master's Degree of a recognized University or equivalent in any subject with English as a compulsory/elective subject and Hindi as medium of examination at degree level;

NOTE: Candidates who have appeared in an examination, the passing of which would render them educationally qualified for the Commission's examination but have not been informed of the results as also the candidates who intend to appear in such examination will also be eligible for admission to Part-I (Written) examination. All candidates who are declared qualified by the Commission for taking the Personality test/Interview will be required to produce proof of passing the requisite examination at the time of Interview, failing which the candidature of such candidates will be cancelled by the Commission."



15

-u-

5. The applicant is a graduate in Bachelor of Arts from Andhra University. The degree granted is of Bachelor of Arts to the applicant and her optional subjects were Economics, Politics and Public Administration but had studied Hindi and English in the 1st and 2nd years only and she had cleared the papers. Admittedly, she had not studied Hindi in the 3rd year which means she had not studied English and Hindi subjects all the three years.

6. In the reply filed, the application is being contested. It is asserted that the applicant had studied Hindi and English in the 1st and 2nd years of her graduation examination. In the 3rd year, no Hindi subject she studied. The medium of degree was English. Since she had not studied the Hindi and English subjects in all the three years, she was not found eligible as per notice of examination. The candidature was cancelled after taking full clarification from the Department of Official Languages.

7. The learned counsel for the applicant contended that once the applicant had been called for the interview, a doctrine of promissory estoppel would come into play and in support of his claim, he relied upon the decision of this Tribunal in the case of **LALIT RANI v. UNION OF INDIA AND OTHERS**, (1990) 12 ATC 664. In the cited case, the concerned person was not eligible to appear in the test for regularization of ad hoc appointment because she did not have the prescribed length of service. She applied for condonation of deficiency in length of service. The test was conducted by the Staff Selection Commission. She was declared successful. The appointment order was withdrawn.

8. No person indeed can be appointed de hors the Rules but we are not dwelling into the said controversy because the cited

UAg

decision of **Lalita Rani** is distinguishable. In that case, the person concerned had been allowed to join the services and thereafter the order was passed terminating the services after few years. That is not in the present case. In the present case, the candidature itself is being cancelled and, therefore, the cited decision of **Lalita Rani** is distinguishable.

9. The main controversy in the present case is as to if the applicant fulfilled the educational qualifications prescribed in the Recruitment Rules or not. According to the learned counsel, the applicant falls in the category of **"Masters Degree of a recognized University or equivalent in any subject with Hindi as a compulsory/elective subject and English as medium of examination at degree level"**.

10. While giving resume of the facts, it is apparent that Hindi was not an elective subject of the applicant. The elective subjects were Economics, Politics and Public Administration. The medium of the degree was English. She only studied Hindi in the first two years out of three years. Thus in our considered opinion, the claim of the applicant does not fall in accordance with the educational qualifications prescribed. In this regard, we seek support from the decision of the Delhi High Court in **SHRI BINAY KUMAR v. UNION OF INDIA & OTHERS**, Civil Writ Petition No.6567/2000, decided on 26.9.2001. The petition was dismissed holding:

"The statement of marks obtained by the petitioner clearly indicates that he had neither Hindi or English as main subject nor as elective or compulsory subject. He had Political Science as Honours subject and History as subsidiary subject whereas Hindi and English were studied for just one year. Therefore, he did not have both Hindi and English as main subjects."



More close to the present case is the decision of the Division Bench of the Delhi High Court in the case of SHRI AMRENDRA KUMAR PANDEY v. STAFF SELECTION COMMISSION & OTHERS, Civil Writ Petition No.580/2002, decided on 11.2.2002. In the cited case also, the educational qualifications prescribed were Masters 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.


11. The candidate had studied Hindi and English for the first two years. The Delhi High Court held:

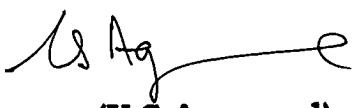
"It is not in dispute that the petitioner had obtained BA Degree with Hindi, English, History and LSW subjects. He has studied Hindi only of 100 marks. However, English, History and LSW subjects carried 300 marks each. In the third year, he had studied BA (Hons.) in English. He thus had not studied Hindi language in all the three years in a degree course as his main subjects were English, History and LSW which were of 300 marks each whereas Hindi was only of 100 marks."

The application was dismissed.

12. Keeping in view the binding nature of these decisions, it becomes unnecessary for this Tribunal to probe into the matter further.

13. Resultantly, the Original Application being without merit must fail and is dismissed. No costs.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/NSN/