

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
A L L A H A B A D

O.A./A.N.No. 1371 of 1988

DATE OF DECISION 29.2.96

-- Ram Pratap Singh -- PETITIONER(S)

-- Sri S. C. Budhwar -- ADVOCATE FOR  
THE PETITIONER(S)

VERSUS

-- U. C. F. & Co. -- RESPONDENTS

-- Sri D. P. Singh & Sri Prakash Singh -- ADVOCATE FOR THE  
RESPONDENT(S)

C O R A M :-

The Hon'ble Mr. D. K. Gaur Member (J)

The Hon'ble Mr. D. S. Bawra Member (A)

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. Whether to be circulated to all other Bench ? X

VKF/-

(Signature)  
(SIGNATURE)



CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD.

Allahabad this the 29th day of February 1996.

Original Application No. 1371 of 1988.

Hon'ble Dr. R.K. Saxena, JM  
Hon'ble Mr. D.S. Baweja, AM

Ram Pratap Singh, S/o late  
Shri Ram Vishal Singh, R/o  
Jayantipur, Opposite Bharat  
Petroleum Petrol Pump, G.T.  
Road, Allahabad.

..... Applicant.

C/A Sri S.C. Budhwar

Versus

The Union of India, through  
Secretary, Ministry of Defence,  
Government of India, New Delhi.  
& Others.

..... Respondents.

C/R Sri D.P. Singh  
Sri Prakash Singh

O R D E R

Hon'ble Mr. D.S. Baweja, AM

Prayer has been made through this O.A. filed under Section 19 of Administrative Tribunal Act for quashing the impugned order dated 7/8.12.88 issued by respondent No. 3 disapproving the candidature of the applicant for selection for the post of Junior Translator.

2. The applicant was appointed Lower Division Clerk on 22.4.79 in the then Defence Lands and Cantonments Service and now renamed as Indian Defence Estate Service. Initially he was appointed in Lucknow circle and then was transferred to Allahabad in May 1985. While posted at Allahabad, the applicant has been performing the duty of Translator as there was no post of Junior Translator in the office of Defence Estates Officer (DEO) Allahabad circle. An experience certificate to this effect has also been issued to him on 16.11.86

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annexed at A-I.

A leave vacancy of the translator arose in the office of Director Defence Estates Lucknow (Respondent No.3). The applicant applied for the same and he was called for interview on 18.6.85. He was found fit for the appointment. Appointment letter dated 18.4.85 (A-2) was issued but he was not allowed to join the same. <sup>after</sup> There ~~fore~~ vacancies arose in the various offices of the Estate Officers in Central Command and respondent No. 3 called for applications from the serving staff. The applications were also invited from the Employment Exchange. The applicant applied for the same, and was called for written test and interview held on 1.2.88 & 2.2.88 respectively in which he appeared. Respondents called only those persons for written test and interview who were qualified ~~for~~ being appointed as Junior Translator. The applicant met with the one of the laid down essential qualification of Bachelor's degree with 2 years experience. The applicant alleges that in this selection he is understood to be at No. 2 position in the select list and No. 1 Sh. Saleem Ahmed Khan was not found to possess the required experience certificate. However this selection was cancelled and re-examination was ordered. Reexamination and interview was held on 17.11.88 & 18.11.88. In this examination a number of departmental as well as employment candidates were excluded after scrutiny of the documents in respect of qualification and experience. The applicant appeared in this examination. In the written test result the applicant was placed at S.No. 1 while the respondents 4 & 5 were placed at S.Nos. 2 & 3 respectively (A-4) in the <sup>order</sup> ~~array~~ of merit. However the applicant was not selected after the interview.

It is alleged that the candidature of the applicant was not approved on the ground that he did not possess the requisite experience. The impugned order dated 7/8.12.88 has been challenged through which this disapproval has been conveyed (A-4).



3. The applicant has challenged the impugned order on the grounds that he possessed the requisite experience of 2 years as a translator as per the certificate issued by the officer of the same Department. He qualified in the written test with top position. His name however has been excluded from the select list due to mala fide action with the intention of getting the candidates selected in which the respondent No. 3 was interested by rejecting his experience certificate. No reasons have been disclosed as to why the experience certificate issued to him by the Allahabad circle was not acceptable except that the experience has not been obtained as a whole time translator.

4. The counter affidavits have been filed by the official respondents 1, 2, 3 and the private respondent No. 5. Rejoinders to these counter affidavits have been filed by the applicant.

5. The official respondents in the counter affidavit have denied the contention of the applicant that he possessed the necessary experience of 2 years for being eligible. It is averred that the applicant was occasionally entrusted with the job of translation which he did while being posted as lower division clerk. No whole time translation work was entrusted to him and the certificate dated 16.11.88 issued by the Defence Estate Officer Allahabad also does not show this. The requirement as per the recruitment rules of Junior Translator is Bachelor's degree with minimum 2 years experience as full time translator as one of the alternative essential qualifications. The applicant did not fulfil this requirement.

It is admitted that the applicant was selected as Junior Translator for a leave vacancy at Lucknow but on checking when it was found that he did not possess the minimum required qualification, his posting orders <sup>had</sup> were cancelled vide letter dated 19.4.85 (CA-I) and he was not allowed to join duty.



Selection was held for filling up of 2 posts one general and other reserved for the scheduled tribe candidate. Respective Employment Exchanges were requested to sponsor the candidates. The departmental candidates were also allowed to complete Employment Exchange sponsored only general candidates.

The written test was held on 1.2.88 in which 3 departmental candidates including Sh. Salim Ahmed Khan appeared. Sh. Salim Ahmed secured first position in the written test cum interview. However on checking it was found that he did not possess the required experience and the Departmental certificate was not accepted as he had not worked as a full time translator. In view of this it was decided to hold fresh selection.

For fresh selection, the written test cum interview was held on 17.11.88 & 18.11.88 in which all Departmental and the Employment Exchange sponsored candidates were allowed to appear subject to their eligibility. Sh. Salim Ahmed Khan did not appear on his own. In this selection respondent No. 4 was selected against reservation of scheduled tribe vacancy and respondent No. 5 against the general vacancy. The experience certificate of the applicant was not acceptable as the same did not meet with the laid down requirements for recruitment.

The post of the junior translator is to be filled by direct recruitment and the departmental candidates have to compete with the outsiders and no preference is to be given. The selection has been done as per the rules and allegations of bias and favouritism are totally false.

In the counter filed by the respondent No. 5 the averments made are more or less the same except that the while inviting applications from Employment Exchange only the first 3 qualifications as detailed in the application at para 3 (X) of the application had been laid down. Further it is also



averred that the applicant did not possess the required Bachelor's degree with English & Hindi as the compulsory/ elective subjects.

6. Vide order dated 13.12.88, it was directed "If any appointment is made, that will be subject to the out come of this case ". However no appointment was made based on the selection on the plea that stay order was operating. However vide order dated 19.12.89, it was clarified that order passed earlier on 13.12.88 does not impose any bar on the appointments. The respondent No. 5 was allowed to join the post on 11.4.1990 and since then he is continuing. Vide order dated 23.3.93 he has been also confirmed and made permanent. However there is no averment with regard to the respondent No. 4 as to whether he has also joined the post.

7. Heard the learned counsel for the applicant and the respondents. We have also gone through the pleadings and documents relied upon.

8. From the rival submissions made by the parties, the main issues which emerge to be determined are (a) whether he possesses the required graduate degree. (b) Eligibility of the applicant based on the experience certificate dated 16.11.88 issued by Defence Estate Officer Allahabad.

The recruitment rules 1984 laid down for the post of the junior translator have been linked by the applicant. As per this 4 alternative essential qualifications have been laid down. The applicant claims eligibility under alternative 4. The relevant qualifications are extracted as under:

" Bachelor's degree of a recognised University with Hindi and English as compulsory/elective, subjects or either of the two as medium of examination and the other as a compulsory/elective subject plus recognised Diploma/Certificate Course in Translation from Hindi to English and vice versa of two years' experience of translation work from Hindi to English and vice versa in central/state Government officers, including Government of India undertaking. "

The above qualification lays down two conditions viz.

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Bachelor's degree with Hindi & English as compulsory/elective subjects and 2 years experience of translation in Govt. offices or undertakings.

The respondent No. 5 has averred in para 10 of the affidavit that the applicant did not possess the required graduate degree with English and Hindi as compulsory/elective subjects. The condition laid down is English and Hindi as compulsory/elective subjects or either of the two as medium of examination and the other as compulsory/elective subject. The applicant at annexure A-3 has placed his marks sheet of graduate degree from which it is seen that the applicant has taken English as one of the subjects. From the marks sheet it also transpires that the medium of examination was Hindi. In view of these facts of the matter, the applicant possesses eligible graduate degree. Further the respondents have also not averred on this aspect and impugned order at A-4 also does not indicate this as the ground for declaring the applicant ineligible. Therefore this contention is not tenable.

The main issue is with regard to 2 years experience as a translator. The applicant has based his <sup>defence</sup> degree on the experience certificate issued by Allahabad circle. The respondents have refuted the validity of the same as the applicant was entrusted with the translation work only <sup>occasionally</sup> accordingly in addition to his normal duties as a clerk. The respondents have also strongly emphasised that the 2 years experience is to be possessed by working on full time basis and as such the certificate issued to him does not meet the requirement. Perusal of the recruitment rules as extracted above reveals that there is no specific mention "on full time basis". However careful considerations of the facts, it implies full time experience. The post is to be filled



by direct recruitment. The departmental candidates have to compete with the outsiders. Therefore the eligibility criteria has to be on a common ground. For this purpose candidate having the experience on free <sup>learning</sup> ~~learning~~ basis <sup>involving</sup> ~~involving~~ occasional translation work cannot be compared with that of the candidate having worked on full time basis. Therefore the experience has to be based on the full time basis. The applicant has also not furnished any data of the translation work done. Further the certificate issued on 16.11.88 also does not make any specific mention that the experience has been gained on full time basis. <sup>to</sup> It is therefore for the competent authority/decide that the certificate issued by the Defence Estates officer Allahabad makes the candidate eligible possessing the required experience of 2 years on full time basis. It is also significant to note that in the selection held on 2.2.88, one candidate named Mr. Saleem Ahmed <sup>khan</sup> was selected but he was not given appointment as this candidate also acquired experience in the same way as that of the applicant and similar certificate was issued by the Departmental officer.

We are also not able to accept the contention of the applicant that he was allowed to appear in the written test cum interview after verifying the eligibility, In view of the explanation forwarded by the respondents wherein it is stated that all the candidates were allowed to appear subject to verification of the eligibility. The allegations of malafide that the applicant has been made ineligible in order to select the candidates in where the respondent No. 2 was interested are vague and generalised. No material has been brought on the record to support even a suspicion of malafide.

9. In view of the facts of the case mentioned above, we find no ground for interference with the impugned order. The application is therefore devoid of merits and the same is dismissed. Parties to bear their <sup>own</sup> costs.

Member - A

Member - J