

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 283 OF 2000

Cuttack, this the 7th day of November, 2000.

Sk. Harun Rasid ...

Applicant

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASTHMAM, MEMBER(JUDICIAL)

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Sk.Harun Rasid, aged about years, son of Sk.Sahabuddin,
At-Parikhipatha, P.S-Sdar (Balasore), P.O-Parikhi,
Via-Chandipur, Dist.Balasore.... Applicant

Advocates for applicant - M/s K.P.Mishra
J.K.Khandayatray
S.Das

Vrs.

1. Union of India, represented through its Secretary to Government of India, Department of Official Language, Ministry of Home Affairs, New Delhi.
2. Director, Central Translation Bureau, Department of Official Language, Ministry of Home Affairs, Parybaran Bhavan, B-Block, 9-Floor, Central Government Office Complex, Lodhi Road, New Delhi-110 003.
3. Regional Director (ER), Staff Selection Commission, 5 Esplanade Road, Row-West, Old Assembly Building, Ground Floor, Calcutta-700 001, West Bengal.

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Respondents

Advocate for respondents-Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R

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SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has prayed for quashing the selection scheduled to be held on 25.6.2000 for Junior Hindi Translators for subordinate offices under administrative control of Department of Official Language and Director, Central Translation Bureau of that Department. The second prayer is for a direction

to the Secretary to Government, Department of Official Language (respondent no.1) and Director, Central Translation Bureau (respondent no.2) to give regular appointment to the applicant to the post of Junior Hindi Translator without compelling him to appear in any further interview. The respondents have filed counter opposing the prayers of the applicant, and the applicant has filed rejoinder reiterating his prayers. For the purpose of considering this petition, it is not necessary to record all the averments made by the parties in their pleadings. The facts necessary for deciding the application need, however, be stated.

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2. The applicant is a Post Graduate in Hindi and has the requisite qualification for the post of Junior Hindi Translator. In 1995 respondent no.1 issued an advertisement, which is at Annexure-R/1. According to the applicant, this advertisement was for appointment to the post of Junior Hindi Translator. According to the respondents, this advertisement was for the purpose of forming an all India panel of Translators for carrying out work of translation in Central Government Offices, Head Offices, regional and local offices on honorarium basis. The applicant submitted his candidature and was duly selected. In order dated 25.2.2000 at Annexure-4 he was informed that his name has been included in all India panel of translators prepared by Central Translation Bureau. On 15.4.2000 Staff Selection Commission issued a notice in Employment News for holding a competitive examination for the post of Junior Hindi Translator in Central Secretariat Official Language Service, Armed

Forces Headquarters Services and Subordinate Offices in different pay scales. This advertisement is at Annexure-R/3. It is to be noted that in paragraph 4.2 of the OA the date has been wrongly mentioned as 21.12.2000. In this advertisement the maximum age limit for candidates was 30 years as on 1.1.2000. The applicant has stated that he had all the qualification and eligibility for being appointed as Junior Hindi Translator, and he was selected and put in the panel in order dated 25.2.2000. Because of the age limit in the notification at Annexure-R/3 the applicant is debarred from applying for the post of Junior Hindi Translator. It is to be noted that in the OA the petitioner has not mentioned his age. He has further stated that if in pursuance of the notification at Annexure-R/3 Junior Hindi Translators are appointed in subordinate offices, then the scope of engagement of the applicant for work in such offices will be nil. He has also stated that except the age he has all the qualifications for the post and in the context of the above he has come up in this petition with the prayers referred to earlier.

S. Jam. 3. It is not necessary to refer to the averments made by the respondents in their counter and by the applicant in his rejoinder. These will be taken note of while considering the submissions made by the learned counsel for the petitioner.

4. We have heard Shri K.P. Mishra, the learned counsel for the petitioner and Shri A.K. Bose, the learned Senior Standing Counsel for the respondents and have perused the records. The learned counsel for the

petitioner has relied on the decision of the Hon'ble Supreme Court in the case of Central Inland Water Transport Corporation v. B.N.Ganguly, AIR 1986 SC 1571, and the decision of the Hon'ble High Court of Orissa in the case of Bikram Kumar Sahoo v. Orissa State Handloom Development Corporation Ltd., 87(1999) CLT 559, and these two decisions have also been perused.

5. The applicant has mentioned in paragraph 4.2 of his OA that in 1995 there was an advertisement for appointment to the post of Junior Hindi Translator. This advertisement has been enclosed by the respondents at Annexure-R/1 and it appears therefrom that the advertisement was made not for appointment to the post of Junior Hindi Translator but for drawing up an all India panel of Translators to carry out the work of translation in Central Government Offices, Head Offices, Regional and Local Offices on honorarium basis. It has been explained by the respondents in the counter that this advertisement was only for the purpose of registration of persons competent to take up translation work on honorarium basis as may be assigned to them by the concerned offices as per their requirement. A reference to Annexure-R/1 makes it clear that this advertisement was not for appointment to the post of Junior Hindi Translator but for drawing up a panel. In the letter dated 25.2.2000 at Annexure-4 enclosed by the applicant himself it has been clearly mentioned that his name has been included in the all India panel. In this letter the applicant has been informed that the inclusion of his name in the panel is not for the purpose of giving service in Central Government offices.

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By way of emphasis in this letter it has once again been mentioned in the concluding portion that inclusion in the panel should not be misunderstood that any kind of service will be given to such panelist by Central Translation Bureau or Central Government. In view of this, it cannot be held that the applicant was selected for appointment to the post of Junior Hindi Translator. In the advertisement at Annexure-R/3 it has been clearly mentioned that notification of vacancies by the Staff Selection Commission for filling up of the post of Junior Hindi Translator in Central Secretariat Official Language Service and Junior Hindi Translator in Armed Forces Headquarters Service in the pay scale of Rs.5000-8000/- and Junior Hindi Translator in subordinate offices in the pay scale of Rs.4500-7000/-. It has been mentioned that while the first two categories of posts are located at Delhi, the posts in third category are located in subordinate offices spread all over the country. It has been mentioned in this notification that the number of vacancies will be determined later. From this it is clear that notification of the Staff Selection Commission at Annexure-R/3 is for filling up the regular vacancies of Junior Hindi Translator. It cannot be held that by the process of selection for being included in the panel, the applicant has been appointed as Junior Hindi Translator and therefore he cannot claim that the respondents should be directed to give him appointment as Junior Hindi Translator. In the case of Central Inland Water Transport Corporation (supra) the Hon'ble Supreme Court have mentioned that Courts when called upon to do so, would

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strike down ~~an~~ unfair and unreasonable contract or an unfair/unreasonable clause in a contract entered into between the parties who are not equal in bargaining power. The issue in that case was the rule empowering Government Corporation to terminate services of its permanent employees by giving notice or pay in lieu of notice period which was held opposed to public policy and violative of Article 14, 39(1) and 41 of the Constitution of India. This decision has no application in the present case because in the original notice at Annexure-R/1 it was clearly mentioned that the applications were being invited for drawing up a panel and knowing this fully well the petitioner had applied in response to the notice at Annexure-R/1. It has been mentioned by the learned Senior Standing Counsel for the respondents that in subordinate offices the work of translation may be very little which would not justify engagement of a full time Government servant and that is why the system of empanelment of persons to work as Translator on honorarium basis had been adopted. We find nothing unreasonable and unfair in this arrangement moreso when the applicant knowing fully well that this notice was only for empanelment to work as Translator on honorarium basis had applied for the same. In view of this, we hold that this arrangement cannot be struck down on the basis of the decision of the Hon'ble Supreme Court in the above case. The facts in Bikram Kumar Sahoo's case (supra) are widely different. There the petitioner applied for the post of Senior Assistant (Accounts) and according to the petitioner, he was successful in the selection process and

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according to the respondents, he did not come out successful. But because of exigency of work the applicant was engaged against a post on consolidated pay of Rs.900/- per month and continued on that basis for long years from September 1987. Considering the facts of that case their Lordships of the Hon'ble High Court directed regularisation of services of the applicant in the post of Sales Assistant from the date of their order. From the above recital of facts it is clear that Bikram Kumar Sahoo's cas(supra) does not provide any support to the applicant in his prayers. The law is well settled that a post can be filled up only in accordance with Recruitment Rules and therefore, the posts advertised by Staff Selection Commission have to be filled up in accordance with the provisions of the Recruitment Rules. The applicant not having qualified earlier for the post of Junior Hindi Translator cannot claim that the respondents should be directed to appoint him as Junior Hindi Translator. Moreover, according to the notice of the Staff Selection Commission, the normal age limit is 30 years as on 1.1.2000. The applicant has mentioned that because of this he is age barred and cannot apply for the post. The applicant has not mentioned his age. From the certificates enclosed by him we find that as on 1.1.2000 he is aged 33 years and as according to the advertisement he is age barred, obviously he cannot claim that he should be given appointment without going through the selection process. This prayer of the applicant is accordingly rejected.

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6. The applicant has also prayed for quashing the process of selection. Besides the fact that

he had earlier been empanelled for being entrusted with the work of Translator on honorarium basis, he has urged no other ground for quashing the selection process. This prayer is accordingly rejected.

7. In the result, therefore, the Original Application is held to be without any merit and is rejected. No costs.

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(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
7.11.2000
VICE-CHAIRMAN

November 7, 2000/AN/PS