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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A.No.737 of 2010
Cuttack this the 20th day of February, 2013

CORAM
**HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)**

PRASANTA KUMAR PADHI

Aged about 44 years,
S/o.Late Trinath Padhi,
Telephone Mechanic,
OFCBerhampur,
O/O the SDE, OFC,
Berhampur,
Ganjam.

.... Applicant
(By Advocates: Mr.Dharanidhar Jena)

-VERSUS-

UNION OF INDIA represented through –

1. Chief Managing Director,
Sanchar Bhawan,
BSNL,
New Delhi-110 001.
2. Chief General Manager,
BSNL,
Telecom Orissa,
Bhubaneswar,
At/[Po.CPMG Square,
Bhubaneswar,
Dist. Khurda.
3. General Manager, Telecom,
BSNL,
Berhampur Division,
At-Berhampur,
Ganjam.

.....Respondents
(By Advocate: M/s.J.K.Panda,S.Panigrahi)

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O R D E R (Oral)**MR.A.K.PATNAIK, MEMBER (I):**

The case of the Applicant, in nut shell, is that after passing High School Certificate Examination he had acquired the qualification of Kobida & Madhyama in the year 2002 which is equivalent to IA in the State of Odisha. Thereafter he had to his credit the qualifications of Uttamma Prathama Khanda (Sahitya Ratna in the years 2005, Uttama Trutiya Khanda in the year 2006 and Sahitya Ratna in the year 2006 which is equivalent to BA. According to the Applicant in other States, the qualification of Sahitya Ratna is recognized as equivalent to BA.

2. Further case of the Applicant is that Respondents issued an advertisement inviting application for the post of Junior Hindi Translator and he as he had the required qualifications, applied for the post but the Respondents while calling upon the other candidates did not ^{send} ~~any~~ such call letter to him to appear at the interview. As such, being aggrieved by such action of the Respondents, the applicant has approached this Tribunal in the instant OA seeking the following relief:

“8.1. The Original Application may be admitted;

8.2. To direct the Respondents to give appointment to the applicant in the post of Junior Hindi Translator from the retrospective effect from the advertisement dt.23.7.2008;

8.3. to direct the Respondents to give the salary arrears financial benefit to the applicant with retrospective effect as per the advertisement dtd.23.7.2008 where not considering the candidature of the applicant since other six persons has been recruited for the post of Junior Hindi Translator.”

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3. The sum and substance of the objection raised by the Respondents is that the applicant does not have the qualification stipulated in the Rules/advertisement and, therefore, he was not called upon to appear at the test. The Applicant has also filed rejoinder more or less reiterating the stand taken in the OA.

4. Having heard rival submissions advanced by the respective parties, perused the records. The eligibility conditions provided in the advertisement at Anneure-1 reads as under:

“Eligibility-

- (a) Master's degree of a recognized University in Hindi/English with English/Hindi as main subject at the degree level; OR
- (b) Master's Degree of a recognized University in any subject with Hindi as the medium of instruction with English as a compulsory subject at the degree level; OR
- (c) Bachelor's degree with English and Hindi as main subjects or either of the two as medium of examination and other as a main subject;
- (d) Master's or Bachelor's degree from a recognized university in any subject with Hindi or English as one of the subjects or Hindi or English as medium of examination. However, such internal candidates with English subject or medium of examination must have taken Hindi as one of the subjects at 10th level or above.”

5. As it reveals from the record, the applicant has passed Sahitya Ratna in Hindi Sahitya with ancient language Sanskrit and regional language Oriya as the subject and not English as a subject or medium of examination. Even if Sahitya Ratan can be accounted for Bachelor degree in Hindi, the applicant has not taken English as one of the subjects. The duty of the Junior Hindi Translator is to translate English to Hindi or Hindi to English and, therefore, the candidate must

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have to acquire the knowledge both in English and Hindi otherwise one cannot be able to discharge the duty as Hindi Translator.

6. The eligibility conditions stipulated in the rules or in the advertisement has not been challenged by the applicant to be ultra vires. As long as the said conditions exist in the rules, merely by stating examples what has been followed in other States, the applicant cannot claim to be eligible for the post. Rather law is well settled that if a person lacks qualification he does not have locus standi to claim to sit in the examination. Acquiring the eligibility condition is a pre condition for appearing at the test.

7. The Hon'ble Apex Court in the case of **Anand Sharadchandra Oka Vrs University of Mumbai, AIR 2008 SC 1289** have categorically held that if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons.

8. Further well settled law is that a legal right means an entitlement arising out of legal rules. Thus it may be defined as an advantage or a benefit conferred upon a person by the rule of law. The expression **person aggrieved** does not include a person who suffers from a psychological or an imaginary injury, a person aggrieved must therefore necessarily be one whose right or interest has been adversely affected or jeopardized.

9. Therefore, having lack of requisite qualification as prescribed in the recruitment rules/advertisement for the post of Junior Hindi Translator, the applicant cannot be said to be a person aggrieved



and therefore, he has no *locus standi* to challenge the action of the Respondents in not calling him to appear at the test while others were called by the Respondents. This view is also gained support by the decision of the Hon'ble Apex Court in the case of **State of Gujarat and others Vrs Arvindkumar T. Tiwari and another**, (2012) 2 SCC (L&S) 795 wherein it has been held by the Hon'ble Apex Court as under:

“14. A person who does not possess the requisite qualification **cannot even apply for recruitment** for the reason that his appointment would be contrary to the statutory rules and would therefore, be void in law. Lacking eligibility for the post cannot be cured at any stage and appointing such a person would amount to serious illegality and not mere irregularity. **Such a person cannot approach the court for any relief** for the reason that he does not have a right which can be enforced through court (see **Prit Singh Vrs S.K.Mangal**, 1993 SCC (L&S) 246 and **Pramod Kumar Vrs U.P. Secondary Education Service Commission** (2008) 2 SCC (L&S) 244=AIR 2008 SC 1817.”

10. In view of the discussions made above this OA stands dismissed by leaving the parties to bear their own costs.


(R.C.Misra)
Member (Admn.)


(A.K.Patnaik)
Member (Judl.)