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OA No.152 of 2009
Nrusinghanath Maharana Applicant
Versus
UOI & Ors. Respondents

1.Order dated 10th November,2009.

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THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
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THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)
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Applicant (Nrusinghanath Maharana) is a Regular Mazdoor in the office of the Deputy General Manager, Microwave Project, Sahidnagar, Bhubaneswar. Respondents issued notification under Annexure-R/1 dated 23rd July, 2005 inviting application for filling up of the 12 (UR-10, SC-1, ST-1) vacancies of Junior Hindi Translators in BSNL through Limited Internal Competitive Examination of the Recruitment Year 2008. It was specified therein that all the non-executives working in BSNL who are in the pay scale of Rs.6550-185-9325 (IDA) or below with three years regular service in the grade(s) are eligible to apply. The upper age limit for appearing the LICE was fixed 45 years for General and 50 years in respect of reserved candidates. The crucial date for determining the eligibility condition was fixed as 1st July, 2008. So far as qualification, it was mentioned in the said notification as under:

“Eligibility:-

1. Master's degree of a recognized University in Hindi/English with English/Hindi as main subject at the degree level; OR

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2. 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
 3. 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; OR
 4. 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.**

2. Applicant having acquired the qualifications of Pragma and Praveen in Hindi under Hindi Teaching Scheme, Government of India, Rastrabhasha-Kobida from Rastrabhasha Prachar Samitee, Wardha of Maharashtra State (which is equivalent to intermediate in Hindi in term of the Notification No.F-7-50-69H dated 10.02.1970 of the Ministry of Education and Youth Affairs, Government of India; Abhigna from Hindi Siksha Samittee, Cuttack (at par with Inter in Hindi vide Circular No.1-4/2003 dated 25-5-2004 of Ministry of Human Resources Development, Government of India); MA in English from Utkal University; Hindi Translation Training Course from Central Translation Bureau, Department of Official Language, Ministry of Home Affairs and continuing MA in Hindi in Pondicherry University, a UGC approved Central University applied for appearing the LICE examination for the post of Hindi Translator. Though others who had only 50 marks of Hindi as 3rd Language/alternative language in 10th standard have been permitted to appear the LICE scheduled to be held on 18th April,

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2009 he was not allowed to appear at the said examination. By submitting representation under Annexure-A/10 he prayed for allowing him to appear at the said examination which was duly forwarded by the local office. Even then he was not called to appear at the test. Apprehending his debarment from the examination, he approached this Tribunal in the present Original Application seeking the following reliefs:

“(I) To direct the Respondent No.1 to accept the educational qualifications of the Applicant in Hindi as at Annexure-1 series, which are at par with Intermediate to be the qualifying educational standard as prescribed under Circular dated 23rd July, 2008 to appear in the JHT examination;

II. Necessary directions may kindly be given to the Respondent No.1 to allow the applicant to sit in the examination scheduled to be held on 18.04.2009 and accordingly consider his case for the post of Junior Hindi Translator with other candidates.”

As an interim relief, he prayed to direct the Respondents to permit him to appear at the departmental examination for recruitment of Junior Hindi Translators in BSNL scheduled to be held on 18.04.2009 which will be subject to final result of the present Original Application.

In consideration of the matter, on 15th April, 2009 this Tribunal, while directing the Respondents to file their counter, by way of interim order, it directed the Respondents to allow the applicant to appear at the test scheduled to be held on

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18th April, 2009 but his result shall be kept in abeyance until further orders. Pursuant to the aforesaid direction of this Tribunal, Applicant was permitted to face the test held on 18th April, 2009 but his result was kept in abeyance.

3. In the counter it has been stated by the Respondents that as the applicant do not fulfill the eligibility condition stipulated in the Rules reflected in the notification he was not called to face the test while calling the others who had fulfilled the conditions as advertised. More illustratively, it has been stated that the applicant had to his credit Master's Degree in English but he had not taken Hindi in 10th Level or above as per his 10th Level Board Certificate and Mark sheet produced along with his application. The other certificates such as Praveen, Pragya, Abhigna and Rastrabhasa Kobida in Hindi do not come under the prescribed qualification advertised in notification dated 23.07.2008. Accordingly, they have opposed the contentions raised by the Applicant and prayed for dismissal of this OA.

4. By filing rejoinder, it has been stated by the Applicant that in terms of the instructions of the Government qualification of Abhingya is equivalent to Intermediate in Hindi and as such, the plea of the Respondents that the Applicant lacks the qualification of Hindi is misleading and an after

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thought. Accordingly, while reiterating his stand taken in his OA he has prayed for grant of the relief claimed by him in this OA.

5. Vide order dated 15th September, 2009 this Tribunal directed the Learned ASC appearing for the Respondents to obtain instruction as to why the qualification of passing Kobid and Abignya shall not be construed to have passed Hindi above 10th Level and accordingly declared eligible for the post in question. In compliance of the direction stated above, Leaned ASC through Memo dated 12.10.2009 brought to the notice of this Tribunal copy of the clarification furnished by Assistant General Manager (HR/Administration) which reads as under:

"The eligibility condition of candidate for Junior Hindi Translator is to be considered as per the eligibility condition laid down in the Notification No. RE/87-1/2008 dated 23.07.2008 vide at ANNEXURE-A/3 of the petition which is an agreement to the Educational Qualification required mentioned in Column 8 of the Recruitment Rule of Junior Hindi Translator framed by BSNL Corporate Office, New Delhi vide ANNEXURE-R/5. The educational qualification as framed in Recruitment Rule of Junior Hindi Translator issued vide No. 201-3/2003-Pers-III dated 10.10.2003 and subsequent relaxation conveyed vide letter No.201-3/2003-Pers-III dated 17.3.2008 by the BSNL Corporate Office, New Delhi vide ANEXURE-R/5 and R/6 respectively in counter filed on behalf of the respondent has been reflected in the notification dated 23.7.2008 of Jr. Hindi Translator. Accordingly the securitization of application of Shri Nrusinghanath Maharana and others were carried out. The prescribed qualification is only academic qualification but not any other equivalent qualification. Hence, the qualification "Kovida" and

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"Abhigya" cannot be taken for consideration as per the provision of Recruitment Rule of the Jr. Hindi Translator and the relaxation issued hereto."

Reiteration of arguments advanced by respective parties having been heard, perused the materials placed on record. From the clarification furnished and quoted above, it is not in dispute that passing of "Kovida" and "Abhignya" is at par with/equivalent to intermediate but for non-inclusion of the said provision in the Recruitment Rules this was not taken into consideration/Applicant was not entitled to the benefit as claimed by him. However, it has been brought to the notice of this Tribunal by the Learned ASC that the Applicant qualified in the examination which he appeared pursuant to the interim direction of this Tribunal. This apart, it brought to the notice of this Tribunal that meanwhile the Applicant has acquired the Master's Degree in Hindi from Pondicherry University.

6. We may state that in terms of the notification if an employee fulfills any one of the eligibility conditions mentioned in the advertisement is eligible to face the test. In terms of the decision of the Government of India 'Hindi Abhigna' is equal/equivalent to Intermediate in Hindi. Eligibility condition No.5 provides 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



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medium of examination must have taken **Hindi as one of the subjects at 10th level or above** (emphasis supplied).

Admittedly, the Applicant is having the qualification of Hindi Abhigna which is recognized as the qualification of intermediate. The qualification of intermediate is above the qualification of 10th and as such, it can safely be concluded that there has been miscarriage of justice in the decision making process of the matter while interpreting the provision of eligibility provided in the Rules. Therefore, we hold that the Applicant was fulfilling one of the conditions of eligibility to face the test for the post in question. It has been brought to the notice of this Tribunal by the Respondents in compliance of the interim order the Applicant was allowed to participate in the test held by them and the applicant has come out successful. In view of the findings stated above, as the applicant has already come out successful in the test, the Respondents are hereby directed to take further course of action as has been taken in case of other candidates within a period of sixty days from the date of receipt of this order.

7. In the result, this OA stands allowed to the extent indicated above. There shall be no order as to costs.

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(JUSTICE K.THANKAPPAN)
MEMBER (JDDL.)

C.R. Mohapatra
(C.R. MOHAPATRA)
MEMBER (ADMN.)