

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 07.08.2000

O.A. No. 26/1996

Miss Iti Satya D/O Late Shri S.P. Sharma, aged about 25 years, R/O III/7 IGNP Colony, Lalgah Bikaner(Raj) last employed on the post of Sr. Translator (Hindi) PA No. 37700-H in No.46 Wing Air Force C/O 56 APO.

... Applicant

Vs

1. Union of India through Secretary to Government of India, Ministry of Defence, Vayu Bhawan, New Delhi.
2. Air Officer Commanding in Chief, Headquarters South Western Air Command, Air Force, Ratanada Jodhpur.
3. Station Commander, No. 46 Wing Air Force, C/O 56 APO.

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicant.

Mr. Vineet Mathur, Counsel for the Respondents.

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Iti Satya, has prayed for setting aside the termination order dated 30.8.1995 (Annexure A/2) with all consequential benefits.

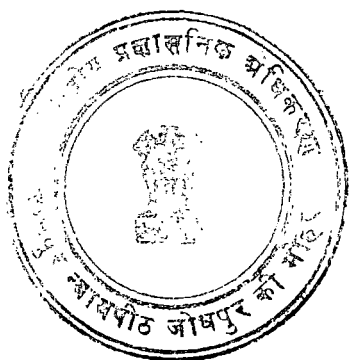
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2. Undisputed facts of the case are that the respondent-department notified one vacancy of Senior Translator (Hindi) to the Employment Exchange. The Employment Exchange sponsored 20 candidates including the applicant. One Shri Gautam Bhattacharya, a departmental candidate also applied for the said post. However, the Selection Board declared him ineligible as he did not have the requisite experience. Of the 20 candidates sponsored by the Employment Exchange, only 10 candidates appeared for the interview, and the applicant was selected and appointed as Senior Translator (Hindi) vide order dated 19.10.1993 (Annexure A/6). On a complaint that the applicant had produced bogus certificate of experience, the respondents investigated the matter and terminated the service of the applicant on 30.8.1995. Feeling aggrieved, the applicant has filed this application.



3. Notices were issued to the respondents and they have filed their reply.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. Learned Counsel for the applicant has challenged the action of the respondents in terminating the service of the applicant on the ground that the copy of enquiry report was not made available to the applicant to enable the applicant to put up her defence, before imposing the penalty. It is also the case of the applicant that the applicant was served with a chargesheet for major penalty vide respondents' letter dated 26.12.1994

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(Annexure A/10). Subsequently, a fresh chargesheet was issued vide letter dated 27.7.1995 for the same charge without cancelling the earlier chargesheet. It is seen from records that the earlier enquiry report was treated null and void and fresh enquiry was instituted vide respondents' letter dated 7.7.95 at Annexure A/12. Thus, the contention of the applicant that the earlier chargesheet was ^{not} cancelled is not tenable. It is also seen from the records that the copy of enquiry report was made available to the applicant alongwith the respondents' order dated 30.8.1995 terminating the services of the applicant. Here, we are of the view that though the applicant had got the copy of enquiry report alongwith the order of punishment dated 30.8.1995, no prejudices were caused to the applicant. The applicant had an opportunity to represent against the enquiry report as also the orders of the disciplinary authority in appeal. Unfortunately, the applicant did not avail the opportunity of the appeal and instead she approached this Tribunal. The chargesheet against the applicant reads as under :

" Miss Iti Satya, Senior Translator (Hindi) PA NO 37700, by presenting experience certificate for having worked as Hindi Translator w.e.f. 01.1.91 to 31.5.93 from Central Govt. Undertaking Water and Power Consultancy Service (India) Ltd. 2 PSU (A Govt. of India Undertaking) IGNP Field Unit, 11 Patel Nagar, Bikaner to seek Central Govt. Service as Senior Hindi Translator, well knowing that the Experience Certificate is false and obtained the post, for which she is not eligible."

6. The respondent-department made investigations ^{undertaking} from the above mentioned Government of India ^{and found}

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that the certificate of experience produced by the applicant was a bogus one, and thereafter instituted a departmental enquiry for the above mentioned charge. It is also seen from the enquiry report that the applicant had accepted that she was never employed at WAFPS wherefrom the experience certificate was produced by the applicant. Learned Counsel for the applicant has cited (i) 1999 Supreme Court Cases (L&S) 439 Radhey - Shyam Gupta Vs U.P. State Agro Industries Corporation Ltd., & Anr. ^{and} (ii) 1999 Supreme Court Cases (L&S) 596 Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences Calcutta & Ors. In both these cases, the termination was held ~~bad~~ as the foundation for termination was the alleged misconduct of the probationer (the applicant therein) for which no enquiry was held. In the instant case, a regular enquiry was held and the applicant also participated in the same as such the judgments cited by the learned Counsel for the applicant do not help the applicant.

7. The learned Counsel for the respondents has cited the judgment in AIR 1996 SC 2219 - State of M.P. & Ors Vs. Shyama Pardhi etc., wherein it has been held that candidate not possessing requisite qualification wrongly selected for appointment by way of initial selection to undergo training. Cancellation of such appointment is legal and question of violation of principles of natural justice does not arise. In the instant case, it is a fact that the applicant was selected and appointed as a Senior Translator (Hindi)

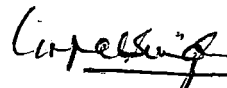
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on the basis of experience certificate which ultimately turned out to be a bogus one. Thus, the applicant did not have the requisite qualification of experience at the time of her selection as Senior Translator (Hindi). Termination of services of the applicant without giving a copy of enquiry report would not prejudice applicant in terms of the judgments cited above.

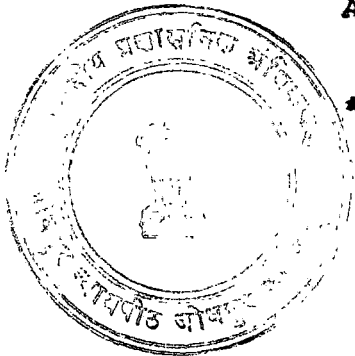
8. In the light of above discussion, we are of the view that this application is devoid of any merit and deserves to be dismissed.

9. The Original Application is accordingly dismissed with no order as to costs.


(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

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on 10/8
See

Part II and III destroyed
in my presence on 8-2-07
under the supervision of
section officer () as per
order dated 10-1-07

VGA 10/1/07
Section officer (Record)