

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 118/98

FRIDAY the 8th day of MARCH 2002

CORAM: Hon'ble Shri Gopal Singh, Member (A)

Hon'ble Shri S.L. Jain, Member (J)

Dr. Yadigiri Venkatrathnam
Residing at 5, New Hostel
CGS Quarters, Sector 3,
Antop Hill, Mumbai.

...Applicant.

By Advocate Shri S.V. Marne.

V/s

1. The Union of India through
The Secretary,
Ministry of Health and
Family Welfare,
Nirman Bhavan,
Maulana Azad Road, New Delhi.

2. The Director General
of Health Services,
Ministry of Health and
Family Welfare, Nirman Bhavan
Maulana Azad Road, New Delhi.

3. The Deputy Secretary
Ministry of Home Affairs
Department of Official Languages,
2nd Floor, Loknayak Bhavan,
Khan Market, New Delhi.

4. The Director,
All India Institute of Physical
Medicine and Rehabilitation,
Haji Ali Park, K. Khadye Marg.,
Mahalaxmi, Mumbai.

5. The Union Public Service
Commission, Dholpur House,
New Delhi. ...Respondents.

By Advocate Shri S.S. Karkera for Shri P.M. Pradhan.

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ORDER (ORAL)

{Per Gopal Singh, Member (A)}

This is an application under Section 19 of the Administrative Tribunals Act 1985. The applicant, Dr. Yadigiri Venkatrathnam has prayed for as under:

- (a) That this Honourable Tribunal may be graciously pleased to call for the records of the case and after examining the same issue, an order holding that the Petitioner is a regular holder of the post of Hindi Officer, Class II from 1980.
- (b) To hold and declare that the order of treating the applicant as adhoc Hindi Officer is illegal.
- (c) To hold and declare that the applicant is entitle to be relieved on promotion to the post of Deputy Director under Respondent No.4 or alternatively equivalent post of Senior Hindi Officer, Deputy Director in the scale of Rs. 3,000 - 4500 be created under the Respondent No.3.
- (d) To hold and declare that the Respondents must creat proper cadre strength of Hindi Section under the third Respondent so as to discharge constitutional function towards official language.
- (e) To hold and declare that there should be proper avenue of promotion in the cadre of Hindi Section under the third respondent arising upto the level of Deputy Director -scale Rs. 3,000 - 4500.
- (f) To hold and declare that the advertisement and the subsequent proceedings in persuance of the said advertisement dated 30.8.1997 have appointment to the post of Hindi Officer is illegal and should be quashed.
- (g) Direct the Respondents to count the period of past services for all purposes.
- (h) Grant any other and further order in the interest of justice with cost and for which act of kindness the applicant as a duty bound shall ever pray.

2. The applicant's case is that he was appointed as Hindi Officer, Class II with effect from 15.1.1981 with respondents department and has been continuing as such till date. There were

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no recruitment rules for filling up the post of Hindi Officer. His appointment as Hindi Officer was on advertisement issued by the respondents department and after due selection process of written test and viva voce test. Recruitment Rules were framed in the year 1980. The post of Hindi Officer should be filled up by transfer on deputation failing which by direct recruit. Since the applicant does not fulfil the second condition of deputation, ¹⁵ he is being treated as adhoc right from the begining. On the advise from UPSC vide their letter dated 26.7.1990 (Annexure A - 14) the respondents have conducted a selection for Hindi Officer vide their advertisement published in Rozgar Samchar 30.8.1997 ¹⁶ and 5.9.1997 and the respondents are in the process of preparing panel for the same. This has been challenged by the applicant, because he is continued in the post for the last 20 years. By way of interim relief dated 31.8.1998 the respondents were directed to proceed with the selection and prepare a select list. However the selection list should not be implemented before obtaining the leave of the Tribunal. The contention of the applicant is that he had been recruited as per the then prevailing Rules and there was no rules at that point of time and therefore ^{\$} they should be treated as regular Hindi Officer and the service should be regularised. Hence this application.

3. In the counter it has been stated by the respondents that the applicant was appointed on adhoc basis and he has been continuing on the post of Hindi Officer till date and the respondents department have tried their best to regularise the

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service of the applicant but to no avail. UPSC has objected to regularise the applicant as Hindi Officer in terms of Recruitment Rules of 1986. The post ^{is} ~~is~~ required to be filled up by transfer on deputation and no attempt was made by the respondents to fill up the post by transfer on deputation. The UPSC has further stated that in case the respondents fail to fill up the post by transfer on deputation they can resort to Direct recruitment for which UPSC can give age relaxation.

4. We have heard the learned counsel for the parties and perused the records.

5. The appointment of the applicant on the post of Hindi Officer was made as per the then available procedure. There ^{were} ~~was~~ no Recruitment Rules. As per his own statement the applicant had applied against the advertisement and written test and viva voce was taken by the respondents. In this view of the matter the applicant continued and he should be treated as regular appointee. During the intervening period right from the appointment of Hindi Officer till 1997 he ^{had} ~~was~~ not raised any problem of his regularisation and has continued on the post on adhoc basis. It is only after the advertisement in the year 1997 for filling up the post of Hindi Officer, the applicant started ^{posting} ~~objecting~~ the case of regularisation. It is also seen that the applicant has also applied in response to the advertisement mentioned above in the year 1997. In terms of our interim relief dated 31.8.1998 the respondents were restrained to implement the

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selection panel. In this view of the matter we are of the opinion that the case of the applicant be considered as per his application against the advertisement issued in the year 1997 and he may be permitted with relaxation in age for the period he has served on the ~~basis~~ ^{h post} of Hindi Officer on adhoc basis. Accordingly we pass the following order.

6. The OA is partly allowed. The respondents are directed to consider the application of the applicant submitted in response to the advertisement issued in ^{1 Rojgar Samachar 7 h} 30.8.1997 ~~and 5.9.1997~~ for the post of Hindi Officer alongwith others giving due relaxation in age to the extent he has served on the post of Hindi Officer on adhoc basis. The respondents are given three months time to comply with order. We are not expressing any opinion about counting of period of adhoc service rendered by the applicant. No order as to costs.

S.L.Jain
(S.L.Jain)
Member (J)

Gopal Singh
(Gopal Singh)
Member (A)

NS

dt 8/3/02
Order despatched
to Appellant Respondent (s)
27/3/02

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