

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 394/2002
T.A. No.

200

DATE OF DECISION _____

Vinod Kumar Telang Petitioner

Mrs. Sharda Pathak Advocate for the Petitioner(s)
Versus

Union of India & Others Respondent

Mr. S.S. Hassan on behalf of Mr. S. Khan Advocate for the Respondents(s)

CORAM:

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

The Hon'ble Mr. R.K. Upadhyaya, Member (Administrative)

(R.K. Upadhyaya)
MEMBER (A)

(G.L. GUPTA)
VICE CHAIRMAN

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 394/2002 with MA 381/2002

DATE OF ORDER: 11-07-2003

Vinod Kumar Telang son of Shri K.K. Telang aged about 33 years, resident of 38-A, Govindpuri-A, Sodala, Jaipur.

... Applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Personnel, Public Grievance and Pension Department, Department of Personnel and Training, Staff Selection Commission, North Regional Office, Govt. of India, Block No. 12, Kendriya Karayalaya, Lodhi Road, New Delhi.
2. The Secretary, Staff Selection Commission, Block No. 12, Kendriya Karayalaya Parisar, Lodhi Road, New Delhi.
3. Registrar, Ranchi University, Ranchi.
4. Chairman, University Grant Commission, South Campus, New Delhi.

... Respondents.

Mrs. Sharda Pathak, Counsel for the applicant.

Mr. S.S. Hassan, Proxy counsel for
Mr. S.M. Khan, Counsel for respondent No. 2.

None present for other respondents.

CORAM:

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

Hon'ble Mr. R.K. Upadhyaya, Member (Administrative)

ORDER

PER MR. R.K. UPADHYAYA, MEMBER(ADMINISTRATIVE)

In this application u/s 19 of the Central Administrative Tribunal's Act, 1985, the applicant has claimed the following reliefs:-

R.K. Upadhyaya

"(i) That entire record relating to the case be called for and after perusing the same, the impugned order dated 12.4.2001 (Annexure A/1) may kindly be quashed and set aside.

(ii) That the respondents No. (1) and (2) may kindly be directed to appoint the applicant on the post of Junior Hindi Translator with reference to the advertisement against which he was selected.

(iii) The order of direction be issued to the respondents No. (1) and (2) to allow the applicant with all consequential benefits.

(iv) Any other order/direction of relief may be granted in favour of the applicant, which may be deemed just and proper in the facts and circumstances of this case."

2. Applicant states that applications for the post of Junior Hindi Translator for subordinate offices were invited by Staff Selection Commission as per advertisement No. 2/99-(H.Q.) which appeared in the Employment News dated 31.7.1999. According to this advertisement, 200 posts of Jr. Hindi Translators in the offices of the Departments of the Government of India in various states/Union Territories were to be filled. Out of these 200 posts, there were 97 unreserved vacancies. The essential qualifications for the post of Jr. Hindi Translator as per this advertisement were as follows :-

"Master's Degree in English/Hindi with Hindi/English as a compulsory and selective subject at Degree level; OR Bachelor's Degree with Hindi and English as Main subject (which includes the term compulsory and elective)"

The applicant claims that he considers himself eligible for this post of Jr. Hindi Translator "as he possesses the Bachelor's Degree having Hindi as compulsory subject." In support of his claim, he filed a copy of mark-sheet of Ranchi University dated 16.6.90 ("page 38 of OA"). This mark-sheet shows that the applicant secured 64 marks out of 100 marks in Hindi under Rastra Bhasha. It further shows that the applicant had History, English and Political Science being Elective subjects carrying full marks of 300 each. The applicant had secured 169 marks out of 300 in History, 138 marks out of 300 marks in English and 145 marks out 300 in Political Science as per this mark-sheet. In addition of essential qualification, the applicant has also stated that he had B.A. Honours Degree of Ranchi University.

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in the subject of History, M.A. in History and Arch. from Barktullah University, Bhopal and B.J.D from M.L.C.N. University of Journalism, Bhopal. It is also ~~not~~ claimed by the applicant that the Staff Selection Commission having satisfied with the essential qualifications of the applicant allowed him to appear in the proficiency test and allotted Roll No. 1700126. Accordingly, the applicant appeared in the written test held on 12.12.1999 and he was declared successful holding 95th All India merit against unreserved post of Jr. Hindi Translator. After declaration of the result, the Assistant Director of North Zone of S.S.C. vide letter dated 26.6.2000 asked the applicant to appear in person with Matriculation Certificate in support of date of birth, mark sheet of B.A. Degree of all the three years alongwith mark sheet of 1st and 2nd year of Master Degree. The claim of the applicant is that inspite of production of the original certificate, the Staff Selection Commission did not issue the appointment order in favour of the applicant. Therefore, he sent representations for redressal of his grievances during ^{the} period from 6.10.2000 to 23.2.2001.

It is further stated by the applicant that the applicant was possessing the essential qualification for being eligible for the post of Jr. Hindi Translator. Therefore, cancellation of the selection vide impugned letter dated 12.4.2001 (Annexure A/1) is not only illegal but arbitrary and without jurisdiction. This letter dated 12.4.2001 states as follows:-

"With reference to his application for the above mentioned examination, Shri Vinod Kumar Tailang Roll No. 1700126 is informed that on scrutiny of his Educational qualifications, it has been found that he does not fulfil the prescribed Essential Qualifications for the post of Junior Hindi Translator as laid down in the Notice of the Examination. Hence his candidature is hereby cancelled."

The learned counsel for the applicant states that the applicant possessed the essential qualification of Graduate with Hindi/English at the Degree level. In his opinion,

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the mark sheet of Ranchi University ~~copy~~ clearly indicates that the applicant had obtained 64 marks out 100 in Hindi under the head 'Rastrabhasa'. He had also secured 138 marks out of 300 in the subject English. Therefore, he possesses essential qualification and cancellation of the selection of the applicant as Jr. Hindi Translator should be quashed and the respondents be directed to appointment the applicant on the post of Jr. Hindi Translator.

3. The reply dated 31.01.2003 on behalf of respondent No. 2, Staff Selection Commission, had been filed. In this reply, it had been stated that the applicant had concealed factual information and thereby flouted his own declaration made at the end of his application form submitted to the Commission for the post of Jr. Hindi Translator. The declaration at the end of the application form is as follows:-

"I hereby declare that all statements made in this application are true, Complete and correct to the best of my knowledge and belief. I understand that in the event of any information being false or incorrect or ineligibility being detected before or after the proficiency test, my candidature/appointment is liable to be cancelled."

I have read the provisions in the Notice of the Commission carefully and hereby undertake to abide by them."

I further declare that I fulfil all the conditions of eligibility regarding age limits, educational qualifications etc. prescribed for admission to the proficiency test. I have enclosed attested copies of certificates in support of my claim for Educational Qualification, age, categories (SC/ST/EXS/OBC/CH/HH) and age relaxation.

I also declare that I have never been convicted by any Court of Law."

According to the respondents, the applicant had given wrong information that he had enclosed attested copies of all the certificates in support of his claim for essential qualification. His ineligibility came to light only after he was requested to furnish all the relevant copies of certificates in support of his study of Hindi and English at Graduation Level. The applicant had not studied BA Pass Course with Hindi and English as Main

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subjects. While his main subjects are English, History, Political Science which carried weightage of 300 marks, Hindi was not studied as the main subject and carried only maximum of 100 marks. Since Hindi has not been his main subject at the graduation level, the applicant does not possess the prescribed essential qualification for the post of Jr. Hindi Translator as per notice of the examination. As such his candidature was cancelled on cogent and valid ground. The applicant qualified in the final examination to be recommended for the post of Jr. Hindi Translator 'purely on provisional basis' subject to fulfilling of all the conditions of eligibility. According to respondents, success in the examination confers no right of appointment unless Government are satisfied after such enquiry as may be considered necessary ~~as~~ that the candidate is suitable in all respects for appointment to the service/post. The applicant tried to mislead the Commission by hiding the material facts ~~that~~ he had not studied Hindi and English as the main subjects in his Degree course in as much as he deliberately did not enclose all the mark sheets alongwith his application and made them available only when he was specifically asked to do so by the office of respondents through a written communication. After perusal of the documents furnished by the applicant, the fact of his not possessing the essential qualification was found to be true and his candidature has been cancelled on cogent and valid grounds. The ~~respondents~~ have also taken a clarification from the Department of Official Language as 15 candidates were treated as ineligible and, therefore, U.O. Note dated 30.11.2000 was addressed to the Department of Official Language. In this U.O. Note dated 30.11.2000, the Staff Selection Commission had sought clarification about the eligibility of the following candi-

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dates in support of their educational qualification :-

- (1) Shri Arvindra Kumar Pandey
- (2) Shri Anil Kumar Thakur
- (3) Shri Shivendra Bhushan Pandey
- (4) Shri Rakesh Kumar
- (5) Shri Vinod Kumar Tailang
- (6) Ms. Leena Sooti
- (7) Shri Puneet Kumar
- (8) Shri Arjun Kumar Yadav
- (9) Shri Ranvijay Mishra
- (10) Shri Yashpal
- (11) Shri Radhey Shyam Pandey
- (12) Shri Binay Kumar Sinha
- (13) Shri Radha Krishnan
- (14) Shri Pravin Gaurav

This list included the name of the applicant at sl. no. 5. U.O. Note in respect of the applicant is as follows:-

"He has studied in 1st and 2nd year B.A. (Pass) Course with Hindi of 100 Marks whereas Main subjects English History and Political Science are of 300 Marks each. In 3rd year he has studied as B.A. (Hons) in History subject. He is also M.A. in History. He has not studied Hindi as Main subject."

The Staff Selection Commission requested the Under Secretary to clarify as to whether the candidates mentioned in the list fulfilled the eligibility condition regarding essential qualification or not as per notice of examination for the post of Jr. Hindi Translator. The Official Language Department vide their letter dated 24.1.2001 (Page 116 of the Paper Book of the OA) advised the Staff Selection Commission that all the 15 candidates did not appear to have essential educational qualification in terms of the notification for recruitment to the post of Jr. Hindi Translator. Accordingly, the Regional Director (SSC) vide ~~xxx~~ letter dated 12.2.2001 (Page 115 of the Paper Book of the OA) informed all the information for their reference/guidance. All other Regional Directors/Deputy Directors were also informed about the decision. ~~xxxxxxxxxx~~ The impugned letter dated 12.4.2001 (Annexure A/1) has, therefore, been issued to the applicant, informing the cancellation of the candidature. The respondents have placed reliance on the judgement of Hon'ble High Court of Delhi in the case of

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(CWP No. 6567/2000) ✓

Binay Kumar vs. Union of India & Another/decided on 26.09.2001

wherein similar question was involved for consideration. The petitioner in that case was also seeking for quashing Memorandum dated 8.9.2000 issued by the respondents whereby the respondent No. 2 informed the petitioner about the cancellation of the candidature on the ground that he did not fulfil the prescribed essential qualification for appointment to the post of Jr. Hindi Translator. In that case also, the petitioner was one of the candidates in respect of the same advertisement in which the present applicant ~~is~~ was the candidate and his written test was held on 12.12.1999. Before Hon'ble Delhi High Court, it was claimed by the Petitioner that having succeeded in the Examination, he is required to be appointed to the post of Jr. Hindi Translator and the cancellation of the candidature of the petitioner after he was declared successful in the examination is barred by the principles of waiver and estoppel. The Hon'ble Delhi High Court held that the results which were declared by the respondents were provisional and the same were subject to verification of the documents. The plea of waiver and estoppel was also rejected by the Hon'ble High Court since the petitioner did not satisfy the eligibility criteria. Therefore, cancellation of the candidature was held to be justified.

The respondents have also placed reliance on the judgement of Division Bench of Hon'ble Delhi High Court in the case of Amrendra Kumar Pandey vs. Staff Selection Commission & Another in CWP No. 580/2002 (Page 127 of the Paper Book of the OA). This judgement of the Hon'ble High Court dated 11.4.2002 is claimed on similar facts as the petitioner, Shri Amrendra Kumar Pandey, was also a candidate in the recruitment of Jr. Hindi Translator as per advertisement No. 2/99-(HQH). His case was also referred for clarification by Staff Selection Commission to the Department of Official Languages wherein the note against the petitioner in CWP No. 580/2002, Shri

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Amrendra Kumar Pandey is as under:-

"The candidate has study B.A. (Pass) in the 1st and 2nd year only. He has studied Hindi only of 100 Marks whereas he has studied English, History and LSW of 300 marks each. In 3rd year, he has study only English as Honours subject. He has not study Hindi in 3rd year."

While upholding the action of the respondents for cancellation of the candidature, Hon'ble Division Bench of Delhi High Court had observed as follows:-

"As notified hereinbefore, the essential educational qualification, inter alia, was a Bachelor's Degree with Hindi and English as the main subjects. When the subject of Hindi carrying 300 marks was available. If the petitioner on his own choice had opted for a subject carrying 100 marks, the same, in our opinion, would not fulfill the eligibility criteria."

Furthermore, it is not a case where the respondents can be said to be guilty of an arbitrary action. They had passed the impugned order having regard to the direction of the Central Government. Thus it cannot be said that any arbitrariness is attached with the action of the respondents and on that ground, the impugned order cannot be quashed."

On the facts of this case, the learned counsel for the respondents urged that the application filed by the applicant being devoid of merit should be rejected.

3. The applicant has also filed M.A.N.O. 381/2002 seeking condonation of delay for filing the present OA. It is stated that the applicant is challenging the order dated 12.4.2001 and the present OA has been filed on 6.9.2002. The claim of the applicant is that he was continuously agitating the issue before the concerned authorities for appointment to the post of Jr. Hindi Translator. Since he did not get favourable exp decision, he was compelled to give notice of demand of justice dated 13.3.2002 and he has filed this OA when no reply of the same was received. In the circumstances he has filed application for condonation of delay "in the interest of justice."

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4. We have heard the learned counsel for both the parties and perused the entire record of the case.

5. The advertisement No. 2499-(H.Q.)^{which} appeared in the Employment News dated 31.7.1999 included 97 vacancies for unreserved candidates for the post of Jr. Hindi Translators for subordinate offices. The essential qualification was prescribed as under:-

"Master's Degree in English/Hindi with Hindi/English as a compulsory and elective subject at Degree Level

OR

Bachelor's Degree with Hindi and English as Main subject (which includes the term compulsory and elective)"

There is no dispute that the applicant had passed Hindi as a compulsory subject. This paper contains 100 marks whereas the applicant had ~~xx~~xx opted three elective subjects namely; History, Political Science and English. These elective subjects were of 300 marks. As ~~he~~ has been pointed out by the respondents, the compulsory Hindi subject of 100 marks cannot be equated with elective subjects of 300 marks. Therefore, the contention of the applicant that he having ⁶⁰ studied Hindi as well as English at graduation level was eligible in terms of the recruitment notice cannot be accepted. The educational qualification prescribes Bachelor's Degree with Hindi and English as Main subject (which includes the term compulsory and elective). In our opinion, the advertisement clearly brings out that the main subject is to be one which was compulsory as well as elective. In this case, the applicant who studied English ^{as main} ~~as three~~ subjects at the graduation level but he is not holding Hindi as Elective subject. Therefore, he did not possess ^{the} essential minimum qualification for being recruited as Jr. Hindi Translator. Therefore, we hold that the applicant did not possess ^{the} essential qualification and was not eligible for the post of Jr. Hindi Translator in terms of the qualification prescribed for the post of Jr. Hindi Translator.

Conclusum

6. The contention on behalf of the applicant that he was allowed to appear in the Examination and has also been declared successful and, therefore, cancellation of his candidature was not justified also deserves to be rejected. It is seen that the declaration from the applicant itself stipulates that in the event of any information being found false or incorrect or ineligibility being detected before or after the proficiency test, his candidature/appointment was liable to be cancelled. In view of this declaration by the applicant, he cannot contend that the candidature cannot be cancelled after his name/included in the select list. We are also supported by the decisions of the Hon'ble Delhi High Court on which reliance has been placed by the respondents. The decisions in the case of Shri Binay Kumar, CWP No. 6567/2000 and Shri Anrendra Kumar Pandey CWP 580/2002 are squarely applicable on the facts of this case.

No. 1350/2001
We have also noticed that the OA/ filed by Shri Anrendra Kumar Pandey before coordinate Bench of this Tribunal was dismissed vide order dated 18.9.2001. The decision of this Tribunal in OA No. 1350/2001 was confirmed by the Hon'ble High Court and the High Court did not interfere with the decision of the Hon'ble Tribunal. Respectfully following that decisions, we find that there is no case in favour of the applicant to grant any relief as claimed by him. Therefore, we dismiss this application on merits.

7. In view of our decision on merits of this case, there is no need to go into the contents of MA No. 381/2002 for condonation of delay. However, we find that no reasons at all have been given for condoning the delay. Only a vague averment has been made that the applicant was trying to persuade the respondents to accept his claim. There is not even mention of those ~~endeavours~~ efforts made by the applicant. He claimed that the present application was within time in terms of the application dated 13.3.2002 for the demand of justice. The prayer of condonation of delay deserves to be rejected as we do not find reasons sufficient to condone the delay.

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8. For the reasons stated in the preceding paragraphs, this application is dismissed both on the ground of being devoid of any merit as well as of being barred by limitation.

9. In the facts and circumstances, parties are directed to bear their own costs.

R.K. Upadhyaya

(R.K. UPADHYAYA)
MEMBER (A)

G.L. Gupta

(G.L. GUPTA)
VICE CHAIRMAN