

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 489 of 1998

Jabalpur, this the 26th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

Harish Jeswani, S/o L.M.
Jeswani, aged about 33 years,
By Occupation Farmacist in
the Department of Telecommu-
nication, Telecom Factory,
Richai, Jabalpur.

APPLICANT

(By Advocate - Shri S.K.Nagpal)

VERSUS

1. Union of India
through the Department of
Telecommunication
New Delhi
2. The Chief General Manager
Telecommunication, Telecom
Factory, Right Town,
Jabalpur.
3. Manager
Telecom Factory of Tele-
communication, Richai,
Jabalpur.
4. Shri Jagdamba Prasad Paroha
Hindi Translator, through the
Manager, Telecom Factory
W/T Right Town Jabalpur
5. Deputy General Manager,
Telecom Factory, Right Town,
Jabalpur.

RESPONDENTS

(By Advocate - Shri B.da.Silva)

ORDER (Oral)

By R.K.Upadhyaya, Member (Admnv)-

This application has been filed seeking a direction to the official-respondents to appoint the applicant as Hindi Translator Grade-II with effect from 23.12.1997 with all consequential benefits.

2. It is claimed that Office Memorandum dated 11.3.1996(Annexure-A-3) was issued inviting applications on deputation basis from the employees working in the Telecom Department for the post of Hindi Translator

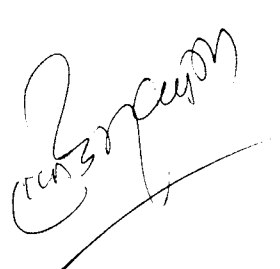
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Grade-II. As per this memorandum a candidate having Master ^{apply} degree through Hindi/English Medium, in any subject, could/ if he had English or Hindi as Main subject at graduation level. Since the applicant had post-graduate qualification in History, he claims himself to be eligible, therefore, he applied for appointment in response to the said notification. The claim of the applicant is that the respondents did not take any decision to appoint the applicant as Hindi Translator Gr.II in spite of the fact that several applications were received, and issued a fresh notification calling further applications for the same post on 3.10.1997. The learned counsel of the applicant stated that the respondent no.4 was not eligible for being considered when the first notification was issued on 11.3.1996. Therefore, not making selection of the applicant for the post of Hindi Translator Gr.II and waiting for respondent no.4 to apply in response to second notification on 3.10.1997, is a malafide action of the respondents. It was, therefore, urged that appointments of respondent no.4 be cancelled and the respondents be directed to appoint the applicant on deputation basis with reference to application sent by the applicant in response to the notification dated 11.3.1996 (Annexure-A-2).

3. The respondents in their reply have stated that one post of Hindi Translator Grade-II was sanctioned in the year 1983. In view of complete ban on recruitment, the post was to be filled up by making local officiating arrangement and the powers were vested with the Chief General Manager. Subsequently, the officiating appointments were to be regularised. As per the recruitment rules, 50% of the posts are to be filled by direct recruitment and 50% by promotion tailing which by transfer on deputation and tailing that by direct recruitment. Since there was only one post, the same was proposed to be filled up by transfer on deputation basis. Subsequently, two more posts of Hindi Translator Grade-II were created by the Chief General Manager, Telecom

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Factory, Jabalpur to fulfill the aims and objects of the language policy of the Govt. of India. As a result, three posts of Hindi Translator Grade-II were lying vacant in the Telecom factory, Jabalpur. It is stated that out of the three posts, two posts were to be filled by promotion and applications were invited vide circular dated 24.4.1995. The cases for consideration were placed before the DPC, which recommended the name of respondent no. 4 and one Shri Subrat Pathak. These two candidates were appointed with effect from 5.7.1995 purely on temporary and adhoc basis as a local arrangement for the period of 90 days and they continued to work on the post of Hindi Translator Gr. II. Simultaneously, the respondents initiated steps for regular appointment of Hindi Translator Grade-II and the applications were called vide office letters dated 11.3.1996 and 3.10.1997. It is stated by the respondents that the Chief General Managers could relax the eligibility criteria including age to fill up the post on regular basis. When the notification dated 11.3.1996 was issued calling for the applications, only a few applications were received and, therefore, a fresh circular dated 3.10.1997 (Annexure-R-3) was issued. Out of the 8 applications which were received, the DPC constituted for the purpose, recommended the name of respondent no. 4 and he was appointed on deputation basis as Hindi Translator Gr. II vide order dated 27.3.1998 and ~~was~~ subsequently vide order dated 4.6.1998 was regularised. It is, therefore, stated by the respondents that the appointment of respondent no. 4 is in accordance with the rules. The learned counsel of the respondents also invited attention to the recruitment rules circulated on 19.2.1997 (Annexure-R-2) in which it has been prescribed that the applicant must be having Hindi or English at graduation level as Main subject and post-graduation degree in Hindi or English. Alternative qualification prescribed is that the candidate should have Master degree in any



subject and English and Hindi as Main subjects at graduation level. It is pointed out by the learned counsel of the respondents that the applicant does not have even the requisite qualification for being posted as Hindi Translator Grade-II. The learned counsel of the respondents stated that he has not challenged the initial recruitment of respondent no.4 made in the year 1995 and thereafter. The applicant has challenged the order passed in the year 1998 when respondent no.4 had the prescribed qualification as per the recruitment rules applicable on that day.

4. In rejoinder, the learned counsel of the applicant stated that the grievance of the applicant is that having invited applications on 11.3.1996, the respondents did not finalize the appointment of the applicant and issued a second notification calling for applications on 3.10.1997 after the new Recruitment Rules dated 19.2.1997 (Annexure-R-2) has been notified. According to him, the inaction on the part of the respondents from 11.3.1996 was malafide and, therefore, the OA deserves to be allowed.

5. We have heard the learned counsel of the parties and have perused the material available on record.

6. The applicant has sought a direction to be appointed as Hindi Translator Grade-II on the basis of office notification dated 11.3.1996. The respondents have affirmed that nobody was appointed in response to that notification because of receipt of only a few applications. If nobody was appointed in response to the notification dated 11.3.1996, the applicant cannot be said to be adversely affected. It is for the department to consider and decide as to whether they should invite fresh applications if there were only a few applications in response to the first notification dated 11.3.1996. This Tribunal cannot substitute the discretion and decision of the respondents in this regard. As such there is no

violation of any rules by the respondents or principles of natural justice in this respect. The respondent no. 4 was considered and recommended for appointment by the DPC constituted for the purpose in the year 1998. He was subsequently regularised on 4.6.1998. On the date of his selection, he was eligible for being considered and appointed as Hindi Translator Grade-II in terms of the qualification prescribed under the relevant recruitment rules whereas on that day the applicant did not hold the requisite qualification. In this view of the matter, this application being devoid of any merit deserves to be dismissed.

7. In the result, the O.A. is dismissed, however, without any order as to costs.

(R.K. Upadhyaya)
(R.K. Upadhyaya)
Member (Adminv.)

S. Raju
(Shanker Raju)
Member (Judicial)

rkv.

पूरांकन से ओ/व्या.....
पुनर्विचार के लिए
(1)
(2)
(3)
(4)
S. K. Nagpal, Adm
Belasila - Adm.
(Signature)
1.4.03

Issued
on 1.4.03

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. No.489/98

Harish Jeswani,
S/o Shri L.M.Jeswani,
aged about 33 years,
by Occupation Pharmacist in
the department of Telecommunication,
Telecom Factory, Richai, Jabalpur.

- Applicant.

Versus :

1. Union of India,
through the Department of
Telecommunication, New Delhi.
2. The Chief General Manager
Telecommunication, Telecom
Factory, Right Town, Jabalpur.
3. Manager Telecom Factory of
Telecommunication, Richai, Jabalpur.
4. Shri Jagdamba Prasad Paroha
Hindi Translator, through the
Manager, Telecom Factory W/T
Right Town, Jabalpur.
5. Deputy General Manager,
Telcom Factory, Right Town, Jabalpur. - Respondents.

Counsel :

None for either side.


Coram :

Hon'ble Shri Justice N.N.Singh - Vice Chairman
Hon'ble Shri H.O.Gupta - Member (A)

ORDER (ORAL)

(Passed on this the 27th day of April, 2001)

On perusal of records it appears that none appeared on behalf of the applicant on 20.7.00 and 22.2.2001. Today also none appeared for the applicant against repeated calls. It appears that the applicant has no interest in prosecuting this case. In the circumstances, this OA is dismissed for non-prosecution.


(H.O.Gupta)
Member (A)


(N.N.Singh)
Vice Chairman

पृष्ठान्तर्गत दि.

(A) ...

(B) ...

(A) ...
राज्य एवं राज्यीय कार्यवाही हेतु

उप रजिस्ट्रार

MR 3-5-01

Issued
Date
04/05/01

Shri M. A. N. Bajpai H. C. BP
Shri B. S. Silva H. C. BP