

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 4504/2015

This the 20th day of September, 2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

Yogesh Yadav

S/o Sh. Rama Nand Yadav,

R/o House No. 74, Village Kharkhari Nahar,

PO- Najafgarh, New Delhi-110043

Aged-31 yrs.

Roll No. 2201500587

Candidate for the post of

Junior Hindi Translators (In subordinate offices)

Group 'B' (Non-Technical)

..... Applicant

(By Advocate: Mr. Sourabh Ahuja)

VERSUS

1. Staff Selection Commission
Through its Chairman
Block No. 12, CGO Complex,
Lodhi Road, New Delhi-3.
2. The Regional Director
Staff Selection Commission
Northern Range
CGO Complex, Block No. 12,
Lodhi Road, New Delhi-3
3. Union of India
Through its Secretary,
DOP&T
North Block, New Delhi
4. Superintending Engineer,
Coordinating Circle (Civil),
CPWD, Nirman Bhawan,
New Delhi.

5. Executive Engineer
Coordinating Circle (Civil),
Northern Region,
East Block-1, Level-6,
R.K. Puram, New Delhi-110066
6. Comptroller & Auditor General of India
Through its Secretary,
Office of Comptroller and Auditor General of India,
Pocket-9, Deen Dayal Upadhyay Marg,
New Delhi Respondents.

(By advocate: Mr. Hanu Bhaskar)

ORDER (ORAL)

By Hon'ble Mr. P.K. Basu, Member (A):-

Heard learned counsel for the applicant as well as learned counsel for the respondents. The grievance of the applicant is that against an advertisement issued by Staff Selection Commission (SSC) in Rojgar Samachar dated 23.03.2013, the applicant had applied for the post of Junior Hindi Translator and in his option asked for in paragraph 13 of the application form, he had opted for Junior Hindi Translator (in subordinate offices) of Central Government/Ministries/ Department/Offices in Delhi. The SSC after his selection forwarded his dossiers for appointment in the office of Superintendent Engineer, Coordinate Circle (Civil), CPWD, New Delhi. However, CPWD, New Delhi returned his name stating that there is no vacancy in Delhi. The SSC then sent the dossiers of the applicant to CAG Delhi. The office of CAG Delhi kept the matter pending for more than 1 year and did not issue appointment

order to the applicant. Thereafter, they issued a letter to the applicant asking him to submit his preference for States as there was some administrative reason for which the applicant cannot be allocated a post in Delhi. The applicant is aggrieved by the decision of CAG and states that he had opted for Delhi and SSC had recommended him for CPWD Delhi. Therefore, CAG should post him in Delhi office and not send him outside Delhi.

2. The applicant has, therefore, filed this OA seeking following reliefs:-

“(a) Quash and set aside the impugned undertaking, wherein the Applicant was called upon to submit state preference and consent for deciding the state allocation. And

(b) Direct the respondents to appoint the Applicant immediately to the post of Junior Hindi Translator (in subordinate offices) of Central Government/Ministries/Department/Offices in Delhi as per his merit and accord him all the consequential benefits arising there from viz. Seniority, promotion, salary/ pay and allowances w.e.f. March, 2014 (the date when his juniors/batch-mates were appointed and are drawing salary), interest on the arrears, etc. And

(c) Pass any further order, which this Hon’ble Tribunal may deem fit, just equitable in the facts and circumstances of the case. And

(d) Award cost in favour of the Applicant and against the respondents.”

3. Learned counsel for the respondents (SSC) states that there is no information from the office of the CAG on whether the applicant would be adjusted in Delhi or not. The fact remains that the

applicant has given an option for Delhi and SSC had accepted his option and sent his name to CPWD, Delhi. When CPWD informed that there is no post, SSC sent his name to CAG. The applicant's claim is that since he had applied for Delhi category according to his merit position, he was allowed Delhi. Therefore, he should be granted Delhi posting.

4. This is not in dispute that once the applicant chose Govt. Service, he has to be prepared to be posted anywhere in India whether he joined CPWD or he joins CAG office. In fact in paragraph 13 of the advertisement in sub para 'B' indicates that "candidates are required to indicate their preference for States in the event of their selection. Actual placement will be done by the User Department and **will depend on availability of vacancies in various States**". It is also a fact that even if the CAG posts him at Delhi today he can be later shifted out of Delhi. We therefore, hold that the OA has been filed on a wrong understanding of requirements of government service. He has no right to a particular place of posting. The OA is, therefore, dismissed.

5. Learned counsel for the applicant complains that the applicant has not yet been given posting. Since, we have dismissed the OA, the office of CAG is directed to issue him an appointment/posting order as per their vacancies. It is made clear that the applicant would get the notional benefits of pay fixation and seniority from

the date his immediate juniors in the merit list joined. However, pay & allowances would be payable from the date he joins the post.

6. Learned counsel for the applicant also drew our attention to order dated 04.08.2014 in WP (C) No. 7423/2013 of the Hon'ble High Court of Delhi in the case of Govt. of NCT of Delhi and Ors. Vs. Rakesh Beniwal & Ors., which is a case of a promotion, in which Hon'ble High Court has held that the applicants should be granted promotion from the date their immediate juniors were promoted and additionally grant them all consequential benefits and arrears of pay from that date. We are of the view that the case of promotion is different from case of fresh appointment. In 'promotion' the person is already a government servant but in fresh appointments the person becomes a government servant only on the date he joins the government service. Therefore, the judgment of the Hon'ble High Court is not relevant to the present case. We have already protected notionally the seniority and pay fixation of the applicant. Nothing beyond that can be granted. OA is disposed of accordingly. No costs.

(Dr. B.A. Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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