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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 18th November, 2015

+ W.P.(C) 10454/2015 & C.M. 26240/2015

MANOHAR LAL SHARMA & ORS. Petitioners

Through: Mr. Sanjay Kumar Dubey,
Mr. Rakesh Kumar Tewari &
Mr. Devender Kumar Shukla,
Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Sunieta Ojha, Advocate for
respondents No.1 to 3
Mr. B. K. Sood, Mr. Shivam
Rawat & Mr. Gaurav Garg,
Advocates for respondents No.4 &
5

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

J U D G M E N T
(O R A L)

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The first prayer made in this petition is to quash the impugned Advertisement of July, 2015 regarding direct recruitment to the post of Assistant Director (Hindi) in the establishment of respondent No.5 – *Bureau of Indian Standards*.

The second prayer made in this petition is to direct the first respondent to grant approval to the new RRs, which provide that 2/3

posts are to be filled by promotion and 1/3 posts by direct recruitment. In the third prayer, formation of a separate Cadre of Official Language in service in undertaking/ institutes/ subordinates/ attaches offices falling under Ministry of Consumer Affairs including *Bureau of Indian Standards (henceforth referred to as the 'BIS')* and issuance of Notification in this respect is sought.

In the fourth prayer, a declaration that the existing regulations being *ultra vires* was sought but this prayer was given up by petitioner's counsel and it is so recorded in the order of 6th November, 2015.

In the fifth prayer, a direction is also sought to respondents No. 4 & 5 to consider the case of petitioners No. 2 & 3 as eligible candidates for the interview to be conducted for the post of Assistant Director (Hindi).

At the hearing, learned counsel for petitioners submitted that he does not press the fourth and fifth prayers made in this petition, as interviews have been already conducted. It is informed by learned counsel for petitioner that the result of the interview to the post of Assistant Director (Hindi) stands declared on 16th November, 2015 but till date, the successful candidates have not joined.

In pursuance to the last order, first petitioner has filed affidavit on behalf of petitioners No. 2 and 3 as well. Learned counsel for petitioners submits that this affidavit be treated to be filed on behalf of all the three petitioners. Let it be so done.

During the course of hearing, learned counsel for petitioners had drawn attention of this Court to the Resolutions (*Annexures P-1 & P-2*) and had submitted that vide orders (*Annexures P-3, P-4 & P-5*) direction

has been issued to the concerned authorities for implementing recommendations regarding formation of separate Cadre of Official Language Hindi in subordinate offices of the Ministry.

It was pointed out that in the year 2005, first petitioner had made a Representation (*Annexure P-6*) to respondent- *BIS* seeking promotional avenues for Hindi Translators and attention of this Court is also drawn to Communication of July, 2006 (*Annexure P-7*) made to Deputy Director of *BIS* and to the higher authorities seeking creation of promotional avenues for Hindi Translators.

Learned counsel for petitioners submitted that the *Bureau of Indian Standards (Terms and Conditions of Service Employees) Regulations, 2007* do not provide promotional avenues for Hindi Translators but it does provide for other departments.

It is pertinent to note here that challenge to the *Regulations of 2007 (Annexure P-9)* has been given up by petitioners, as respondent – *BIS* has now recommended for promotional avenues to Hindi Translators. The recommendation of 8th July, 2015 is placed on record as Annexure P-18.

The impugned Advertisement is also issued in July, 2015, which provides for age relaxation up to the age of 50 years for direct recruitment of the departmental candidates. Undisputedly, petitioners are above the age of 50 years.

A Representation (*Annexure P-20*) was made by first petitioner on 15th July, 2015 seeking that out of two posts of Assistant Director (Hindi), only one post be filled up and the approval by the Ministry to the Recommendation (*Annexure P-18*) be awaited. Learned counsel for

petitioners submitted that the Representation (*Annexure P-20*) has not been responded to by respondent –BIS. It is pointed out that Representations (*Annexures P-24 to P-26*) similar to (*Annexure P-20*) were also given to the authorities concerned but to no avail.

A fervent prayer was made by petitioner's counsel to restrain the respondents from filling up one post of Assistant Director (Hindi) so that Recommendation (*Annexure P-18*) can be given effect to, otherwise petitioners would retire on the post of Senior/ Junior Hindi Translators only. Reliance was placed by learned counsel for petitioners upon decision in *Major General H.M. Singh. VSM Vs. Union of India & ors.* (2014) 3 SCC 670 to submit that right to be considered for promotion is the fundamental right. Lastly, it is submitted by learned counsel for petitioners that Rule 12 of *The Official Language Act, 1963* provides that it is the responsibility of Head of each Central Government office to ensure that provisions of *The Official Language Act, 1963* are required to be properly complied with.

Upon hearing and on perusal of the impugned Advertisement, material on record and the decision cited, I find that right to be considered for promotion only accrues when the recruitment rules in respect of the post of Assistant Director (Hindi) have been approved by the concerned Ministry. Till date, there is no approval to the proposed Recruitment Rules (*Annexure P-18*) and in such a situation, the surviving prayers made in this petition cannot be granted. Undisputedly, petitioners are not eligible for being considered for direct recruitment to the post of Assistant Director (Hindi) because they are over age for this post. No

doubt there are recommendations for providing promotional avenues in respect of Senior/ Junior Translators but since the challenge to the existing Regulations (*Annexure P-9*) have been already given up by petitioner, therefore, directions sought for in this petition, cannot be granted. Thus, finding no substance in this petition, it is dismissed while leaving the parties to bear their own costs. Pending application is disposed of as infructuous.

(SUNIL GAUR)
JUDGE

NOVEMBER 18, 2015

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