

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1860 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 7323 of 2015**

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Dr. (Major) Meeta Sahai, Wife of Dr. Pranava Dutta Verma, R/o 404, Ramlok
Apartment, Main Road Kankarbagh, P.O.- Lohia Nagar, P.S.- Patrakar Nagar,
Patna- 800020

.... Appellant/s

Versus

1. The State of Bihar through Chief Secretary, Patna, Secretariat, Patna
2. The Chief Secretary, Govt. of Bihar, Patna Secretariat, Patna
3. The Chairman, Bihar Public Service Commission, Patna
4. The Principal Secretary, Health Department, Govt. of Bihar, Patna
5. The Secretary, Health Department, Govt. of Bihar, Patna
6. The Director-in-Chief, Health Department, Govt. of Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bindhyachal Singh, Advocate
Mr. Parijat Saurav, Advocate.

For the B.P.S.C. : Mr. Sanjay Pandey, Advocate.

For the State : Mr. J.K. Roy, S.C.-13

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 24-11-2016**

Heard learned counsel for the parties.



2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 22nd of August, 2016 in C.W.J.C. No. 7323 of 2015, whereby the writ application filed by the appellant claiming benefit of experience having worked in an Army Hospital was declined.

3. An advertisement was published by Bihar Public Service Commission on 18th of July, 2014 inviting applications for filling up the 2301 posts of Medical Officers. In Clause 5(iii) of the Advertisement (Annexure-2) pertaining to selection procedure, it was mentioned that a candidate who has an experience in a Government hospital will be granted total 25 marks i.e. 5 marks for each completed year. It was also specified that for the said purpose, experience in the Government hospital of the Bihar Government shall only be taken into account.

4. Challenge is to the condition where the experience of serving in a Bihar State Hospital alone was made relevant for the purpose of counting of experience. It is contended that such condition in the advertisement is contrary to the Bihar Health Service (Appointment and Service Condition) Rules, 2013 which makes the experience in any Government hospital eligible for the purposes of appointment. It is also contended that the Division Bench of this



Court in a judgment reported as Dr. Dharmbir Kumar & Ors. Vs. The State of Bihar through the Chief Secretary & Ors., 2015 (2) PLJR 916 relating to appointment as a Dentist has dismissed a writ application wherein the challenge was to the grant of benefit of experience to the contractual employees. It is also contended that though the English version and Hindi Version of the Bihar Dentist Service Rules, 2014 are discrepant inasmuch as the Government hospital in English version means hospitals under the control of the Central Government and the Bihar State Government whereas, the Hindi version defines the Government hospital to mean a hospital under the control of Bihar State Government but in case of conflict, it is English version which is to prevail. Learned counsel for the appellant relies upon a Supreme Court order reported as Park Leather Industry (P) Ltd. and another Vs. State of U.P. and others, (2001) 3 SCC 135 in support of such argument.

5. On the other hand, learned counsel appearing for the Bihar Public Service Commission points out that the Bihar Health Service (Appointment and Service Condition) Rules, 2013 contemplates 25 marks for working in a Government hospital i.e. 5 marks for each completed year and the Government has been defined in Rules 2 (a) to mean Bihar Government, therefore, the



advertisement has been issued in terms of the Rules. It is experience in the Bihar Government hospital alone which is required to be counted for grant of additional marks. He refers to a Division Bench judgment of this Court reported as Khichri Ram & Ors. Vs. The State of Bihar & Ors., 2009 (2) PLJR 265, which relying upon a Full Bench judgment of this Court reported as Dr. Sachidanand Sinha Vs. The Collector, Patna and others, 1989 PLJR 1141 held that in a case of conflict between Hindi and English version, the language of the State being Hindi, it is the Hindi version which will prevail.

6. We have heard learned counsel for the parties and find no merit in the present appeal.

7. The issue as to whether in a case of conflict between a Hindi version of a statute in a State where official language is Hindi in terms of Article 345 of the Constitution of India firstly came up for consideration before Allahabad High Court in a judgment reported as Haji Lal Mohammad Biri Works, Meerganj, Allahabad & others Vs. The Sales-tax Officer, Allahabad, AIR 1959 Allahabad 208, wherein it was held that in a case of ambiguity, the Hindi version has to be preferred. It was held to the following effect:-

“The English version of the Act, on the basis of which arguments were advanced before us, in the State has merely the status of an authoritative text in the English language of the original Act. The original Act is in Hindi and whenever



there be any doubt, and, in fact, principally for purposes of properly interpreting any provision of such an enactment, the proper course is to look at the original Act as published in Hindi. In these circumstances, we looked up the Hindi version of this Act. On examining it, we find that there can be no doubt at all that the expression in English authoritative version in the form in which they were in force immediately before the commencement of this Act qualifies the words 'the notifications' is Section 3 of the U.P. Sales Tax (Validation) Act, 1958. The language in the Hindi version is as follows:

X X X

It would, of course, have been belief, had the meaning conveyed in the original Hindi version been put in the proper form in the English translation so as not to leave any ambiguity which could easily have been done if the expression on the date on which the notifications were issued had not been placed in this section at the place where this expression has been placed, but had been placed earlier between the expression 'as if the said sections were' and the words 'in force'. If this had been done, it would not have been necessary for us to make a reference to the original Hindi version."

8. The judgment of the Allahabad High Court in Haji Lal Mohammad's case (supra) was approved by the Supreme Court in a judgment reported as M/s. J.K. Jute Mills Co. Ltd. Vs. State of Uttar Pradesh and another, AIR 1961 Supreme Court 1534 when the Court held to the following effect:-

"9. It should further be noted that the Validation Act was published both in Hindi and in English, and both of them were authorised versions. The words in the Hindi version make it clear beyond all doubt that the words, "in the



form in which they were in force immediately before the commencement of this Act” qualify the word “sections” and not the word “notifications.” That is the view expressed by a Bench of the Allahabad High Court in Haji Lal Mohammad Biri Works v. Sales Tax Officer, AIR 1959 All 208, on a comparison of the two versions, and we are in agreement with it. There would have been no scope for this argument if transposing the words, the section read, “as if the said sections were in form in which they were in force immediately before the commencement of this Act, in force on the date on which the notifications were issued.” But even in its present setting that is the meaning of the section, and the impugned notification must be held to be within the saving of the Validation Act.”

9. Even though such was the authoritative pronouncement but a Full Bench in a judgment reported as Smt. Ram Rati & others Vs. Gram Samaj Jehwa & others, AIR 1974 Allahabad 106 held that it is the English version which is to prevail. The matter was placed before seven Judges Bench. The details of seven Bench judgment are not available but a subsequent Full Bench judgment reported as Mata Badal Pandey and another Vs. The Board of Revenue and others, AIR 1976 Allahabad 420 considered the Ram Rati's case and the seven Judges Bench and said to the following effect:-

“3. We found that in the case of Smt. Ram Rati v. Gram Samaj (supra) neither of the said decisions has been noticed. The five Judges’ Full Bench seems to have been much influenced by earlier decision of three Judges’ Full Bench



in J.S. Mills Ltd. v. Presiding Officer, I.-T. (III), U.P., Allahabad (AIR 1962 All 240) (FB) wherein it was held that in case of diversion of two versions, that is in Hindi and English, the English version would prevail and would be supreme. In this state of law, the Full Bench referred the following question of law to a larger Bench of seven Judges:-

“Whether it will be a sound rule of interpretation or construction of statutes that if there appears to be some doubt or ambiguity in the authorised text in English language of an Act enacted in Hindi by the Legislature of Uttar Pradesh, then for resolving the ambiguity or doubt and for ascertaining the correct meaning thereof, reference can be made to the corresponding Hindi text and reliance placed thereon?”

4. The seven Judges’ Full Bench by majority answered the above question in the following manner:-

“We are, therefore, of opinion that where there is some doubt or ambiguity in any provision in the authoritative English text, it is permissible to look into the Hindi text to remove the doubt or ambiguity.”

10. Recently, another Full Bench of Allahabad High Court in a judgment dated 19.07.2013 in the matter of Ram Surat Mishra, Vs. State of U.P. & Ors., Service Bench No. 8 of 2010 was again considering the conflict between the English and Hindi notifications. Considering Uttar Pradesh Official Language Act, 1951, the Bench again held that in case of a conflict, the version given in the Hindi notification will prevail.

11. The Supreme Court in a judgment reported as Commissioner of Trade Tax, Uttar Pradesh Vs. Associated



Distributors Limited, (2008) 7 SCC 409 again held that Hindi version will prevail. The Court said to the following effect:-

“7. It is pertinent to mention here that the official language of the State of Uttar Pradesh is Hindi. If any difference is found between the notifications in English and Hindi, the notification issued in Hindi will be applicable. On the said notification, the courts have decided that confectionery comes within sweets (mithai) and sweetmeat, but it has not been mentioned that bubblegum comes within the category of a sweet.”

12. The Hindi is the official language in the State of Bihar. The Full Bench of this Court in Dr. Sachidanand Sinha's case (supra) has held that in a case of conflict between Hindi and English version, it is Hindi version which has to prevail. Following the said judgment, the Division Bench in Khichri Ram's case (supra) has said to the following effect:-

“9. It is worth mentioning here that there is difference between Section 3 of Bihar Act 15 of 2003 in Hindi and English version. There is no dispute that the official language of the State Legislature is Hindi and they carry out their proceedings and introduce Bills in Hindi. Section 206 of the Bihar Official Language Act has adopted Hindi in Devnagri script as the language to be used for the official purposes of the State of Bihar. In that view of the matter, in case of difference Hindi version would prevail. Reliance in this connection can be made to a decision of the Full Bench of this Court in the case of **Dr. Sachidanand Sinha vs. The Collector, Patna & Ors.** [1990 BBCJ 55] [1989 PLJR 1141] in which it has been held as



follows:-

“10. It may be pointed out that, during the hearing of this case, none of the Counsel including the learned Advocate General, who appeared on behalf of the petitioner, in the present case, produced any material to show that the English version of the Act before us is the translated version of the Act in Hindi, in accordance with the requirement of Article 348(3) of the Constitution. While publishing the translated version of Section 16(1) under the authority of the Governor of this State, as required by Article 348(3) of the Constitution, how such an important part of that sub-section in Hindi version “जबतक कि उचित किराये से संबंधित विवाद सक्षम न्यायालय के विनिष्चय द्वारातय न कर दिया जाय” was overlooked or omitted is difficult to explain. As such it is proper to proceed construe the effect of sub-section (1) of Section 16 on the basis of the Hindi version of sub-section (1) of Section 16.”

13. Therefore, in case of conflict, Hindi version is to prevail. Therefore, the Hindi version of Bihar Dentist Service Rules, 2014 will prevail.

14. The advertisement is clear and categorical that experience in the hospitals of the Bihar Government alone will count for additional marks. Such condition in the advertisement is supported by the rules when Rule-2(a) read along with Rule 6(iii) of the Bihar Health Service (Appointment and Service Condition) Rules, 2013.



The Government means 'Bihar Government' in view of the definition of Rule 2(a). Therefore, it is experience from a Bihar Government hospital alone which will entitle a candidate for additional marks or experience for experience.

15. A Division Bench judgment in the case of Dr. Dharmbir Kumar (supra) held that it is for the recruiting agency to stipulate the procedure for selecting the candidates as to whether the grant of marks for the experience for appointment to the post of Dentist. It is only when the procedure is found to be patently illegal, the Court would interfere. In view of the said judgment, since the advertisement specifically provides for additional marks only for the experience in a Hospital run by the Bihar Government, we find that the said judgment is not helpful to the argument raised by the appellant but conclude the issue against the appellant.

16. Learned counsel for the appellant has referred to the Supreme Court order in Park Leather Industry's case (supra) wherein, the Court has observed that if there is conflict between the English and Hindi version, the English version will prevail. The said judgment has not noticed the fact as to whether official language of the State of Uttar Pradesh is English or Hindi. The attention of the Court was also not drawn to an earlier judgment on the subject. The conclusion will



hold good if the official language is English but in case of official language being Hindi, the matter stands settled by the Hon’ble Supreme Court in the case reported as Associated Distributors Limited,’case (supra).

17. In view of the above, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

18. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

P.K.P.

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	03.12.2016
Transmission Date	

