



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDERS RESERVED ON : 19.01.2023

PRONOUNCING ORDERS ON : 23.01.2023

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

W.P.No.25672 of 2021
and
WMP Nos.27111 and 27112 of 2021

Smt.Senapati Harthi Dharmarao

...Petitioner

.Vs.

- 1 The Executive Director (South)
Food Corporation of India
Zonal Office (South)
No.3 Haddows Road
Chennai- 600 006.
- 2 The Deputy General Manager (Pers)
Food Corporation of India
Zonal Office (South)
No.3 Haddows Road
Chennai- 600 006.
- 3 SHRI AKASH SRIWASTAV AG-II (HINDI)
Food Corporation of India
Main Entrance Road, Rahamatnagar, Kazipet
Telangana 560003.



4 MADHU YADAV AG-II (HINDI)
Food Corporation of India, Haca Bhawan
3rd Floor Opp. Public Garden Road, Nampally
Hyderabad, Telangana 500004.

..Respondents

(R3, R4 impleaded vide order dt.14.07.2022
made in WMP.9407/2022 in W.P.25672/2021
by DKKJ)

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus and to call for the records pertaining to the impugned communication Lr. No. RPI / 1-2 / SZ / ADVT. 1- 2019 / CAT - III / 2020 / Vol. II dated 21.09.2021 of the 2nd respondent sent on behalf of the 1st Respondent and quash the same and further direct the 1st Respondent to accept the candidature of the petitioner for the post of Assistant Grade - II (Hindi) in South Zone.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.C.K.Chandrasekar
for R1 and R2

No Appearance for R3 and R4.

ORDER



This Writ Petition has been filed challenging the impugned communication dated 21.09.2021, sent by the 2nd respondent on behalf of the 1st respondent and for a consequential direction to the 1st respondent to accept the candidature of the petitioner for the post of Assistant Grade-II (Hindi).

2.The case of the petitioner is that the Food Corporation of India issued an advertisement for recruitment to various posts across India during the year 2019. The petitioner applied for the post of Assistant Grade-II (Hindi), South Zone on 05.03.2019. The qualification that was prescribed under the notification is as follows:

Essential :

- 1.Degree of a recognized University with Hindi as the main subject.
- 2.Proficiency in English.
- 3.One year experience of translation from English to Hindi and vice-versa.

Desirable:-

Post Graduate qualification in Hindi.

3.The further case of the petitioner is that she completed undergraduation from Andhra University with the foundation courses



Chemistry, Zoology and Biotechnology and her second language was Hindi both in the first year as well as in the second year. Thereafter, the petitioner also completed her post-graduation in functional Hindi (MA-Hindi). That apart, the petitioner also obtained a degree issued by Hindi Prachar Sabha, Hyderabad as Hindi Pandit (Hindi Shikshak). According to the petitioner, this degree is equivalent to B.A., degree as per G.O.Ms.No.1415/1970, issued by the Government of Andhra Pradesh. The same status has also been given by the Government of India, through proceedings dated 18.02.1970.

4.The application submitted by the petitioner was rejected through the impugned communication dated 21.09.2021 on the ground that the petitioner did not possess Hindi as one of the main subject in all the three years of graduation and accordingly, the candidature of the petitioner was cancelled. Aggrieved by the same, the present writ petition was filed before this Court.

5.The respondent Corporation has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:



6.The petitioner was directed to appear for document verification on 12-4-2021 at the Regional office, Amaravathi. The petitioner produced her B.Sc Degree Certificate dated 31-10-2014 and Hindi Pandit certificate dated 16-12-2015. It was found out by the Committee that the petitioner did not have Hindi as subject in the final year of the Degree course. The Andhra University Certificate specifically stated that the petitioner has secured B.Sc. Chemistry, Zoology and Bio Technology as main subject and Hindi as a second language only. It does not satisfy the criteria mentioned in Advertisement for FCI category-III. Hence the petitioner's contention was not accepted. It is a matter of record that the selected candidates have B.A Hindi Degree and hence there was no need to consider candidates with equivalence or Hindi as a second language. The petitioner's contentions to the contrary are thus without basis and untenable

7.I submit that the petitioner is admittedly a B.Sc graduate with Hindi as a second language. It cannot be compared with candidates who have studied B.A Hindi Degree course. Hence the prayer is without merit. On this short ground, the writ petition is able to be dismissed. The decision of the Division Bench of this Hon'ble Court dated 19-8-2021 made in V. Lekha Vs UGC & ors., about not accepting cross major subjects applies to the case on hand.



8.I submit that the petitioner further claims that she has got degree course Hindi Prachar Sabha which is considered to be equivalent to B.A Hindi as per GO.No. 1415 of 1970 of Government of Andhra Pradesh. It is factually incorrect as the said G.O. 1415, clearly lays down that it is not to be treated as equivalent to the full fledged certificate or degree of the examination to which it has been equated. It is only for standard of Hindi prescribed. Hence the petitioner cannot claim equivalence as a matter of right and it is left to the discretion of the Corporation to choose candidates suitable to the post. Admittedly, the selected candidates are all B.A Hindi Degree holders with whom the petitioner cannot claim parity, Further, when qualified candidates with relevant degree were available there was no need to apply relaxation or adopt equivalence of standards to find out candidates to fill up the post. Hence the action is fair and not arbitrary. The respondent has power to choose the candidate who fulfills its requirements and there cannot be claim of any equality among unequals. Also, even the selected candidates do not have right to appointment as it is the choice of employer who employs and pays the employee and the best interests of the Corporation is always predominant. In this case, the qualified candidates have been selected and joined the posts and hence there is no ground to interfere with the selection process. There is no vacancy now.



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9. I humbly submit that the chart below gives the details of the selected candidates with regard to South Zone
Where five vacancies were filled up:-

Sl. No.	Name of the Candidate S/Shri/Smt.	Selection	Qualification	Place of Attending Document Verification	Date of joining in the post
1.	Shyam Babu Dangi – UR	As per the Notification i.e.	B.A.Hindi Literature, (Barkatullah Vishwavidyalaya University, Bhopal)	FCI, RO, Bhopal (Madhya Pradesh)	27.09.2021
2.	Suman Singh - UR	As per the Notification i.e.	B.A.Hindi (West Bengal State University)	FCI, RO, Kolkatta	01.10.2021
3.	Akash Sriwastav-UR	As per the Notification i.e.	B.A.Hindi & M.A.Hindi (University of Calcutta)	FCI, RO, Kolkatta	06.10.2021
4.	Madhu Yadav-UR	As per the Notification i.e.	B.A.Hindi (University of Calcutta)	FCI, RO, Kolkatta	30.09.2021
5.	Sonam Upadhyay-UR	As per the Notification i.e.	B.A.Hindi & M.A. Hindi (University of Calcutta)	FCI, RO, Kolkatta	05.10.2021
6.	Senapati Harithi Dharmarao (Petitioner-UR)		B.Sc(Chemistry, Zoology & Bio-Technology) Second Language (Hindi) & M.A.Hindi (Andhra University)	FCI, RO, Amaravati (Andhra Pradesh)	Rejected

10. I further give the details of the total Vacancies
Advertised To The Post Of AG.II (Hindi) (Category Wise).

SC	ST	OBC	EWS	UR	TOTAL	TOTAL FILLED
Nil	Nil	3	Nil	12	(3+12)15	2+12=14
					BALANCE	1 OBC



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It is submitted that there is no vacancy under UR, as all the 12 vacancies were filled. 7 UR candidates were recruited under the Main List and the remaining five were selected by operating the first wait list. The vacancies in South Zone, was filled up As regards OBC posts is concerned, two were filled up under the Main list.

11. For the left over vacancy under CBC quota, the wait list is being operated. The selected candidates had joined the post. The second round of document verification for the OBC post was cared out on 20-12-2021, 21-12-2021 and 10-1-2022 and the process is to be completed. The petitioner has not impleaded the selected candidates as well. Hence the wit petition is without merit. She cannot compare herself with candidates who had studied B.A Hindi merely because she had subsequently acquired MA Hindi. Her graduation is in B.Sc only and not a Degree in Hindi. She cannot claim equality with unequals

6.Heard Mr.Hari Radhakrishnan, learned counsel for the petitioner, Mr.C.K.Chandrasekar, learned counsel for R1, R2 and there is no appearance for R3 and R4.

7.The essential qualification that was prescribed in the advertisement issued by the respondent Corporation was that a candidate must have obtained a degree of a recognized University with Hindi as the



main subject. There is no dispute with regard to the fact that the petitioner did her B.Sc (Chemistry, Zoology and Biotechnology) and she had Hindi as the second language during the first and second year. The impugned communication dated 21.09.2021, issued by the 1st respondent reads as if the petitioner did not possess Hindi as one of the main subject in all the three years of graduation and therefore, her candidature was cancelled.

8.The very same essential qualification became an issue before the Division Bench of the Delhi High Court in LPA.No.81 of 2022 and this appeal was allowed by an order dated 03.08.2022 and the relevant portions in the order are extracted hereunder:

5.The undisputed facts of the case reveal that an advertisement was issued by the Respondent No.2/Food Corporation of India inviting applications for the post of AG-II (Hindi). The relevant extract of the advertisement is reproduced as under:-

POST T	POST CODE	Qualifications/Experience
AG-II (Hindi)	D	Essential: 1.Degree of a recognized University University with Hindi as the main subject. 2.Proficiency in English. 3.One year experience of translation from



POST T	POST CODE	Qualifications/Experience
		English to Hindi and vice-versa. Desirable:- Post Graduate qualification in Hindi.

6.A perusal of the above mentioned eligibility clause makes it very clear that a person with a degree from a recognized University, with Hindi as the main subject, was eligible to apply for the post of AG-II (Hindi). The dispute is only with regard to the aforesaid condition. In terms of the Advertisement under the 'Desirable' qualification criteria, a candidate is required to have a Post-graduate degree in Hindi and the Appellant herein does hold a Post-graduate degree in Hindi. The certificates on record, i.e., the mark-sheet issued by the University of Delhi, reflects that in the first year and third year of B.Com, the Appellant had Hindi as one of the main subjects. It is also true that the final degree awarded to the Appellant is of Bachelor of Commerce. However, as per the prospectus, which is on record, Hindi was one of the main papers, the Appellant had as part of his course while pursuing B.Com. Not only this, the Appellant also holds a Post- graduate degree in Hindi and a Post Graduate Diploma in Translation from a Government recognized institute, as mentioned herein before. The candidature of the Appellant was rejected only because he does not hold an undergraduate degree in Hindi, which was certainly eligibility not a necessary eligibility



qualification as per the advertisement. The advertisement, which is on record, makes it very clear that a candidate holding a degree from a recognized University with Hindi as the main subject would be eligible to apply for the post of AG-II (Hindi). The mark-sheet on record in respect

of graduation degree makes it very clear that the Appellant herein had Hindi as a main subject in first and third year of his graduation and, therefore, his candidature ought not to have been rejected in the manner in which it has been done by the Respondent No.2.

7.The learned Single Judge of this Court dismissed the Writ Petition filed by the Appellant on the ground that he has obtained his graduation degree in B.Com from University of Delhi and he had Hindi as one of the subjects only in first and third year and, therefore, the same cannot be treated as a main paper as part of his undergraduate degree.

8.This Court respectfully disagrees with the findings of the learned Single Judge. In the considered opinion of this Court, the candidature of the Appellant, who has studied Hindi as a main subject in first and third year of graduation and who also satisfies the qualification criteria, i.e., a Masters Degree in Hindi in addition to a Post Graduate



Diploma in Translation from a Government recognized Institute, ought not to have been rejected in the manner in which it has been done by the Respondent No.2. Resultantly, the Order dated 16.12.2021, passed by the learned Single Judge of this Court in W.P(C) 14423/2021, is set aside. The letters dated 21.09.2021 and 11.10.2021, rejecting the candidature of the Appellant, are also set aside. The Respondents are directed to

consider the candidature of the Appellant as this Court is of the view that the Appellant holds necessary qualification as stipulated in the advertisement and in case the Appellant finds place in the merit list, consequential appointment order he issued to the Appellant within 30 days from the date of this Order. The Appellant will be entitled to all consequential benefits except back wages.

9.The Division Bench of the Delhi High Court has interpreted the essential qualification of a degree of recognised University with Hindi as the main subject, to the effect that it is not necessary for a candidate to hold an undergraduate decree in Hindi and it is enough if the candidate had studied Hindi as a main subject while undergoing the under graduation course. In the above case, the concerned candidate had



studied Hindi during the first and third year of his graduation when he underwent B.Com, course and the same was held to fulfill the essential criteria fixed by the respondent Corporation. The Delhi High Court also took into consideration the fact that the concerned candidate had also obtained a masters degree in Hindi and also a postgraduate diploma in translation, from a recognised Institute.

10.The respondent Corporation had called for application to fill the post of Assistant Grade-II (Hindi). The very nature of the post is such that the candidate must be proficient in Hindi language. One of the main/essential qualification was that the candidate must have a degree of a recognized University with Hindi as the main subject. The desirable qualification was that the candidate possessing postgraduate qualification in Hindi will stand a better chance provided that the essential qualification is fulfilled.

11.The candidates, who were selected by the respondent Corporation and whose particulars have been given at paragraph 9 of the counter affidavit, clearly establishes that all of them had studied Hindi as



the main subject in their undergradaution. In the case of the petitioner, Hindi was not the main subject and the main subjects were Chemistry, Zoology and Biotechnology. Hindi was only a second language during the first and second year. Hence, by no stretch, studying Hindi as a second language can satisfy the essential requirement which mandated degree of a recognized University with Hindi as the main subject. In view of the same, I am in respectful disagreement with the order passed by the Division Bench of the Delhi High Court. This Court holds therefore holds that the petitioner, who did B.Sc (Chemistry, Zoology and Biotechnology) did not satisfy the main/essential requirement since Hindi was not the main subject during undergradaution.

12.The next issue to be taken into consideration is as to whether the degree/certificate issued by the Hindi Prachar Sabha, Hyderabad, to the effect that the petitioner had completed Hindi Vidwan examination, can be considered to be equivalent to B.A., in Hindi. It is true that the Government of Andhra Pradesh had recognised this certificate to be equivalent to B.A., in Hindi. The Government of India has also issued a notification dated 18.02.1970, wherein, it has been mentioned that the



certificate issued by the Hindi Prachar Sabha, Hyderabad, on completion of Vidwan examination will be equivalent to B.A., in Hindi. If the same is taken into consideration, the petitioner can be held to have completed B.A., in Hindi by virtue of the certificate issued by the Hindi Prachar Sabha, Hyderabad.

13.If the petitioner is claiming the above qualification as an equivalent qualification as per the requirement prescribed by the advertisement, the petitioner must make an application to that effect and a decision will be taken by the respondent Corporation. In the present case, there was no occasion for the respondent Corporation to undertake this exercise since no such application was submitted by the petitioner to treat the certificate given by Hindi Prachar Sabha, Hyderabad, on completion of Vidwan examination, as equivalent to B.A., in Hindi. If any such application had been submitted, the respondent Corporation would have dealt with the same in line with the Government Order issued by the Government of Andhra Pradesh, Hyderabad and the notification issued by the Central Government.



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14.The petitioner possessing a post graduation degree in Hindi is only a desirable qualification and the same will come into play only if a candidate has fulfilled the essential qualification.

15.It is evident from the counter affidavit filed by the respondents that all the vacancies have been filled up and the candidates, who were selected for the post of Assistant Grade-II (Hindi) possess Hindi as the main subject in their undergraduation and there is no ground to interfere with their selection.

16.The upshot of the above discussion, leads to the conclusion that the impugned communication dated 21.09.2021, does not require the interference of this Court and the candidates, who were selected for the posts possessed the essential qualification prescribed under the advertisement issued by the respondent Corporation. It is made clear that the rejection of the claim made by the petitioner in the present writ



petition, will not stand in the way of the petitioner to participate in a similar selection and it will be left open to the petitioner to claim for equivalence based on the certificate issued by the Hindi Prachar Sabha, Hyderabad, on the completion of Hindi Vidwan examination. To that extent, this Court is inclined to safeguard the interest of the petitioner.

17. In the result, this Writ Petition is disposed of in the above terms.

No costs. Consequently, the connected miscellaneous petitions are closed.

23.01.2023

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Internet : Yes

Index : Yes

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No



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N.ANAND VENKATESH, J.

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