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W.A No. 563 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2025

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A No. 563 of 2023 and

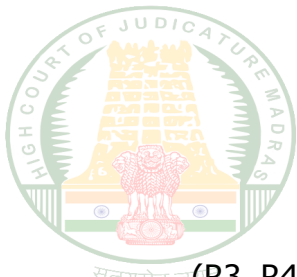
CMP Nos. 5656 and 5658 OF 2023

Senapati Harthi Dharmarao
H.No.58 15 74 Santhi Nagar, Near Nad
Junction, Vishakapatnam, Andhra
Pradesh- 530 009.

.. Appellant

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.



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WEB COPY (R3, R4 IMPEADED VIDE ORDER DT 14.07.2022
MADE IN WMP.9407/2022 IN WP.25672/2021 BY
DKKJ)

...Respondents

PRAYER

Writ Appeal under Clause 15 of the Letters Patent to set aside the impugned order 23.01.2023 in WP No.25672/2021.

For Appellant : Hari Radhakrishnan

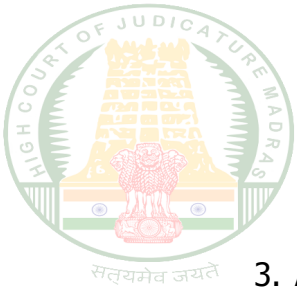
For Respondents : Mr.C.K. Chandrasekhar
For RR 1 and 2
R3 -Served
R4 Unclaimed

J U D G M E N T

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal had been filed against the order made by the Writ Court dated 23.01.2023 in W.P.No.25672 of 2021.

2. The appellant is the writ petitioner. She applied for the post of Assistant Grade-II (Hindi) at the respondent Food Corporation of India (FCI) pursuant to the notification issued in this regard in Advertisement No.01/19/FCI/Category 3.



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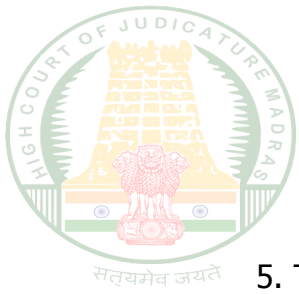
3. As per the said advertisement given by the FCI, for the post of Assistant Grade-II (Hindi) the following qualifications were prescribed.

Essential Qualifications:

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

Desirable Qualification : Post Graduate qualification in Hindi.

4. With this background, the appellant / petitioner made an application as she is having qualification of B.Sc in Chemistry issued by Andhra University, where the second language was Hindi and first language was English, and also she was having Postgraduate qualification given by the Hindi Prachar Sabha, Hyderabad which according to her is equivalent to degree in Hindi. Therefore, on that strength she made an application to the respondents, which after having been scrutinized, was rejected on the ground that the appellant/petitioner does not have the essential qualification as desired by the employer as per the notification. Challenging the rejection order, the appellant preferred the writ petition.



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5. The said writ petition was filed for a Writ of Certiorarified Mandamus to call for the records pertaining to the communication issued by the FCI dated 29.09.2021 and to quash the same. However, the writ petition having been heard by the learned single Judge, was dismissed.

6. Assailing the dismissal order, the learned counsel for the appellant would submit that insofar as the qualification that has been prescribed in the notification, it has been mentioned that a degree of a recognized University with Hindi as main subject is concerned, in the B.Sc degree awarded by Andhra University to the appellant, Hindi was a main subject which has been taught. It has been mentioned in the degree certificate itself and therefore he has fulfilled the qualification. That apart, he would submit that the desirable qualification which has been mentioned as Postgraduate qualification in Hindi, such a Postgraduate qualification has been secured by the appellant from Hindi Prachar Sabha at Hyderabad and this Postgraduate qualification awarded by Hindi Prachar Sabha to be treated as equivalent degree awarded by the University has been dealt with in the Notification No.F-7-50/69-H1 Government of India, Ministry of Education and Youth Affairs, New



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Delhi dated 18.02.1970, under which the equivalence of the certificates awarded by Hindi Prachar Sabha was stated. It is stated therein that Visharad is equivalent to S.L.C, Bhushan is equivalent to Inter and Vidwan is equivalent to B.A. Since the appellant / petitioner was awarded with Vidwan degree by the Hindi Prachar Sabha, Hyderabad, which is equivalent to B.A., on that aspect the appellant / petitioner since has fulfilled the qualification as sought for in the notification issued by the respondent FCI, the candidature of the appellant / petitioner ought not to have been rejected. Therefore, the learned counsel for the appellant would submit that these aspects since have not been considered in proper perspective by the learned Judge through the impugned order, the said order deserves to be interfered with by this Bench.

7. We have heard Mr.C.K.Chandrasekhar, learned Standing Counsel for the respondents 1 and 2, who would submit that it is settled legal proposition that, insofar as the education and other qualifications to be fixed in respect of any posts for public employment, for which applications by way notification is published, such notification cannot be questioned. In the case in hand, the requisite qualification



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has been made clear in the notification itself, under which, for the post of Assistant Grade-II(Hindi), the essential qualification is a degree of a recognized University with Hindi as main subject. However, the degree secured by the appellant/petitioner ie., B.Sc awarded by the Andhra University is not a degree, where Hindi is the main subject, whereas Hindi was one of the languages, apart from English and the other subjects that were taught were, Chemistry, Biology and Environmental Science etc., The degree of B.Sc awarded to the appellant/petitioner cannot be treated as equivalent degree with Hindi as main subject, which is the essential qualification.

8. Therefore, the learned Standing Counsel for the respondents 1 and 2 would contend that, since the essential qualification itself has not been fulfilled by the appellant/petitioner, the candidature of the appellant having been considered, was rightly rejected by the FCI and this aspect has been considered in proper perspective by the learned single Judge, who dismissed the writ petition. Therefore, the impugned order does not warrant any interference at the hands of the Division Bench, he contended.



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9. Insofar as the qualification that has been prescribed by the employer FCI is concerned, it is made clear under two headings, one is essential qualification and the other is desirable qualification for the post of Assistant, Grade-II (Hindi). There are three essential qualification viz., (a) a degree of a recognized University with Hindi as main subject, (b) Proficiency in English and (c) one year experience in Translation from Hindi to English and vice-versa.

10. Insofar as the two qualifications ie., (b) and (c) are concerned, we do not have any issue. However, insofar as the very first qualification viz., (a) a degree of a recognized University with Hindi as main subject is concerned, whether the degree secured by the appellant/petitioner from Andhra University has fulfilled the said clause is the question.

11. We have perused the degree certificate awarded to the appellant/petitioner, where, it is stated that it is a degree of B.Sc consisting of the following subjects:- English, Hindi, Foundation Course, Computer Course / Skills,



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Environmental Studies, Chemistry, Zoology and Bio-Technology. The main subject are Chemistry, Zoology, Bio-Technology and Computer Course. Of course, the languages are English and Hindi. In every such degree being awarded by the University, the language either would be Hindi or any other vernacular language, depending upon the jurisdiction where the University is serving.

12. When that being the position, merely Hindi has been taught as second language, it cannot be convinced that the B.Sc degree is having Hindi as main subject. To that extent, the very essential qualification sought for by the employer has not been fulfilled by the appellant/petitioner.

13. Coming to the next point ie., the appellant/petitioner is having Postgraduate qualification in Hindi, which is a desirable qualification and it is also equivalent to B.A.degree as per the notification of the Central Government dated 18.02.1970. Assuming that the notification of 1970 denotes that the Vidwan examination conducted by Hindi Prachar Sabha, Hyderabad passed by the appellant/petitioner is equivalent to B.A degree, that may be desirable qualification,



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but that is not the essential qualification if we strictly construe the requirements as projected in the Notification. It is a well settled law that, insofar as the fulfilment of essential qualification for any public employment, once the qualification is prescribed by the employer that cannot be questioned.

14. Insofar as the present recruitment is concerned, for the post of Assistant Grade-II (Hindi), the first essential qualification that is fixed by the employer is a degree of a recognized University with Hindi as main subject. If that being so, unless and until the applicant fulfils the said essential qualification by having a degree from a recognized University with Hindi as a main subject, no other qualification can be treated as equivalent to replace the essential qualification of a degree of a recognized University. Therefore, for that reason the candidature of the petitioner/appellant can very well be rejected.

15. Even in respect of the desirable qualification of Postgraduate qualification in Hindi is concerned, there is a vast difference between 'essential' and 'desirable' qualification. A person who makes application seeking public employment must



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have fulfilled the essential qualification, whereas he may not have fulfilled the desirable qualification. Suppose a person is having desirable qualification also and if two persons apply for the same post, out of the two, one is having essential as well as desirable qualification, ultimately the employer chooses the person who is having desirable qualification. Merely having desirable qualification alone cannot replace the essential qualification which may not be equivalent to desirable qualification.

16. Therefore, looking from any angle the decision taken by the learned Judge by dismissing the writ petition confirming the order passed by the respondents rejecting the candidature of the appellant/petitioner for want of essential qualification, is to be sustained. The Writ Appeal fails and hence it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(R.SURESH KUMAR, J.) (A.D.MARIA CLETE, J.)
01-04-2025

Index:Yes/No

Neutral Citation:Yes/No

KST

To



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