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Amrendra Kumar Pandey Vs. Staff Selection Commission and anr.

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Court : Delhi

Decided On : Apr-11-2002

Reported in : 2002(63)DRJ674

Judge : S.B. Sinha, C.J. and; A.K. Sikri, J.

Appeal No. : CWP 580/2002

Appellant : Amrendra Kumar Pandey

Respondent : Staff Selection Commission and anr.

Advocate for Def. : Sanjay Jain, Adv.

Advocate for Pet/Ap. : Jayant Nath and; B.C. Pandey, Advs

Disposition : Petition dismissed

Judgement :

S.B. Sinha, C.J.

1. This wit petition is directed against a judgment and order dated 18th September 2001 passed by the Central Administrative Tribunal in OA No. 1350/2001 whereby and whereunder Original Application filed by the petitioner herein was dismissed. An advertisement was issued by the respondent calling for the applications for filling up the posts of Junior Hindi Translators, the qualifications where for were stated to be as under:

'(c). EDUCATIONAL QUALIFICATIONS: Master's Degree in English/Hindi with Hindi/ English as a compulsory and elective subject at Degree level; OR Bachelor's Deg. with Hindi & English as main subject (which includes the term compulsory and elective).

Not-I: Those candidates who have passed B.A. (Hons.) in English/Hindi with Hindi/English as subsidiary/MIL subject, are eligible for the post of Jr. Hindi Translators.

2. The petitioner herein was a student of Bhagalpur University. He passed his 3-year's degree course from the said University. In the said course, he started in Rashtrabhasha and Matrabhasha in Hindi where for the maximum marks were 100. Mother subject of Hindi language being Modern Indian Language, containing 300 marks was also available but he did not opt thereforee. He, however, passed BA (Hons) in English.

3. His candidature, despite the fact that he had passed the proficiency test, was not considered, inter alia, on the ground that he had not studied Hindi in all the three years in degree course and as such he did not posses the essential educational qualification for the post of Junior Hindi Translator as per the notice of examination.

4. The petitioner was communicated with a Memorandum dated 12th April 2001 which is as follows:

'MEMORANDUM

Sub: Junior Hindi Translators Exam, 1999 FOR

subordinate Offices advertised vide Advt. No.

2/99 - Cancellation of candidatures - reg.

With reference to his application for the above mentioned examination, Shri Amerendra Kumar Pandey Roll No. 1212582 is informed that on scrutiny of his Education qualifications, it has been found that he does not fulfill the prescribed Essential Qualifications for the post of Junior Hindi Translator as laid down in the

Notice of the examination. Hence, his candidature is hereby cancelled.'

5. Questioning the said Memorandum, the petitioner filed the Original Application before the Tribunal which was dismissed holding that he did not fulfill the eligibility criteria.

6. Mr. Jayant Nath, learned counsel appearing on behalf of the petitioner would contend that Note-I appended to the advertisement clearly stated that the candidates who have passed BA (Hons) in English/Hindi with Hindi/English as subsidiary or MIL subject, are eligible for the said post. It was not, thereforee, necessary that Hindi should have been read by the petitioner as a modern Indian language subject. The dictionary meaning of 'subsidiary', the learned counsel would contend, is sub ordinary or secondary.

7. According to the learned counsel, the respondents in their advertisement did not categorically state that the Hindi paper which offered by the petitioner as a subsidiary subject must carry 300 marks. In that view of the matter, the learned counsel would subject that the respondents could not subsequently alter or amend the requirements made in the advertisement. In support of the said contention, strong reliance has been placed on Hoshiar Singh v. State of Haryana and Ors., : (1994)ILLJ562SC .

8. Mr. Jain, the learned counsel appearing for the respondents, would, on the other hand, submit that from the mark-sheet submitted by the petitioner, it would appear that the petitioner although could have opted for Modern Indian Language carrying 300 marks, he himself offered the subject of Hindi carrying only 100 marks. The learned counsel has drawn our attention to a letter of the Government of India of June 1998 for the purpose of showing that study of Hindi or English as a part of the degree course would not be considered to be sufficient for holding the post of Junior Translator.

9. The learned counsel would urge that the dominant purpose for which the afore-mentioned qualification had been prescribed was that the candidate must be proficient in translation of documents from Hindi to English and vice versa where for he must be sufficiently proficient in both the languages. In any event, the

learned counsel would contend, the respondents having taken action in terms of directions of the Central Government, the same cannot be said to be arbitrary inasmuch as all candidates who are similarly situated had been treated in a like manner.

10. It is not in dispute that the petitioner had obtained BA Degree with Hindi, English, History and LSW subjects. He has studied Hindi only of 100 marks. However, English, History and LSW subjects carried 300 marks each. In the third year, he had studied BA (Hons) in English. He thus had not studied Hindi language in all the three years in a degree course as his main subjects were English, History and LSW which were of 300 marks each whereas Hindi was only of 100 marks.

The Central Government in its letter of June 1998 inter alias stated:

'3. Regarding Staff Selection Commission's query in para (2) of their reference No. 3/6/97-P&P-I; dated 21.4.98 a candidates who has studied Hindi/English or English & Hindi during a part of the Degree course is not considered to be eligible for the post of Junior Hindi Translators.

4. It is requested that on the basis of the above indicated vacancies Junior Hindi Translator's Examination for the year 1997 may be arranged to be conducted at the earliest.'

11. As the afore-mentioned letter had already been issued prior to the said advertisement, there cannot be any doubt that the respondents must have the same in their mind while laying down the qualifications.

12. The educational qualification, as stated in the advertisement, inter alia, was a Bachelor's degree with Hindi and English as main subjects which includes 'compulsory' and 'elective' subjects. The note appended to the Rule afore-mentioned could not have carried a different meaning nor the said note could have been construed to be an exception or proviso to the main provision.

13. In Andhra Pradesh State Road Transport Corporation v. The State Transport Appellate Tribunal and Ors., (2001) 2 AP 1, a Full Bench of the Andhra Pradesh

High Court has noticed thus:

'24. The meaning of 'note' as per P. Ramanatha Aiyar's Law Lexicon, 1997 Edition is 'a brief statement of particulars of some fact', a passage or Explanationn. 'Explanation' has various functions. In S. Sundaram v. R. Pattabhiraman (AIR 1985 252) it has been held:

'Thus, from a conspectus of the authorities referred to above, it is manifest that the object of an Explanationn to a statutory provision is-

(a) to explain the meaning and intendment of the Act itself

(b) where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to subserve,

(c) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful,

(d) an Explanationn cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanationn, in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intendment of the enactment, and

(e) it cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming an hindrance in the interpretation of the same.'

25. It is, thereforee, evident that the note (2) appended to G.O.Ms. No. 179 dated 28.6.1990 that the scheme shall not affect the existing town services operating on the notified routes is merely clarificatory in nature which was appended so as to obviate the difficulties that may be faced by the existing town services operating on the notified routes but the same cannot be itself take away the statutory right with which any person under a statute has been clothed nor it can interfere with or change the enactment or any part of the statute.'

14. The note, thereforee, was merely an explanatory in nature and thereby the rigor of the main provision was not diluted.

15. Furthermore, the dictionary meaning of the word 'subsidiary' may cannot different meanings in different contexts. The said word as defined in Webster's New 20th Century Dictionary, Unbridged would mean:

' Subsidiary, a. 1. Acting as a supplement; giving aid, support, service, etc.; auxiliary, especially in a secondary or subordinate capacity.

2. Relating or pertaining to a subsidy; found on a or connected with a subsidy or subsidies; as, a subsidiary treaty.

Thus, it may mean 'acting as a supplement'.

16. As noticed hereinbefore, the essential educational qualification, inter alia, was a Bachelor's degree with Hindi and English as the main subjects. When the subject of Hindi carrying 300 marks was available, if the petitioner on his own choice had opted for a subject carrying 100 marks, the same, in our opinion, would not fulfill the eligibility criteria.

17. Furthermore, it is not a case where the respondents can be said to be guilty of an arbitrary action. They had passed the impugned order having regard to the directions of the Central Government. Thus, it cannot be said that any arbitrariness is attached with the action of the respondents and on that ground the impugned order cannot be quashed.

18. For the reasons afore-mentioned, we are of the opinion that no case has been made out for interfering with the impugned judgment of the Tribunal. This writ petition is, thereforee, dismissed with no orders as to costs.

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