

Rajasthan High Court Non-gazetted Ministerial Staff Association Through Its President Vs. the Registrar General, Rajasthan High Court of Judicature for Rajasthan and ors.

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Court : Rajasthan

Decided On : Jan-07-2010

Judge : Prakash Tatia and; Deo Narayan Thanvi, JJ.

Appellant : Rajasthan High Court Non-gazetted Ministerial Staff Association Through Its President

Respondent : The Registrar General, Rajasthan High Court of Judicature for Rajasthan and ors.

Disposition : Petition dismissed

Judgement :

Prakash Tatia, J.

1. The petitioner Rajasthan High Court Non-Gazetted Ministerial Staff Association, Jodhpur has preferred this writ petition to challenge the order dated 8.9.2009 (Annex.7) of Hon'ble the Chief Justice amending the one of eligibility criteria for recruitment of translators in High Court and notification dated 17.9.2009 inviting applications for recruitment of translators from amongst the Judicial Assistants and Junior Judicial Assistants having three years experience in the establishment of

Rajasthan High Court and who possesses qualification of M.A. (English Literature).

2. Earlier for recruitment for the post of translators, Rules were framed in the year 2002 which are Rajasthan High Court Staff Service Rules, 2002. Relevant Rule 5 of the Rules of 2002 is as under:

(5) TRANSLATORS (ORDINARY SCALE). Recruitment to the post of Translator (Ordinary Scale) shall be made on the recommendation of a Committee nominated by the Appointing Authority on the criteria of selection from amongst the graduate Upper Division Clerks or officials in equivalent or above grade but below the grade of Translators (Ordinary Scale), with Hindi or English Literature as one of the optional subject in Graduation or Lower Division Clerks with Hindi and English Literature as subject in Post Graduation and having minimum experience of five years.

Competitive Examination- A qualifying examination shall be held to test the ability of the candidates of translation from English to Hindi and Hindi to English.

Paper-I English to Hindi Translation 100 marks

Paper-II Hindi to English Translation 100 marks

Explanation: For the qualifying examination the official appearing shall be given passage for translation from English to Hindi and Hindi to English from the judgment and records.

Personal There shall be personal interview 50 marks Interview

Note: A candidate who secures in aggregate 75% marks and minimum 60% marks in each paper shall only be called for interview.

Duration Each paper shall be duration of of paper two hours

3. Thereafter, the matter was re-considered and the Rules Committee was constituted for this purpose by the order of the Hon'ble Chief Justice and the Rules Committee recommended the amendment in the rule which was accepted and

duly published and came into force. The relevant rule of 2004 for the purpose of recruitment of translator is as under:

2. The method of recruitment of Translators (Ordinary Scale) Part-I-A(5) is substituted by the following:

(5) TRANSLATORS (ORDINARY SCALE), Recruitment shall be made from amongst the Judicial Assistants or Junior Judicial Assistants having experience of 3 years by holding a test in English and Hindi translation. Candidates shall be given passage in English from the judgments and record and shall be asked to translate them into Hindi. Similarly passage in Hindi from the records or from some other books etc shall be given and the candidates shall be asked to translate them into English.

Minimum qualification shall be graduate. Preference shall be given to a Law Graduate.

4. According to the petitioners, the intention behind prescribing lower qualification for the post of Translator of Graduation was that a requisite number of candidates were not available amongst the ministerial service staff of the qualification prescribed earlier. Further the intention could be gathered that the earlier qualification prescribed being Post Graduate in English Literature was having no nexus with the work to be done by the Translator. The work to be done by the Translator is to translate the judgments/orders of the trial court from Hindi to English or vice-versa and by no stretch of imagination require any qualification like that of Post Graduation in English Literature for simple reason that the Post Graduation in English Literature is having no nexus with work sought to be executed by the Translators and according to the petitioner, the person having subject of Hindi and English at the Graduation level could well hold the post of Translator. It is also submitted that after considering all relevant facts and material, the Rules Committee constituted by the order of the Hon'ble Chief Justice recommended in the year 2002 for recruitment of Translators, from M.A. (English Literature) to simple Graduation.

5. However, by Notice dated 16.5.2009(Annex. 5) issued by the Registrar (Adm.), Rajasthan High Court, Jodhpur, applications were invited from amongst the ministerial staff of the Rajasthan High Court possessing M.A. English Literature and who are holding the post below Translator for recruitment to the post of Translator. The petitioner submitted that said Notice dated 16.5.2009 was contrary to the Rules of 2004 as the eligibility criteria under the amended Rules of 2004 was qualification of Graduation only, whereas by Notice dated 16.5.2009, applications were invited from the candidates possessing the M.A.(English Literature). In that situation, a representation was submitted by the large number of staff of the Rajasthan High Court to the Hon'ble Chief Justice, copy of which is placed on record as Annex.6, which is dated 22.5.2009. Accordingly to the petitioner, immediately after that, without considering any material facts, the impugned order dated 8.9.2009 was issued enhancing minimum qualification for recruitment to the post of Translator from Graduation to Post-Graduation in English Literature.

6. The learned Counsel for the petitioner submitted that no reasons are assigned by the respondents while passing the order dated 8.9.2009 enhancing the minimum qualification from Graduation to Post-Graduation in English Literature. It is submitted that in the amended Rule of 2004, sufficient care has been taken that suitable candidates be selected for the post of Translators and, therefore, in addition to minimum qualification, preference shall be given to Law Graduate and, as many as 250 employees in the ministerial staff are of qualification of LLB or other Post Graduate Degree and they are working efficiently on their respective posts.

7. We considered the submissions of the learned Counsel for the petitioner and we cannot subscribe to the argument of the learned Counsel for the petitioner that prescribing degree of M.A. in English Literature, has no nexus with the object to be achieved. The learned Counsel for the petitioner also could not dispute that the M.A.(English Literature) is specialized course in language, whereas the Graduation is not the specialization course in language. The Translator requires skill and command in language. It appears that the petitioner and its members confused themselves with the subject prescribed in the syllabus for the course of

M.A. (English Literature), therefore, submitted that in view of the subjects provided for the Course of M.A.(English Literature) in previous examination and in final year examination, it cannot be gathered that the person will get expertize in translation from one language to another language. At this place, they failed to appreciate that by passing specialized subject, one gets specialization in the subject and not only learns lessons prescribed for the course and from these subjects as prescribed in the syllabus for English Literature, one acquires command over the language which command helps the candidate to work in any field where language has its importance. The word 'Literature' (in Post-Graduation course) does not denote the expertization in; literally literature alone but denote the over all expertization in language and which is essentially a requirement for job of translation also. A person who has command over the language, can transcribe the text written in one language to his known another language. We cannot ignore that in the State of Rajasthan, the main language is Hindi and expertization is required in English so that one can understand English with the help of educational qualification more effectively so as to translate from Hindi to English and from English to Hindi. Be it as it may be, the graduates are not having any complete course of language and, therefore, the persons expert in language, if have been given preference over the graduates and the persons who are mere graduate has been excluded, then the impugned notification enhancing the qualification for recruitment for the post of Translator certainly has nexus with the object to be achieved.

8. We do not find any reason to accept that there was no material for passing the order dated 8.9.2009 (Annex.7). There is complete application of mind in taking decision which is apparent from the facts of the case that in the Rules of 2004 where minimum qualification of Graduation was prescribed, was changed to the qualification of Post- Graduation in language. Before that the petitioner's representation was also before the High Court, obviously before Hon'ble the Chief Justice, who pleased to amend the Rule vide Notification dated 8.9.2009. For any official act, there is presumption that it has been done after due care and application of mind, however, that can be rebutted from the facts which are required to be pleaded and proved by the person who is challenging that official act. Here in this case, the petitioner presumed that before passing the order dated

8.9.2009, the qualification prescribed for recruitment for recruitment of Translation, no material was placed before Hon'ble the Chief Justice and, therefore, the issue has not been considered objectively or subjectively. In absence of any evidence in support of that plea, an inference can be drawn from the consequences which may occur due to the decision in question. The decision in question certainly increases the qualification for competition and excludes lesser qualified persons. The subject is relevant and that has been made compulsory with higher qualification resulting into allowing more qualified persons to compete for the post in question. Therefore, this effect of notification itself suggests the application of mind and the decision suggests that the issue has been considered with objective satisfaction knowing the consequence of the decision well. The petitioner cannot succeed merely by submitting that the decision taken earlier was since taken by the Committee and was accepted, therefore, subsequent decision taken by the Hon'ble Chief Justice cannot be justified and no presumption can be drawn that on subsequent occasion, there was no material before Hon'ble the Chief justice for taking decision. The exclusion of large number of persons from competition is natural consequence of the decision when higher qualifications are prescribed as always there will be less number of higher qualified persons which will improve the quality of selected person then the employer's decision to have better person for the post is required to be accepted and further it is the employer who is the best judge to prescribe the eligibility criteria.

9. Therefore, we do not find any merit in the writ petition. Hence the writ petition of the petitioner is dismissed.

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