

(1998) 01 AHC CK 0002

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 23217 of 1996

Mohd. Malik and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 27-01-1998

Acts Referred:

Citation : (1998) 2 UPLBEC 850

Hon'ble Judges : O.P. Garg, J

Bench : Single Bench

Advocate : Irshad Ali and Ashfaq Ahmad Ansari, for the Appellant;

Final Decision : Allowed

Judgement

O.P. Garg, J.—In order to promote Urdu language and to make this language job oriented as well as to relate it with economics aspects of life, the State of Uttar Pradesh took a policy decision to provide employment to Urdu knowing persons by absorbing them on the post of Urdu Translator-cum-Junior Clerks in the various departments of the State. By letter dated 20.8.1994, which is Annexure-1 to the writ petition, as many as 5061 posts were sanctioned/created for all the departments in State of Uttar Pradesh. In the said letter, it was stipulated that one post each in all the offices of departmental heads and heads of offices, both at the divisional and district level shall be filled by a Urdu Translator/Junior Clerk subject to the restrictions, where the post of Regular Assistant Clerk in the pay scale of Rs. 1500 is lying vacant, it will be treated to have been converted as that of Urdu Translator; in case there is no vacancy, the first vacancy which may occur due to retirement, promotion or for any other reason, shall be filled by a Urdu Translator. The appointing authority of Urdu Translator was the same authority which was authorised to appoint the Clerks. It was also contemplated that all the posts of Urdu Translators shall be filled by special recruitment drive within a period of three months.

2. Subsequently another Government order dated 3.2.1995, Annexure-6 to the

writ petition, was issued by which it was directed that if there is no vacancy, appointment shall be made against the supernumerary post created for the purpose and the supernumerary post shall continue till regular vacancy is available. This aspect of the matter was clarified under the Government order dated 10.10.1995, Annexure A-5 to the writ petition.

3. In pursuance of the above Government order, the District Magistrate, Saharanpur recruited 22 candidates and appointed them as Urdu Translators as against 68 posts sanctioned for the various departments in district Saharanpur. On 5.8.1995, 46 posts of Urdu Translators were advertised and after adopting due procedure for selection, the petitioners who are 15 in number, were finally selected. But appointment letters were not Issued to them. The petitioners have come up before this Court with the prayer that respondent No. 2 be directed to appoint the petitioners as Urdu Translators against the vacancies which have been sanctioned in different departments and to make available to them all the consequential benefits permissible under the law.

4. Counter and rejoinder affidavits have been exchanged. Heard Sri Irshad AH, learned Counsel for the petitioners as well as the learned Standing Counsel. On behalf of the respondents it is stated that there are two impediments on account of which the petitioners cannot be appointed on the post of Urdu Translators. Firstly, that there is a stay order passed by the Lucknow Bench of this Court in writ petition No. 271 (ss)/1995, Manish Kumar Srivastava and Ors. v. State of U.P. and in view of this stay order further appointments cannot be made and secondly, the various departmental heads have written letters to respondent No. 2, District Magistrate, Saharanpur that there is no requirement of Urdu Translator in their department and therefore, the question of appointment of the petitioners on the post of Urdu Translator did not arise.

5. To begin with, it may be mentioned that the interim order passed by the Lucknow Bench has been stayed by a Division Bench of this Court in Special Appeal No. 83 (SB) 1996, Bhena Prakash and 11 Ors. v. Manish Kumar Srivastava and Ors. The order In the Special Appeal was passed on 19.4.1996 directing that the order passed by the learned Single Judge that the appointments made after 10.11.1997 shall cease, shall not be given effect to. In view of the order of the Division Bench of this Court in Special Appeal, the order of the learned Single Judge in writ petition No. 272/95 has become inoperative. Now the respondents cannot take the plea that the petitioners cannot be appointed on account of operation of the stay order passed in writ petition No. 272 of 1995.

6. As regards the other point raised on behalf of the respondents, it may be pointed out that in making appointment to the post of Urdu Translators, the question of requirement loses all its significance for one simple reason that in every department of the State atleast one post of Junior Clerk is to be filled by Urdu Translator. The tone and tenor of the various Government orders such as Annexures-1, 4, and 5 filed with the present writ petition is that it is incumbent

that a Urdu Translators is to be posted in every Government department with a view to promote Urdu language and to provide incentive of job to the Urdu knowing person. The Government orders, as said above, even go to the extent that" if there is no post or vacancy, the appointment of a person as Urdu Translator is to be made against a newly created supernumerary post which ultimately had to merged in the next vacancy which may occur in the department. On the basis of the various Government Orders the respondents cannot take the plea of assert that there is no requirement of the Urdu Translator. Both the pleas taken on behalf of the respondents are otiose and wide off the mark. They are wholly untenable. The result is that the respondents, of necessity, have to make appointments on the post of Urdu Translators. There is no dispute about the fact that the petitioner have been duly selected after adopting the prescribed procedure to the post of Urdu Translator. They cannot be denied the appointment for the reasons stated above. On the other hand, in view of the Government policy the petitioners have to be appointed as Urdu Translators-gum-Junior Clerks against the Vacancies which are presently existing in various departments of district Saharanpur. In case, no vacancies are in existence, the petitioners shall be appointed on the posts which shall be deemed to have been created on supernumerary basis, in the light of the Government Orders.

7. The writ petition, therefore succeeds and is allowed. Respondent No. 2 hereby commanded to immediately issued the appointment letters to the petitioners who shall be allowed to join on the post of Urdu, Translator-cum-Junior Clerks against the existing vacancies or on the supernumerary posts as has been directed by the State Government in view of the orders, copies of which are Annexures 1,4, and 5 to the writ petition.