

\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: July 17, 2013

+ **W.P.(C) 3234/2011**

NEW DELHI MUNICIPAL COUNCIL & ANR Petitioners

Represented by: Ms.Jyoti Singh, Senior Adv.
with Ms.Tinu Bajwa and
Ms.Sahilla Lamba, Advocates

versus

CHANDER LATA Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE V. KAMESWAR RAO

PRADEEP NANDRAJOG, J. (Oral)

1. Respondent Chander Lata, working as a Junior Librarian was seeking benefit of the Assures Career Progression Scheme as per which a person holding a post if not being promoted once in 12 years and for a second time within 24 years would be entitled to a financial upgradation after 12 years and 24 years.

2. As per the ACP scheme if the post was an isolation post the financial upgradation had to be in the next above pay scale and if there was a promotional post available, the financial upgradation had to be by placing the person in the pay scale of the promotional post.

3. Respondent could not earn any promotion and sought benefit of the ACP Scheme. The petitioner took the stand that the next promotional post was that of a Senior Librarian and urged that all norms had to be fulfilled by the respondent to earn the benefit of the ACP Scheme. It was pleaded that the respondent did not have the requisite educational qualifications.

4. The respondent took the stand that the post of a Junior Librarian held by her was an isolation post. On the strength of quixotic reasoning, logic whereof we just do not understand, the Tribunal pointed that the post held by the respondent was an isolation post. The reasoning of the Tribunal is in paragraph No.9 of the impugned decision dated September 14, 2012 which reads as under:

“With this admittedly the applicant was appointed as a Librarian on 18.3.1974 where the pay scale was Rs.150-320. The RRS of Junior Librarian now appended with the counter reply shows that scale of pay of the Junior Librarian as Rs.125-320. In such view of the matter, distinction in the pay scale and the pay scale in which the applicant was appointed as a Librarian, we cannot hold on its logical and rationale that the applicant was appointed as a Junior Librarian. In such view of the matter, the next promotional post is only meant for a Junior Librarian in the pay scale of Rs.1320-2040 to which the applicant does not belong to, as she was appointed in a higher scale. As such the averment made by the applicant as to holding of an isolated post which does not have promotional avenue is correct in the circumstances.”

5. So quixotic is the reasoning that we do not even attempt to re-pen the same inasmuch our re-penning would appear to be equally quixotic to a reading of our present decision.

6. However, we find that the respondent would be entitled to the benefit of the ACP Scheme treating the post of Junior Librarian as a feeder cadre post to the post of Senior Librarian i.e. the post held by her is not an isolation post, for the reason the applicable Recruitment Rule to the post of Senior Librarian shows that the post is a selection post and method of recruitment is firstly by promoting failing which by direct recruitment.

7. Pertaining to direct recruits, educational qualifications have been prescribed; being Graduate from a recognized University with Diploma in Library Science or a Bachelor Degree in Library Science. Pertaining to promotees, the applicable Recruitment Rule negates application of educational qualifications prescribed for direct recruits.

8. In other words, the respondent need not possess the educational qualifications prescribed for the direct recruits to be promoted as Senior Librarian.

9. Agreeing with the stand of the writ petitioner taken before the Tribunal that the post of Senior Librarian was the hierarchical promotional post to the post of Junior Librarian but negating the stand that since respondent did not have the requisite educational qualifications she could not get the ACP benefit, we maintain the directions issued by the Tribunal requiring the ACP benefit given to the respondent with further direction that the ACP benefit would be in the pay scale of the hierarchical post.

9. We may simply state that the ACP Scheme envisaged an *in situ* promotion if vacancy in the promotional post is not available. It was in this context that certain decisions have held that a person should

otherwise achieve not only the benchmark but other qualifications prescribed for *in situ* ACP benefit promotion in the hierarchical next above post.

10. In the instant case, as we find from the Recruitment Rules, and as we have already held, the Recruitment Rule for the post of Senior Librarian does not envisaged applicability of educational qualification for promotion.

11. The petition is disposed of correcting the impugned order as above.

12. No costs.

C.M No.6823/2011

Dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(V.KAMESWAR RAO)
JUDGE

JULY 17, 2013
km