

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

Judgment Reserved on: July 13, 2015

% *Judgment Delivered on: July 15, 2015*

+ LPA 363/2014 & CM 8277/2014

THE UNIVERSITY OF DELHI

..... Appellant

Represented by: Mr. Saurabh Banerjee and
Mr. Sumit Nagpal, Advocates.

versus

MR. PRATAP SINGH BISHT & ANR

..... Respondents

Represented by: Mr. Pankaj Sinha and Ms. Nupur
Grover, Advocates for
Respondent No.1.

AND

+ LPA 380/2014 & CMs. 8959/2014 & 10871/2014

SHRI SHAMBHU SHARAN MISHRA

..... Appellant

Represented by: Mr. P. S. Bindra and Mr. Ravi
Kumar, Advocates.

versus

SHRI PRATAP SINGH BIST & ANR

..... Respondents

Represented by: Mr. Pankaj Sinha and Ms. Nupur
Grover, Advocates for
Respondent No.1.

Mr. Saurabh Banerjee and
Mr. Sumit Nagpal, Advocates
for Respondent No.2.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J.

1. Pratap Singh Bist, respondent No.1 herein filed a writ petition being WP(C) No.1387/2012 *inter alia* seeking setting aside of the appointment of

Shambhu Sharan Mishra, the appellant in LPA No.380/2014 as Assistant Director and a direction to appoint him as Assistant Director. The said writ petition was allowed vide the impugned order dated 1st April, 2014 quashing the appointment of Shambhu Sharan and directing appointment of Pratap Singh as Assistant Director of Directorate of Hindi Medium Implementation (DHMI), University of Delhi. Hence the two appeals before this Court one by Shambhu Sharan and other LPA bearing No.363/2014 by University of Delhi.

2. Learned Single Judge held that the issue before it was that despite the availability of Pratap Singh, a candidate who fulfilled all essential eligibility criteria, appointment could have been given to Shambhu Sharan after relaxing the eligibility criteria.

3. Applications were invited by the University of Delhi vide advertisement dated 31st May, 2011 for the post of Assistant Registrar, DHMI and the advertisement clarified that application form and details regarding qualifications can be obtained from Room No.205, New Administrative Block, University of Delhi and the same are also available at the University Website www.du.ac.in. The eligibility criteria laid down for the post of Assistant Director, DHMI under VH category as both the candidates i.e. Pratap Singh and Shambhu Sharan were visually handicapped is as under:-

“ESSENTIAL REQUIREMENTS

- (a). *A master's degree in Hindi or English or Sanskrit or any of the social science subjects with adequate knowledge of English and Hindi with atleast 55% marks or an equivalent*

grade of B in the seven point scale with letter O,A,B.C.D,E & F. (5% relaxation for SC/ST/PWD category).

- (b) *At least three years teaching experience or research work relating to the field of promotion of Hindi language/high standard translation/book publishing work in Hindi.*

It is however, pertinent to note here that the essential requirement (b) i.e. 3 years experience can be relaxed to deserving PWD candidates as per Govt. of India instructions.

- (c) *AGE LIMIT: 45 years.*

DESIRABILITY

- a. *M. Phil or Ph.D. with relevant published work.*
- b. *Experience in book promotion, printing and publication in promotion of Hindi language for higher education.”*

4. The comparative chart of educational qualifications and marks obtained of Pratap Singh and Shambhu Sharan is as under:-

1.	Pratap Singh Bist	B.A. (H.) M.A. (HISTORY) B.Ed.	1993 1997 1994	III Div. II Div. II Div.	49% 52% 48%	Delhi CCSU, Meerut CCSU, Meerut	Presently working as TGT in Directorate in Education since 20.01.1997
2.	Shambhu Sharan Mishra	B.SC. M.A.(Labour & Social Welfare) B.Ed.	1990 1993 1994	I I	57.3% 61% 63%	Ranchi Patna Patna	Two years experience as Resource Teacher in National Association for the Blind from July, 2000 to 17 th Nov. 2002.

5. Learned Single Judge vide the impugned judgment held that Pratap Singh possessed all the requisite qualifications and in view of the availability of a candidate duly qualified possessing all essential qualifications, the University of Delhi could not have considered and appointed Shambhu Sharan by giving him relaxation in the experience. Pursuant to the advertisement dated 31st May, 2011, three applications were received all in VH category as the advertisement was issued specifically for the VH category. However the screening committee shortlisted only two candidates i.e. Pratap Singh and Shambhu Sharan. Learned Single Judge held that Shambhu Sharan was awarded 61% marks in his Masters i.e. M.A. (Labour & Social Welfare) which was above 55% marks or equivalent Grade of B whereas in case of Pratap Singh he had passed out his MA (History) with 52% marks and thus a relaxation of 5% marks in Masters was given and only thereafter his aggregate arose beyond 55% marks.

6. Learned Single Judge grossly erred in coming to the conclusion that the University of Delhi granted him relaxation of 5% of marks to Pratap Singh. As a matter of fact the eligibility requirement of a candidate who is from SC/ST/PWD category is 55% - 5% i.e. 50% marks. A bare reading of the essential requirement would show that 50% marks was the requirement for appointment to the post of Assistant Director in case of SC/ST/PWD candidates.

7. Learned Single Judge also noted that Pratap Singh had experience of teaching as TGT for a period of more than 3 years i.e. since January 20, 1997 till October 11, 2011 whereas Shambhu Sharan had experience of

teaching as a resource person in the National Association for the Blind. Though learned counsel for the Pratap Singh has stressed on the fact that the experience of Shambhu Sharan is less than 3 years, learned counsel for Shambhu Sharan urged that the experience of Pratap Singh as TGT was in a school whereas that of Shambhu Sharan is in the University. We find merit in the contention of learned counsel for the appellant that even if Pratap Singh has experience of more than 3 years but the same is in the school teaching as TGT whereas the experience of Shambhu Sharan was 2 years in the University and thus granted him relaxation of one year. Both the candidates being not eligible on this count the University committed no error in granting relaxation of 1 year for teaching in University which was duly provided in the essential requirements i.e. 3 years experience can be relaxed for deserving PWD candidates as per Govt. of India instructions.

8. In light of the position aforesaid, we find force in the stand of University of Delhi in its counter affidavit that the expert Selection Committee while assessing the comparative merit of the candidates found Shambhu Sharan far more meritorious than Pratap Singh and thus relaxed the requirement of having 3 years experience in promotion of Hindi Language for higher education. The selection committee also noted that Shambhu Sharan had secured much better marks in graduation and post graduation than Pratap Singh.

9. It is well settled that the decision of the expert body should not be interfered in writ jurisdiction lightly unless the same suffers from gross illegality, arbitrariness or is mala fide. (*See AIR 2013 SC 141 Sajeesh Babu Vs. N.K. Santhosh & Ors.*).

10. Consequently, the appeals are allowed setting aside the impugned judgment dated 1st April, 2014 passed in WP(C) No.1387/2012. Appeals and applications are disposed off.

(MUKTA GUPTA)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

JULY 15, 2015
‘v mittal’