

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

+ **W.P.(C) No.2674/2016**

% **1st December, 2016**

NAMITA SINGH Petitioner

Through: Mr. Amit Singh, Advocate with Ms.
Chandini Mehra, Advocate and Mr.
Suman Kumar, Advocate.

versus

UNIVERSITY OF DELHI & ANR. Respondents

Through: Mr. Mohinder J.S. Rupal, Advocate
with Ms. Simran Jeet, Advocate for
respondent No.1.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, the petitioner questions the actions of the respondent no.2/college whereby the respondent no.2/college claims that the petitioner has not been appointed to the post of Assistant Professor (History) with the respondent no.2/college.

2(i) Petitioner pursuant to the advertisements issued by the respondent no.2/college dated 4.2.2014 and 14-21.2.2014 applied for one of the post in the advertisement being the post of Assistant Professor (History). Petitioner after selection by the Selection Committee was given an offer of

appointment for the post of Assistant Professor (History) in terms of letter dated 5.8.2015 of the respondent no. 2/college, and which letter reads as under :-

“SHYAMA PRASAD MUKHERJI COLLEGE (For Women)

(University of Delhi)

PUNJABI BAGH (West), New Delhi-110026

Ref. No. SPMC/APPtt/2015/529

Dated: 5/8/2015

Ms. Namita Singh
E-88, 1st Floor Kirti Nagar
New Delhi-110015
Mobile-9711749306

Dear Sir/Madam,

I am pleased to inform you that on the recommendation of a duly constituted selection committee, it has been decided **to offer you** an appointment as Assistant Professor in the Department of History under general category in this college **on the following terms and conditions** subject to the approval of the Governing Body of the college and subject to the University of Delhi recognizing you as a teacher of the University.

1. You will be on probation for a period of one year w.e.f. the date of your joining the appointment and this probationary period may further be extended by not more than 12 months by the Governing Body.
2. You will receive an initial pay of Rs.15600 + Rs.6000 AGP p.m. in the pay band of Rs.15600-39100 + Rs.6000 AGP. In addition to pay, you will receive DA, CCA & HRA according to the rules in force in the Delhi University from time to time.
3. On confirmation, you will be entitled to contribute towards NPS-2004 as applicable for Delhi University and its college's employees from time to time.
4. You will be expected to do teaching and research work as may be assigned to you from time to time.
5. In all matters relating to leave and conditions of service, you will be governed by the Ordinance and the Rules in force in the Delhi University from time to time.

6. You will be required to enter into an Agreement of Service with the College Governing Body. A copy of the form of Agreement of service can be obtained from the office.

7. Your appointment is subject to your being found medically fit for which you are required to produce a Fitness Certificate from CMO of the WUS Health Centre, University of Delhi or Professor/Associate Professor/Asstt. Professor of any of the Medical Colleges.

8. The appointment is further subject to verification of your qualifications etc. as mentioned in your application.

9. If you have not qualified NET examination and the appointment is offered to you on the basis of Ph.D degree you are required to submit a certificate from the University from where you had been awarded Ph.D. degree that you fulfill all conditions as laid down by UGC under Regulation 2009.

If the offer of appointment, under the above terms & conditions is acceptable to you, you are requested to submit your original certificates/testimonials to the office immediately.

Yours faithfully

Sd/-
Principal

Copy for information to:

1. Section Officer (A/Cs)
2. Librarian.” (underlining added)

(ii) Para 8 of the aforesaid offer letter dated 5.8.2015 makes it clear that the appointment of the petitioner is subject to verification of petitioner's qualifications as mentioned in the petitioner's application.

3. The case of the petitioner is that she joined the respondent no.2/college, but, the respondent no.2/college put on the notice board a notice dated 14.10.2015 stating that petitioner's entry into the college is banned because she was not appointed to the respondent no.2/college. This notice dated 14.10.2015 reads as under:

“ SHYAMA PRASAD MUKHERJI COLLEGE (For Women)

(University of Delhi)

PUNJABI BAGH (West), New Delhi-110026

Ref. No. SPMC/2015/841

Dated 14/10/2015

OFFICE ORDER

Ms. Namita Singh r/o E-88, First Floor, Kirti Nagar, New Delhi-110015, was never appointed in this college and her entry in the institution amounts to trespassing and unauthorized. Her entry in the college is banned and prohibited. She cannot enter in the institution for any purpose without the written permission of the undersigned. This has to be followed strictly.

Sd/-
PRINCIPAL

Copy to

1. Attendant Staff Room
2. Care Takers
3. Chowkidars”

Phone: 25224499
Fax: 25221672

4. A similar notice dated 14.10.2015 was also issued to petitioner on account of petitioner unauthorizedly entering into the staff council meeting on 13.10.2015 and this communication reads as under:-

“ SHYAMA PRASAD MUKHERJI COLLEGE (For Women)

(University of Delhi)

PUNJABI BAGH (West), New Delhi-110026

Ref. No.SPMC/2015/847

Dated 14/10/2015

Ms. Namita Singh
E-88, First Floor, Kirti Nagar,
New Delhi-110015.

You took an unauthorized entry in the Staff Council meeting held on 13th October 2015 in Hall II and put your name and signature on the official document of members present list. This act on your part amounts to trespassing and an act of mischief and deception, which is not expected from an educated person like you. This action calls for further strict legal action, however taking

a lenient view; you are strictly warned against such activities. This is in your interest. Your entry in the college is banned and prohibited.

Sd/-
PRINCIPAL”

5. Petitioner had by her earlier letter dated 11.10.2015 asked the respondent no.2/college to issue her the appointment letter, i.e the petitioner admitted that the final letter of appointment was not issued, and this letter dated 11.10.2015 reads as under:

“Principal
Shyama Prasad Mukherji College,
University of Delhi,
Punjabi Bagh,
New Delhi-110026

Date: 11th October, 2015
Subject: Re: Release of Salary

Dear Ma’am

This is in consequence to the reply (bearing “Ref. No. SPMC/2015/759” dated 22/09/2015) to my letter to you dated 17th September 2015. The said reply stated that offer letter issued to me by the college was subject to verification of my qualifications/certificates and fulfilling other conditions.

I humbly request you to please complete the verification of my qualifications/certificates along with other condition as soon as possible and issue me the Appointment letter and salary as I had joined the college on 10th August by completing all necessary procedures and have been reporting to duty every day since then. The delay is unnecessary as the same procedure has been duly completed with others who joined with me.

Ma’am, please try to understand that Delhi is an expensive city and survival costs involved are very high. Please take required steps and complete related steps as soon as possible.

With due regards

Sd/-
Namita Singh
Assistant Professor
Shyama Prasad Mukherji College,

University of Delhi,
Punjabi Bagh,
New Delhi-110026

Residence at
E-88, First Floor
Kirti Nagar,
New Delhi
Delhi
Contact-9711749306”

(underlining added)

6. Respondent no.2/college contends that the petitioner was not eligible for being appointed as an Assistant Professor (History) in the respondent no.2/college because the petitioner's scores which were calculated by the Screening Committee as per the application submitted by the petitioner for calling her for the selection process including the interview was on the basis that the petitioner received 61 marks as per the guidelines of respondent no.1/University of Delhi, but the petitioner was wrongly marked by the Screening Committee to have 61 marks whereas petitioner should only get 51 marks because the petitioner was wrongly given 10 marks for the M. Phil qualification as in the application petitioner had filled in a column that petitioner was having M. Phil qualification. It is the case of the respondent no.2/college that as per the guidelines issued by the University of Delhi dated 13.10.2015, a person can be called for the interview for the post of an Assistant Professor (History) only if the candidate scores a minimum of 60 marks as per the system of marking given

in this circular dated 13.10.2015, and once out of the 61 marks allotted to the petitioner, 10 marks wrongly given with respect to M. Phil. qualification are removed, then the petitioner would only get 51 marks and hence the petitioner was disqualified even to be called for the interview what to talk of her selection. The relevant Rule 7 and the assessment sheet handed over to the court by the respondents during the course of the argument as to how petitioner was wrongly given 61 marks read as under :-

“7. For appointment in the Colleges, all candidates securing 60 points and above shall be called for interview for posts of Assistant Professors. A minimum of 50 candidates for the first vacancy and 20 candidates for every additional vacancy shall be called for interview in order of their ranks in the list prepared by the Screening Committee on the basis of points scored by the candidates. In case the minimum number of candidates as specified above is not available, the benchmark of 60 points may be progressively lowered as required, until the minimum eligibility as specified in Ordinance XXIV is reached so that this minimum number of candidates shall be called for interview.

Shyama Prasad Mukherji College

ASSESSMENT SHEET FOR APPOINTMENT OF PERMANENT FACULTY
Points are to be filled as per University of Delhi (DU) Notification

Name in Full: Namita Singh

Academic Qualifications:

Examinations	Year	Subjects	Division/Grade	University	Points
Bachelor's Degree	2007	History	III	DU	--
Master's Degree	2010	Medieval History	I	DU	16
M. Phil.	2011	Turkish Eco		DU	10

Ph. D.	Date of award	Date of Registration	Thesis Title	University	Points
Other Distinctions					
Total Points on basis of Academic Qualification(S.No.2)					26

* Year refer to the award of Degree.

3. (a) Whether qualified UGC/CSIR-NET/SLET/SET: Yes ☒ No ☐

(b) Whether qualified NET with JRF: Yes ☐ No ☐

Total Points on basis of S. No.3: 07

4. Teaching Experience:

S. No.	Name of the University/College /Institution	Designation and Scale of Pay	Nature of Appointment (Ad-hoc/Temporary/Permanent)	Class Taught		Period		Points (Max. 20 points)
				Under-Graduate	Post-Graduate	From	to	
1.	Shivaji College		Ad hoc			24/7/13	10/9/13	3
2.	Satyawati		Ad hoc			10/9/13	Till	
Total Teaching Experience Yr.....M.....9.....Days.....				Total Points of the basis of Teaching Experience (S. No.4)				03

5. Provide a complete list of publications with full bibliographic details, ISSN/ISBN number and impact factor of journals. If available (Books authored/edited, chapter in books, research papers in journals, conference proceedings or book review or popular article in relevant area).

S. No.	Publication Category	Publication Type	Max. Points (25)
i	Research paper/Review Article/Conference proceeding	Recognized and Reputed referred Journal with ISBN/ISSN	5X5 = 25
		Conference proceeding as full length papers, etc. (abstracts not to be included in related area/subject)	
ii	Books Authored	Subject Books (in related area/subject) by International / National level publishers/State and Central Govt. Publication with ISBN/ISSN numbers	
iii	Books Edited	Edited Books/Journals (in related area/subject) by International / National level publishers/State and Central Govt. Publication with ISBN/ISSN numbers	
iv	Chapter(s) in books	Chapters in books (in related area/subject) by International/ National level publishers/State and Central Govt. Publication with ISBN/ISSN numbers (Chapter(s) in self-edited book should not be considered)	
v.	Books/Articles translated and published	Books/Articles translated and published by International/National level publishers/State and Central Govt. Publication with ISBN/ISSN numbers	
vi	Books review/Popular article/Newspaper article (in related subject)	Books review/ popular article in newsletter of learned bodies /societies/ Newspaper article (all in related area/subject)	
		Total Points on basis of S. No.5	25

Total Points as per DU Notification(2+3+4+5)	33+3=36+25+ 61
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Signature”

7. The marks obtained by the petitioner for her educational qualifications which have been wrongly calculated at 61 of the petitioner had to be in terms of the guidelines of the University of Delhi dated 13.10.2015 and the relevant para with respect to marking of candidates for the post of Assistant Professor (History) is as under:-

“(I)(b) Academic Qualifications for Colleges-Maximum 55 points

S. No.	Examination	Category-I(60%)	Category II(>50% but <60%)
1.	Under Graduate	12	9
2.	Post Graduate	16	12(55% eligibility)
3.	M.Phil/PG Degree in Professional Courses such as LLM, M. Tech, M.V.Sc., M.D.(in relevant subject)	10*	
4.	Ph. D.	17*	
5.	NET/NET-JRF	7/10	

8. When we compare the marks given to the petitioner of 26 + 7 with respect to educational qualifications, it is seen that out of 26 marks 10 marks have been allotted to the petitioner for having an M. Phil degree. Once these 10 marks are removed with respect to M. Phil qualifications, petitioner will only get 16 marks resulting in the petitioner not having marks above minimum marks of 60%. It may be noted that the petitioner has not been given any marks in the assessment for her graduation degree because

petitioner passed the graduation course only in 3rd division, because as per the marking paragraphs of the guidelines dated 13.10.2015, marks are only given for graduation degree if the candidate has more than 50% marks while obtaining graduation degree. Therefore, it is seen that while the requirement of the candidate has to be at least 60 marks for being called to the interview, petitioner actually had only 51 marks, and therefore, could not have been even called for the interview and hence the petitioner could not even have been selected and appointed to the post in question.

9. The petitioner in her rejoinder affidavit claims that the petitioner as per the marking in terms of circular of the University of Delhi dated 13.10.2015, she must get 57 marks, but, no basis is given as to how petitioner will get 57 marks, and which 57 marks as calculated by the petitioner is *ex facie* incorrect because the marks given to the petitioner by the Screening Committee has already been reproduced above in the form of a chart as to how the petitioner had got 61 marks, and which wrongly includes 10 marks for the M. Phil qualification of the petitioner and thus petitioner's marks must be assessed correctly only as 51. Even for the sake of argument, if we take the stand of the petitioner as correct that she receives 57 marks, then, even on this admission, petitioner was disqualified for appointment for being called in the interview because 57 marks are less than 60 marks and which 60 marks are the minimum cut off marks for being

called for interview and thereafter for appointment to the post in question. Therefore, looking at it from any angle, the petitioner did not have the necessary eligibility criteria for being appointed to the post of Assistant Professor (History).

10. Learned counsel for the petitioner sought to place reliance upon paras 8 and 10 of the Guidelines of the University of Delhi dated 13.10.2015 to argue that the marks given by the Screening Committee should be taken as final, but, surely the paragraphs 8 and 10 relied upon by the petitioner would only apply if there is not found to be any error or mistake in the calculation and giving of marks, but once, there is found an *ex facie* error in calculation and giving of marks, paras 8 and 10 will not help the petitioner because otherwise it would mean that completely wrong calculation given by the Screening Committee would become final and binding for all times having effect of appointment of ineligible candidates to the post in question.

11. In view of the above, the reliefs prayed for in the writ petition for appointment to be granted to the petitioner to the post of Assistant Professor (History) to the respondent no. 2/college cannot be granted, and therefore, other consequential reliefs, as prayed for in the writ petition, cannot be granted. Petitioner did not meet the eligibility criteria for being called to the interview and consequent appointment to the post in question

and which process was done under a mistake and on realizing of which mistake, the petitioner's offer of appointment was recalled.

12. In view of the above, there is no merit in this writ petition and the same is therefore dismissed, leaving the parties to bear their own costs.

DECEMBER 01, 2016
godara/Ne

VALMIKI J. MEHTA, J

