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

+ W.P.(C) 3716/2016, C.M. No. 15835/2016 (*directions*)

DANISH JAMAL

..... Petitioner

Through: Mr. Samdarshi Sanjay, Advocate

versus

UNION PUBLIC SERVICE  
COMMISSION & ANR

..... Respondents

Through: Mr. Naresh Kaushik with Mr.Devik  
Singh, Adv. for R1/UPSC  
Mr. Vikram Jetley, CGSC with  
Mr.Santosh Prasad, Adv.for R2/IOI

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

**13.09.2017**

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1. The Petitioner has preferred the present petition aggrieved by the order dated 23.02.2016 passed by the Central Administrative Tribunal in Original Application No.520/2014, whereby the said Original Application preferred by the Petitioner has been dismissed. The Petitioner had approached the Tribunal since he was aggrieved by the rejection of his candidature for the post of Public Prosecutor in the Central Bureau of Investigation (for short 'CBI'). 85 posts of Public Prosecutors were advertised by the Respondent No.1/UPSC for the requirement of the CBI. The essential qualification for the post was a Degree in Law from a recognized university with seven years experience of practice at the Bar in

conducting criminal cases. The candidates were required to submit an experience certificate in the following manner:

FORM-III  
Experience Certificate  
(For experience at Bar for Advocates)  
Letter Head of the Institution/Issuing Authority

Telephone no. ....

Fax No. ....

Name of Organization

Address of the Organization

Dated: ....

This is to certify that Shri/Ms.....(Registration No.....), S/o, D/o, W/o Shri .....has been practicing/practiced as an Advocate dealing with criminal/civil cases from ..... to ..... in the CAT/Session/Court/High Court/Supreme Court at .....

2. It is certified that above facts and figures are true and based on service records available in our organization/ Department/Ministry.

Signature

Name of competent authority

Stamp of competent authority”

2. The certificate produced by the Petitioner, as translated, is as follows:

“District Bar Association Allahabad

Experience Certificate

This is to certify that Sh. Danish Jamal S/o Late Abdul Wahid Registration No. UP07418/2003 as an Advocate is practicing in the Allahabad District Court since the year 2003.

I wish him a bright future.

Sd/-  
President  
22.10.2012  
District Bar Association  
Allahabad  
Seal

Counter signed  
Sd/-  
District Judge, Allahabad  
Seal”

3. The Petitioner’s candidature was rejected by the UPSC on the ground that he was lacking essential qualifications inasmuch as the experience certificate submitted by him did not specify his having experience in handling criminal cases.
4. The Petitioner, therefore, approached the Tribunal challenging the rejection of his candidature. Vide the impugned order, the Tribunal did not accept the Petitioner’s contention that the experience certificate issued by the District Bar Association, Allahabad substantially met the requirements prescribed in the advertisement since the said certificate did not specifically certify that the Petitioner had practiced as an advocate dealing with criminal cases.
5. The submission of learned counsel for the Petitioner is that the Bar Association would only certify as to whether an advocate has been in practice in the concerned court. He submits that in his application which was submitted online, the Petitioner had indicated that his primary area of practice was on the criminal side. According to the Petitioner, the self-declaration coupled with the certificate issued by the District Bar

Association, Allahabad which was also countersigned by the District Judge, Allahabad, sufficiently met the requirement laid down by the Respondent/UPSC in its advertisement.

6. On the other hand, Mr. Kaushik, learned counsel for the Respondent/UPSC submits that it has received hundreds of applications along with experience certificates in the format prescribed in the advertisement. He submits that the candidates called for interview had obtained specific certificates from the concerned Bar Associations stating that they were practicing on the criminal side, i.e., dealing with criminal cases or stating that they were practicing in the Sessions Court and in the Courts of Chief Metropolitan Magistrates. Mr. Kaushik further submits that there were many other applicants who did not submit the requisite certificate in the format desired by the Respondent and whose candidature, like that of the Petitioner, was rejected. If the Petitioner were to be allowed to participate in the selection process despite his certificate not being in the desired format, the other candidates would also have to be considered.

7. Having heard the learned counsels, we are not inclined to interfere with the impugned order. Once the recruiting agency has specifically laid down the format in which the experience certificate should be obtained and submitted, the said requirement cannot be relaxed. The experience certificate produced by the candidates should meet the requirement of experience that the recruiting agency is looking for. The post in question is that of a public prosecutor. The job of the public prosecutor is to prosecute and defend cases on behalf of the CBI in criminal courts as the CBI, it is well known, is mainly concerned with criminal cases. It is for this reason

that the CBI requires advocates with seven years experience in dealing with criminal cases. Since a large number of other candidates are stated to have submitted the experience certificates in the format as desired by the Respondent, it cannot be said that the Petitioner could not have submitted a similar certificate. In this light, the certificate produced by the Petitioner will not come to his rescue.

8. At the same time, we may also observe that the requirement of submission of an experience certificate, as laid down in the advertisement in question, itself appears to be rather unsatisfactory manner of determining whether the candidate has actually practiced on the criminal side and has experience of seven years of handling criminal cases. Since practice in a court of law is a matter of record, inasmuch, as, the appearance of an advocate who practices in courts, would be recorded in the order sheets, a more reliable method of establishing experience would be to require the candidates to provide certified copies of orders passed by the concerned courts in the cases attended/argued by the candidates. That would be a more authentic and reliable piece of evidence of proof of practice on the criminal side. It is informed by Mr. Kaushik, on instructions, that corrective steps in this regard are already underway.

9. With the aforesaid observations, the present writ petition along with the application for stay stand disposed of.

**VIPIN SANGHI, J**

**REKHA PALLI, J**

SEPTEMBER 13, 2017/pk