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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6131/2017

**DELHI SUBORDINATE SERVICE SELECTION BOARD AND
ORS**

..... Petitioners

Through: Mr.Sumit K. Batra, Advocate with
Mr.Parveen Sharma, Head Clerk,
DSSSB.

versus

VIJETA KUNDU AND ORS

..... Respondents

Through: Ms. Eshna Kumar & Mr.Ajesh Luthra
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **25.09.2017**

Caveat No.652/2017

Since counsel for the Caveator appears, the caveat stands discharged.

CM No.25470/2017

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 6131/2017 & CM No.25469/2017

Learned counsel for the petitioner has tendered in Court an affidavit sworn by Mr.Manish Jain, Deputy Secretary (CC-I), DSSSB, sworn in compliance of the order dated 12.09.2017.

We may observe that the affidavit has wrongly mentioned the date as 14.02.2017. The same is taken on record.

We have heard learned counsel for the parties.

The petitioner-DSSSB assails the common order dated 23.12.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in three Original Applications including OA No.1131/2016 preferred by the respondent herein. The Tribunal has, by the said common order, allowed the Original Application and set aside the orders whereby the candidature of the respondent has been rejected in respect of the post advertised by the petitioner of Librarian in the Directorate of Education advertised vide Advertisement No.01/13 which was assigned Post Code No.2/13. The Tribunal has also directed to consider the respondent for the said post if otherwise eligible. The petitioner came out with the aforesaid advertisement seeking to recruit candidates to the post of Librarian in the Directorate of Education. The essential qualifications prescribed in the said advertisement were as follows:-

“Essential Qualification: (i) Degree from a recognized University or equivalent. (ii) Bachelor’s Degree or equivalent Diploma in Library Science from a recognized university/institute or equivalent. (iii) Experience of two years in a Library/Computerization of a library or one year certificate in Computer application from a recognized institute or equivalent.”

The respondent made her application against the said advertisement. The petitioner conducted a common examination in respect of posts advertised vide Advertisement No.1/13 as well as in respect of an earlier advertisement No.02/10 for the same post wherein the same eligibility criteria had been prescribed. The respondent participated in the examination. She disclosed her educational qualification as follows:-

"Educational Qualification	Institute/University
B.Com (Hons) 2010	University of Delhi

(Studied 'Introduction to Computer & Information System' as a subject in first year of graduation).

Bachelor of Library and Information Science 2011	Kurukshetra University
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Master of Library and Information Science 2012	Kurukshetra University
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One year Professional Diploma in Multi-skilled Development in 2011 from F-TEC Computer Education Centre. F-TEC Skill Development is an approved training Partner of National Skill Development Corporation (NSDC) FOR THE FINANCIAL YEAR 2015-16."

The respondent was called for checking her documents, since she met the cut off marks reserved for the said post. However, the

petitioner rejected the respondent's candidature on the ground that she did not fulfil the qualification in respect of the computer course criteria as per the Recruitment Rules. The issue that arose before the Tribunal was in respect of third criteria fixed in the advertisement which reads:-

- 1) Degree from a recognized university or equivalent.
- 2) Bachelor's degree or equivalent diploma in Library Science from a Recognised University/Institute or equivalent.
- 3) Experience of two years in a Library/Computerization of a Library or **one year certificate in computer application from a recognized institute or equivalent.**

According to the petitioner, the respondent did not have the one year certificate in computer application from a recognized institution or equivalent which was the alternate prescribed to the experience of two years in library/computerisation of a library. The issue that arose before the Tribunal was as to what the petitioner means by 'recognised institute'. The Tribunal relied upon its earlier order in OA No.2638/2011 along with other original applications decided on 09.01.2012 wherein the same issue had earlier arisen. In the said decision, the Tribunal had observed as follows:-

“8. After detailed hearing, the only issue which has emerged is whether the certificates in respect of Computer application filed by or, two years experience in Library/Computerization of Library as set forth under essential qualification in the advertisement has to be

issued by a recognized Institute; if so, what is a recognized Institute in this behalf. The matter was referred by the respondent to All India Council for Technical Education. The Council replied on 28.06.2010 (page-98) that the verification of certificates issued by different Institutes does not come under the purview of their responsibility. They have suggested that this matter may be enquired from the Institute concerned which had issued the certificate. Further, the authenticity of the Institute may be verified by the State Government itself. Admittedly, no steps have been taken by the respondent government thereafter. In the background of the aforesaid factual matrix, the following aspects need to be highlighted:-

(i) The applicant was sponsored by an agency of the respondent government to under-go computer application training from an Institute where the applicant successfully completed the course and obtained the certificate. This is applicable to the applicant in OA-2638/2011.

(ii) The applicants in OA-2641/2011, OA-2645/2011, OA-2650/2011 had obtained Master's Degree in Library and Information Science and the applicant in OA-2638/2011 had not only obtained Master's Degree in Library and Information Science but also in Arts and the applicant in OA-2958/2011 had also obtained Master's Degree in Arts. This issue of equivalence was taken into consideration by the Committee set up to consider the cases of the applicant and the others and the Committee after comparing the syllabus of BA and MA degrees in Library and Information Science specifically recommended that the education requirement could be relaxed in terms of Notes-1 & 2 of the relevant RRs.

(iii) There is no system of according recognition to Institutes which are giving certificates relating to computer application; neither the State Government has so far come out with such a list of recognized Institutes.

(iv) In this context, the observations of the Hon'ble High Court as well as this Tribunal on the subject of obtaining certificates from non-recognized Institutes acquire significance.

(v) The RRs themselves provide for grant of such relaxation in case of candidates who are otherwise well qualified, more so in respect of candidates who belong to reserved category of SC/ST.

(vi) All the candidates had fairly high position in the merit list.

(vii) Although the respondent Commission had rejected the recommendation of the Committee for according relaxation in favour of the applicants, earlier they had recommended the cases of the applicants to the respondent Government for appointment subject to scrutiny of their eligibility in terms of RRs. Since the Rules provide for grant of such relaxation and the Committee set up by the respondent Government had after taking into consideration all facts including the curriculum studied by the applicants either at the Bachelor or Master's degree level in the subject to Library and Information Science made a specific recommendation, the final call in the matter should be taken by the respondent Government.

(viii) The applicants in OA No. 2641/2011 and OA No. 2645/2011 had submitted their experience for 2 years 8 months and 2 years 7 months respectively as Library Area Coordinator from Meri Saheli Society. As such,

their cases, it is claimed, are covered by the decision of this Tribunal in Barkha's case (supra)." (emphasis supplied)

The Tribunal by following the said decision allowed the original application *inter alia* of the respondent.

Before us, the petitioner has again sought to urge the same submission as urged before the Tribunal. Vide order dated 12.09.2017, we granted an opportunity to the petitioner to clarify as to what is meant by "recognised institute" in the advertisement in question. The petitioner was directed to place on record the response received from the AICTE dated 28.06.2010, which has been referred to by the Tribunal in Para 8 of its order passed in OA No.2368/2011. The same has been filed along with the additional affidavit and the same reads as follows:-

"Sub: Verification of Computer application Certificate, for the post of Librarian in Directorate of Education.

With reference to your letter No. DE-4(9)[5] Vol-IV/10/10642 dated 4-6-2010 on the subject mentioned above.

It is to inform you, that the verification of the Certificates does not come under the purview of AICTE. You may enquire from concerned Institution/Board who have issued these certificates. Authenticity of the Institutions may also be verified by the State Govt."

The submission of learned counsel for the petitioner is that the communication dated 28.06.2010 from the AICTE clearly states that

the process of verification of certificates does not come under its purview. The certificates may be got verified from the concerned Institution/Board which have issued the same. So far as the authenticity of the institutions is concerned, the same may be verified by the State Government. This communication, therefore, does not advance the submissions of the petitioner. The petitioner, despite repeatedly being questioned as to what it meant by “recognised institute” in respect of one year certificate in computer application, is not able to give any satisfactory answer to the Court. Since the petitioner is the author of the said advertisement and the stipulation contained therein, it was for the petitioner to be clear in its mind as to what is meant by said expression. Only the petitioner could have thrown light on the requirement that it expected the candidates to satisfy.

The submission of the petitioner is that since the petitioner DSSSB is only the recruiting agency, whereas the employer/user department is the Directorate of Education, a query was raised upon the said user department. The user department has responded by the letter dated 19.01.2016 placed on record along with the additional affidavit wherein it is stated that *“as per RRs, one year certificate in computer application is required from a Recognized Institute which can be recognized by Govt. of India/State Govt./UT Govt. No Registered Institute is equivalent to recognized institute.”*

No statute, rule or instruction or even direction has been placed on record wherein any institution running the one year certificate in

computer application course is obligated to obtain recognition from the Government of India/Government of NCT of Delhi. The petitioner has not even placed on record, any such scheme wherein such recognition may be granted. It is, therefore, clear to us that the aforesaid stipulation of certificate from “recognised institute” is completely vague. Pertinently, despite the decision of the Tribunal on 09.01.2012 *inter alia* in OA No.2368/2011 bringing the same position to the notice of the petitioner and the user department, the petitioner continued to prescribe the same stipulation in the advertisement in question. It appears to us that while issuing the advertisement in question, there was a complete lack of application of mind on the part of the petitioner as well as the user department. Consequently, the stand taken by the petitioner as well as the user department that the respondent did not meet the requirement of the Recruitment Rules in respect of her certificate of one year course in computer application is unsustainable.

For the aforesaid reasons, we find absolutely no merit in this petition. The same is accordingly, dismissed.

The pending application also stands disposed of.

VIPIN SANGHI, J

REKHA PALLI, J

SEPTEMBER 25, 2017

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