

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

Date of Order: April 11, 2018

+ **W.P.(C) 3553/2018 & C.M. 14026/2018**

PRATYUSH ANAND MISHRA AND ORS. Petitioners
Through: Mr. Kabir Dixit, Mr. Krishnan
Mishra & Mr. Shashank Singh, Advocates

Versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Atul Shanker Mathur,
Ms. Priya Singh, Ms. Sweta Singh &
Ms. Deepabali Datta, Advocates for respondent
No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Advertisement No.02/2018 (*Annexure P-1*) for the post of Law Officer (E1Grade) recruitment through CLAT, 2018 (PG Exam Scores) requires that a candidate should have a Bachelor's Degree in Law (BL or LL.B.) from Colleges approved by Bar Council of India and one year's post-qualification experience as an Executive/Officer in the Legal set up of the Government / Semi Government/ Public Sector Undertaking/ Nationalised Banks/ Listed Companies on NSE/BSE.
2. The grievance of petitioners in this petition is that the experience qualification cannot be an essential qualification, as in other Public Sector Undertakings, it is not so. Learned counsel for petitioners submits that in respect of grievance raised in this petition, a Representation [*Annexure P-*

6 (undated)] was made to second respondent on 18th March, 2018 by e-mail, but there is no response to it. It is submitted that as per Advertisement (*Annexure P-1*), the last date for applying for the post in question is 2nd May, 2018. Learned counsel for petitioners further submits that by prescribing one year of experience as an Executive / Officer in Legal set up of the Government / Semi Government/ Public Sector Undertaking/ Nationalised Banks/ Listed Companies etc., the selection is being restricted to the detriment of large number of candidates.

3. It is the precise submission of petitioners' counsel that even the Lawyers with experience ought to be considered as eligible for the post in question. Learned counsel for petitioners submits that in other Public Sector Undertakings, Nationalised Banks, etc., requirement of experience is preferable and not essential and for the experience in Public Sector Undertakings etc., weightage can be given, but bright candidates cannot be precluded from applying for the post in question.

4. It is also submitted by petitioners' counsel that petitioners are bright students and by prescribing experience requirement as essential qualification, they are being precluded from competing for the post in question, which is arbitrary on the face of it and so, requirement of experience ought not to be mandatory. Lastly, it is submitted by petitioners' counsel that the impugned experience requirement amounts to denial of equal opportunity to the aspirants and so, experience qualification required ought to be preferable and not mandatory. To submit so, reliance is placed by petitioners' counsel upon decisions in *T. Sham Bhat v. Union of India*, 1994 Supp. (3) SCC 340; *State of Rajasthan*

and Others v. Lata Arun, (2002) 6 SCC 252; *Federation of Railway Officers Association and Others v. Union of India*, (2003) 4 SCC 289 and *Hari Sharma v. State of Jharkhand*, 2017 SCC OnLine Jhar 1226.

5. Learned counsel for second respondent, who appears on advance notice, places reliance upon decision of a Division Bench of this Court in *Anita Vs. Govt. of NCT of Delhi & Ors.* (2014) SCC OnLine Del 3914 to submit that it is the prerogative of the employer to prescribe qualifications.

6. Upon hearing and on perusal of impugned Advertisement, material on record and the decisions cited, I find that a Division Bench of this Court in *Anita (supra)* has pertinently observed as under: -

“Having heard learned counsels for the parties and considered the materials placed on record, this Court is of the opinion that the qualification required for appointment by the MCD cannot be challenged before this Court as it is not for the Court to consider the relevance of qualification prescribed for any post, being essentially a matter of policy. It is the prerogative of the employer to decide the qualifications for appointment to the post of Teacher (Primary). The MCD is not bound to prescribe and accept the same percentage of marks in the qualifying examination, as was accepted for the purpose of grant of admission to the diploma/certificate courses in ETE/JBT/BEIEd. The MCD is entitled to lay down a higher criteria, if it so chooses.”

7. Mandatory requirement of one year’s experience in Government / Semi Government/ Public Sector Undertaking/ Nationalised Banks/ Listed Companies on NSE/BSE, cannot be said to be arbitrary for the

reason that experience in the above-said Forums facilitates the effective functioning of Law Officers in the respondent-Organization. It is not that lawyers are completely excluded. As per the Advertisement, further experience as a lawyer or of working in reputed Law Firms, etc., is desirable. So, it cannot be said that there is any hostile discrimination by requiring one year's mandatory experience in the afore-referred Forums/Organizations. Reliance placed by petitioners' counsel upon decisions, as referred to above, does not advance the case of petitioners because it is not for the courts to consider the relevance of the qualifications prescribed for any post. It is essentially a policy matter and it is upto the employer to prescribe qualifications, whether mandatory or otherwise.

8. As already observed above, prescription of one year's experience in the above-said Forums does not result in denial of equal opportunity and so, this petition and the application are accordingly dismissed.

(SUNIL GAUR)
JUDGE

APRIL 11, 2018
r/s