

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-10647-2021

Date of Decision:-6.7.2021

National Institute and another

... Petitioners

Versus

Central Administrative Tribunal and Others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Jagbir Singh, Advocate
for the petitioners.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The petitioner has filed this writ petition seeking direction for
setting aside the order dated 9.3.2021 (Annexure P-6) passed by Central
Administrative Tribunal, Chandigarh Bench (in short 'the Tribunal')
whereby the original application (Annexure P-1) filed by respondent No.2-
Dr. Parveen Kumar was allowed.

The brief facts of the case are that the petitioner No.1-National
Institute of Food Technology Entrepreneurship and Management advertised
certain posts including one that of Deputy Librarian vide advertisement
dated 29.11.2015. Respondent No.2 being eligible and qualified applied for
the said post. However, petitioner No.1 re-advertised the post of Deputy

Librarian vide advertisement dated 8.10.2016. Respondent No.2 again applied for the said post and was called for interview to be held on 28th March, 2017 but the same was cancelled on 26th March, 2017, and thereafter, no interview was conducted. The post of Deputy Librarian was again advertised by the petitioner No.1 vide advertisement dated 24.4.2018. Respondent No.2 again applied for the said post along with another 26 candidates. Applications were scrutinized by the screening committee and respondent No.2 was found eligible along with other 23 candidates. Out of the aforesaid eligible candidates only 5 candidates including respondent No.2 were shortlisted and called for interview, which was held on 15.3.2019. Only 3 candidates appeared for interview before the selection committee i.e. petitioner No.2. Respondent No.2 obtained highest marks i.e. 61.79 out of total 100 marks on the basis of academic qualification, experience and performance in interview. Narender Kumar another candidate who did not appear for the interview got 60.85 marks on the basis of academic qualification and experience. Mahendera Kumar Sahu another absent candidate got third highest marks of 52.52 marks on the basis of academic qualification and experience. Despite getting highest marks, respondent No.2 never received any appointment letter. On inquiry he came to know that the selection committee did not recommend the name of any candidate as none was found suitable for the post of Deputy Librarian. The copy of the result notice dated 29th March, 2019 is Annexure A-7. Aggrieved by the aforesaid result, respondent No.2 approached the Tribunal. The Tribunal issued notice and thereafter heard both the parties. Finally the Tribunal allowed the original application of respondent No.2 and directed the

respondents/petitioners herein to constitute fresh selection committee for the purpose of conducting interview of the shortlisted candidates and to conduct the interview process *de-novo*. The selection committee was directed to award marks to the interviewed candidates and then recommend the panel, with minimum of 2 names in the waiting list, in order of merit, as prescribed in the selection process. The entire process was directed to be completed within a period of one month from the date of receipt of the copy of the order.

The petitioners being aggrieved by the impugned order, have filed the present writ petition.

We have heard counsel for the petitioners.

The counsel for the petitioners submitted that the selection process in question was concluded on 29th March, 2019 as no candidate was found suitable for appointment to the post of Deputy Librarian by the selection committee. Now after a gap of 2 years, there was no occasion or reason for the Tribunal to direct the selection committee to conduct the interview process afresh. The learned counsel further submitted that during the interregnum period, the petitioner No.1 has advertised one post of Deputy Librarian (UR) vide advertisement dated 9th November, 2020, as no interim stay order was passed by the Tribunal in favour of the respondent No.2. Even fact regarding re-advertisement of the said post was also brought to the notice of the tribunal but the same was ignored by it while passing the impugned order.

The counsel for the petitioners further contended that mere appearing in the interview does not confer any right of appointment to the candidate. Five candidates were shortlisted for interview out of which three appeared before the selection committee and after evaluation, no one was found suitable for appointment and accordingly result was notified. Learned counsel further contended that there is no plea taken by respondent No.2 that the selection committee was biased or it acted in *mala fide* manner. Learned counsel further contended that the members of the selection committee were highly educated and were expert in their respective fields. Their decision was final and has to be accepted. It was the duty and responsibility of the selection committee to find a suitable candidate for the post. The learned counsel further submitted that as in the present case, none of the candidates was found suitable, the result was declared, accordingly. The counsel for the petitioners further contended that there was no illegality in the said result. While concluding his arguments, the counsel for the petitioners urged that the impugned order could not be sustained in the eyes of law.

We have considered the contentions raised by the counsel for the petitioners.

The facts which are not disputed by the parties are as follows:-

- i. Petitioner No.1 firstly advertised the post of Deputy Librarian vide advertisement dated 29.11.2015.

- ii. The post was re-advertised vide advertisement dated 8.10.2016 and again the said post was advertised on 24.4.2018.
- iii. Respondent No.2 applied for the said post on all the three occasions.
- iv. On the basis of advertisement dated 24.4.2018, the petitioners started the process of selection and out of total 27 candidates, 24 candidates were found eligible. Out of the aforesaid eligible candidates, only 5 candidates including respondent No.2 were shortlisted and called for interview which was held on 15.3.2019. Respondent No.2 was on the top of the list of candidates found eligible for the interview. Only three candidates appeared for interview before the selection committee i.e. petitioner No.2. Their names are Parveen Kumar (respondent No.2), Rajeev Vashistha and Satya Prakash Singh. Other two eligible candidates namely Narender Kumar and Mahendra Kumar Sahu did not appear for interview.

As per information received by respondent No.2 under RTI, the detailed breakup of the score card including the areas of assessment was as follows:-

SN	Particulars	Marks Allotted
1.	Academic background	20
2.	Experience in the field of Library Science/Information Science/Documentation	17
3.	Scientific Publications	20.5
4.	Attainment in the Field as Assistant Librarian and above	20
5.	Exposure to Symposium/Seminar/ Summer Institute/ Winter Institute/ Refresher Courses/ Workshop & Training Program (during the tenure of Assistant Librarian / College / Librarian/ Documentalist	10
6.	Performance in Interview Communication Skills 4.00 Knowledge about library organization and management 4.00 Response during interview 2.00 Overall personality assessment 2.50	12.5

As per the abovesaid breakup, a total of 87.5 marks were allotted for various academic and other achievements of the candidates and a total 12.5 marks were allotted for the performance in interview. As per the information received under RTI, respondent No.2 got a total score of 61.79 marks out of 87.5 marks for the items listed at Sr. Nos.1 to 5 of the score card, and he was not given any marks with regard to his performance in the interview. So, as per record, respondent No.2 obtained 61.79 marks out of total 100 marks. Thus making it clear that respondent No.2 scored 61.79% marks in total on the basis of his assessment with regard to items listed at serial Nos.1 to 6 of the score card. Narender Kumar was at second position with 60.85 marks while Mahendra Kumar Sahu was placed at No.3 position having 52.5 marks.

From the perusal of the aforesaid record available on the file, it stands proved that no marks were given by the selection committee to the three interviewed candidates, regarding their performance in the interview. The selection committee had simply drawn a line across the contents of column at serial No.6 relating to performance in interview, with the remarks that 'none found suitable'. The said remarks were signed by all the members of selection committee. It is not clear as to on what ground the candidates who were otherwise having requisite qualification and experience, were found unsuitable for the post of Deputy Librarian, by the selection committee. In these circumstances, the Tribunal rightly held that by not assigning any marks to any of the three interviewed candidates, it is apparent that the selection committee had failed in its duty to assess each of the candidate and then to award them marks in the four broad areas which were to be assessed by them. The entire process of interview was concluded by the selection committee, by simply observing that no candidate was found suitable for the post. We are of the view that the selection committee by doing so abdicated from its responsibility.

Undoubtedly, in the matter on hand, the selection committee was headed by Vice Chancellor of petitioner No.1 and also included its Registrar as well as Library Adviser of Indira Gandhi University, Mirpur, Rewari, Associate Professor and former HOD Department of Library and Information Science, University of Delhi and Scientist-E DRDO. Admittedly, the selection committee consisted of experts in the field. Generally, it is not open to this Court and the Tribunal to sit over the assessment made by the selection committee, as an Appellate Authority, the

reason being the members of the selection committee have got expertise in the matter. However, the Courts have jurisdiction to interfere in such like matters, where process of assessment is vitiated in any manner. In the present case as has been earlier observed, the selection committee failed to grant any marks to the eligible candidates regarding their performance in the interview as per the requirement of column at serial No.6 of the score card. The selection committee failed to perform its duty by simply recording that none of the candidate was found suitable. No reason has been assigned by the selection committee as to how it reached the said conclusion. This being the position, we are of the view that the Tribunal rightly opined that the abovesaid act of the selection committee being arbitrary, cannot be justified. We are also of the view that re-advertisement of the post during the pendency of proceedings before the Tribunal, will not validate the aforesaid arbitrariness on the part of the selection committee in the selection process. Thus to the mind of this Court, there is nothing wrong in the impugned order, whereby the Tribunal has given direction to constitute fresh selection committee and to conduct the interview of the shortlisted candidates afresh.

In view of the above, we see no reason to interfere in the matter. Consequently, the writ petition is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

06.07.2021
Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No