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

% Judgment delivered on: 04.11.2022

+ W.P.(C) 3838/2020 & CM APPL. 13749/2020

VINOD SINGH KAYAT

..... Petitioner

versus

DELHI SUBORDINATE SERVICE SELECTION BOARD &
ORS. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Jatin Mongia, Advocate with Petitioner-in-Person.

For the Respondents: Mrs. Avnish Ahlawat, SC for GNCTD (Services) with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik and Ms. Aliza Alam, Advocates for R-1 to R-4.

Ms. Apoorva Pandey and Mr. G.G. Kashyap, Advocate for R-5 with R-5-in-Person.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 19.06.2020, whereby the Original Application ('OA') filed by the petitioner has been dismissed by the Tribunal.

2. Petitioner had challenged the rejection notice dated 02.03.2020 whereby, the respondent No.1 had rejected the application of the petitioner for being employed for the Post Code 10/17.

3. Petitioner had applied against Advertisement No. 1/2017 for the post of Librarian (Post Code No. 10/17). Applications were invited online and as per the Recruitment Notice, the educational and other qualification required are as under :

7	Educational and Other Qualification Required For Direct Recruits	Essential : (i) Bachelor's degree in library science or library and information science of a recognized university/ institute. (ii) Two years professional experience in a library under Central/state government/autonomous or statutory organization/psu/university or recognized research or educational institution. desirable : Diploma in Computer Application from a recognized university or institute. Note 1 : Qualifications are relaxable at the discretion of the competent authority for reasons to be recorded in writing, in case of candidates otherwise well qualified. Note 2 : The qualification regarding experience is relaxable at the discretion of the competent authority, for reasons to be recorded in writing, in case of candidates belonging to scheduled castes or scheduled tribes, if at any stage of selection the competent authority is of the
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		opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the posts reserved for them.
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4. Petitioner appeared in the written examination and secured 115.50 marks and was shortlisted. However, later on, his candidature was rejected on the ground that he did not possess the requisite essential experience, consequent to which, subject OA was filed.

5. The case of the petitioner is that he has worked as a Multi Tasking Staff (MTS) in the Library of the Delhi Judicial Academy from 14.06.2012 to 29.10.2014 and contends that the experience gained there satisfies the requirement of the advertisement.

6. The Tribunal has held that working as a Multi Tasking Staff in a library cannot give the petitioner requisite experience as a Librarian, as the duties assigned to an MTS and that to the Librarian are very different and cannot be compared. Consequently, the OA was dismissed.

7. Before us also, the contention of learned counsel for the petitioner is that petitioner has the requisite professional experience as he has worked as a MTS in the Library of Delhi Judicial Academy and one of the duties performed by him as a MTS was physical verification and maintenance of books/ periodical newspaper their issue/ return and their processing for assignment of Accession No. etc.

8. It is further contended that since petitioner has performed the duties in the library, he has sufficient professional experience in the library and as such, was duly qualified.

9. Further, it is contended that petitioner belongs to a Scheduled Caste and as such, the required qualification was relaxable at the discretion of the Competent Authority and such discretion should have been exercised in favour of the petitioner, as petitioner holds more educational qualification than the selected candidate.

10. We may notice that there is no specific appointment of an MTS by the Delhi Judicial Academy for its Library. As per the Delhi Judicial Academy, there are several Multi Tasking Staff (MTS) appointed. Petitioner, being one of those. It is also not in dispute that petitioner was posted in the Library of the Delhi Judicial Academy for the period that he states he was posted. The question that arises for consideration is that as to whether an MTS who is posted in the Library is deemed to have acquired 'professional experience in a library', as required under the subject advertisement.

11. Petitioner has placed on record Schedule III, which lists out the duties and responsibilities of a Multi Tasking Staff of the Academy, which are as under :

“Schedule III

(Added In Term of Govt. Of india ministry of personnel public grievances and pensions dept. Of personnel and training O.M. no. AB-1401716-estt(RR) dated 30.04.2010)

Lists of duties and responsibilities of Multi Tasking Staff of the Academy

Their duties would broadly include.

- (iv) Physical maintenance of records of the Section/library*
 - (v) General cleanliness & upkeep of the Section/unit/library*
 - (vi) Carrying of files & other papers within the building*
 - (vii) Photocopying sending of FAX etc.*
 - (viii) Other non-clerical work in the section/unit/library*
 - (ix) Assisting in routine office work like diary, dispatch etc, **including on computer***
 - (x) Delivering of dak (outside the building)*
 - (xi) Watch & ward duties*
 - (xii) Opening & closing of rooms*
 - (xiii) Cleaning of Rooms*
 - (xiv) Dusting of furniture etc.*
 - (xv) Cleaning of building fixtures etc.*
 - (xvi) Driving of vehicles. If in possession of valid driving licence*
 - (xvii) Upkeep of parks lawns potted plants etc*
 - (xviii) **Physical verification & maintenance of books/periodicals newspapers their issue/return and their processing for assignment of Accession No etc***
- Any other work assigned by the superior authority*

Note:

- 1. Multi Tasking Staff refers to erstwhile posts of Peon & **Library Binder***
- 2. The above list of duties is only illustrative and not exhaustive”*

12. Perusal of the above charter of duty shows that a Multi Tasking Staff posted in the Library has to carry out several duties, one of them is

physical verification and maintenance of books, assignment of Accession No. etc. It is also noticed that the MTS who is posted to the library is also responsible for physical maintenance of records of the library, general cleanliness, upkeep of the library besides other non-clerical work in the library. The charter of duties of the MTS shows that the MTS is also liable for various other duties including cleaning of rooms, dusting of furniture, cleaning of building fixtures, opening closing rooms etc.

13. The requirement of the advertisement is two years 'professional experience in a library'. The expression 'professional experience' has to be understood in connotation of the activity that is performed. In the present case, the requirement is professional experience in the library which would entail performing of duties analogous to the character of a Librarian. Petitioner has carried out the duties of a Multi Tasking Staff. Though, one of the charter of duties may entail verification and maintenance of book, assignment of Accession No., but by no stretch of imagination can the same be treated as working in the library, as a library professional.

14. Reference may be had to the decision of a Co-ordinate Bench of this Court in ***Gyanendra Kumar Bhardwaj vs. Director General, ITBP & Ors.*** 2011 SCC OnLine Del 3299, wherein, the question was for appointment to the post of Inspector (Translator) which required four years' experience in translation work. The applicant therein was appointed as a Clerk and was many a times performing the job of translation. This Court held that performing 'many a times' translation duties would not satisfy the requirement.

15. Performance of casual duties relatable to the requisite work experience would not satisfy the condition of the work experience. In the charter of duties of an MTS, there are several activities to be performed by an MTS, predominant of which is maintenance and upkeep of the area rather than maintenance and physical verification for indexing or Accession of periodicals and books in the library.

16. The charter of duties do not indicate that the person performing duties of an MTS, even in the library of the Delhi Judicial Academy would gain any professional experience as a Librarian. Even if petitioner has casually or occasionally performed the duties relatable to a Librarian, the same would not translate into gaining professional experience in the library.

17. Further contention of learned counsel for the petitioner is that in the Delhi Judicial Academy, there is no post of an Assistant Librarian and there is only an MTS attached to a Librarian in the Library. Be that as it may, the requirement is that of professional experience in a Library, and as noticed hereinabove, an MTS, who is required to perform several functions, cannot be said to have acquired professional experience in the Library, as required by the subject advertisement.

18. We find no infirmity in the view taken by the Tribunal, that petitioner does not have the requisite experience, as stipulated by the advertisement i.e. 'professional experience in the library'.

19. Further contention of learned counsel for the petitioner, that the qualification regarding experience is relaxable and should have been

relaxed in favour of the petitioner, also does not hold any merit for the reason that the stipulation in the advertisement with regard to the relaxation is in respect of posts that are reserved for a particular class of persons, only if, no person of such class or category is available for appointment.

20. First of all, we notice that the subject post is not a reserved post for any particular class or category, and, secondly, it is not a case that no suitable candidate is available. A candidate was available and has been selected by the Select Committee and has also been given an appointment. Consequently, we are of the view that this was not a case, where such an exercise of relaxation should have been carried out by the Competent Authority or was required to be carried out in the facts and circumstances of the case.

21. Respondent No. 5, who has been selected, has placed on record a comparative of her experience and qualification *vis-à-vis* that of the petitioner, along with her written submissions. It is contended that no notice had been issued by the Tribunal and, as such, there was no opportunity to file a reply or place the same on record.

22. Even though, the said comparative was not placed before the Tribunal, there is no dispute to the same by the Department. Perusal of the same clearly contradicts the contention of the petitioner that Respondent No.5 is less qualified than the petitioner.

23. Petitioner holds a Bachelor's degree in Library and Information Science from Indira Gandhi National Open University obtained in the year

2013, Respondent No.5 has a Bachelor's Degree in Library and Information Sciences from Delhi University obtained in the year 2012 and has a Master's degree in Library and Information Science obtained in the year 2013 also from Delhi University. Even in terms of the work experience, Respondent No.5 has better work experience than the Petitioner.

24. Accordingly, we find no infirmity in the decision of the Competent Authority holding respondent No. 5, as duly qualified for appointment and rejecting the candidature of the petitioner. We also find no infirmity on that count also, in the impugned order.

25. Consequently, we find no merit in the petition. The petition along with pending application is dismissed.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

NOVEMBER 4, 2022/nd