

\$~23

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

% Judgment delivered on: 31.10.2022

+ W.P.(C) 10789/2021

RAKESH BISHT

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners: Mr. Pursushottam S. Tripathi, Mr. Ravi Chandra Prakash,
Mr. Abishek Tripathi and Mr. Mukesh Kr. Singh,
Advocates

For the Respondents: Mr. Farman Ali, Senior Panel Counsel with Mr. Jitendra
Kumar Tripathi, Govt. Pleader and Ms. Usha Jamwal,
Advocate

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 21.10.2020 whereby the original application of the petitioner has been disposed of holding that the

petitioner is fully qualified for being considered for promotion to the post of Assistant Computer Programmer (ACP).

2. The contentions of the petitioner is that for the purposes of promotion, the essential qualifications are Computer training, in Statistical Analysis System or Statistical Packages for the Social Sciences or Structured Query Language Server or Oak Ridge Automatic Computer and Logical Engine or Relational Database Management System. He submits that he has obtained computer training in Statistical Analysis System and was thus eligible for consideration for promotion. Learned counsel submits that since the post was lying vacant, he applied to the Department to hold DPC to consider the petitioner for promotion.

3. The case of the petitioner is that petitioner had obtained computer training in Statistical Analysis System and was thus eligible for being considered for the post of Assistant Computer Programmer.

4. The representation of the petitioner was rejected by order dated 21.08.2017 holding that his computer training in Statistical Analysis System was privately obtained and as such was not recognizable as satisfying the essential qualifications.

5. Petitioner approached the Tribunal by way of subject Original Application seeking setting aside of the order of the respondent dated 21.08.2017 declining to consider his qualification as meeting the essential requirement.

6. Pending the subject proceedings, DPC was held and petitioner along with two other employees, who were senior to the petitioner, were considered for promotion. It may be noticed that the petitioner had, in the meantime, obtained qualification of Relational Database Management System which qualification was obtained by undoing a course with the respondent themselves. The other two candidates also had undergone said course with the respondent.

7. Petitioner was not selected by the DPC and one of the candidates senior to the petitioner was selected and promoted. Thereafter another DPC was held in which also petitioner was considered but could not make it and other person senior to the petitioners was promoted.

8. The Tribunal has disposed of the original application holding that at the time when DPC was held the petitioner had obtained the qualification of Relational Database Management System and had thus met the eligibility condition even as per the understanding of the respondent and since the petitioner was qualified and was considered, the Tribunal was of the view that no further orders were called for in the Original Application. Accordingly, the original application was disposed of.

9. Learned counsel for the petitioner submits that the respondent had wrongly held that the qualification of the petitioner of Statistical Analysis System obtained from a private organization was not liable to be considered for the reasons that such qualification is not granted by the respondent and had to be perforce obtained from an external

source which the petitioner had. He further submits that prior permission was taken from the Department before undergoing the said training programme.

10. Learned counsel submits that the petitioner has already impugned the decisions of the two DPCs whereby the petitioner was not held to be more meritorious than the other two candidates which are pending before the Tribunal. He submits that one of the grounds taken therein to impugn the decision of the respondent in not considering the computer training obtained by the petitioner in Statistical Analysis System as meeting the essential qualification.

11. We notice that in the subject Original Application, petitioner had merely sought that the petitioner be treated fully eligible for the post of Assistant Computer Programmer. Petitioner was granted the said relief by the respondent themselves as petitioner had undergone the training in Relational Database Management System.

12. The question as to whether the qualification obtained by the petitioner i.e. computer training in Statistical Analysis System is a qualification which is liable to be considered by the DPC or not does not arise for consideration in the present petition. We also notice that said issue has already been raised by the petitioner in the original applications impugning the result of the two DPCs. Accordingly, we dispose of this petition leaving the said question open to be considered by the Tribunal in accordance with law, if so, raised before the Tribunal by the petitioner.

Neutral Citation Number : 2022/DHC/004605

13. It is clarified that this Court has neither considered nor commented upon the merits of the contentions of either party on the said issue.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

OCTOBER 31, 2022
‘rs’

