

15.06.2023
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Sl. No. 42
Ct. No. 25

WPA 1174 of 2023

Soumali Roy
-Versus-
Union of India & Ors.

Mr. Siddhartha Sankar Mandal
Ms. Arunima Das Sharma
..... for the petitioner

Mr. Dibashis Basu
Mr. Arun Bandyopadhyay
....for the UOI

Pursuant to an employment notification dated May 21, 2021 issued by the National Institute of Locomotor Disability (NILD)/Divyangjan, the petitioner applied for the post of *Librarian* in unreserved category. The eligibility criteria for appointment to the post of *Librarian* is as follows:

“Librarian-01(UR) by Direct/Deputation.

Pay Matrix Level-06, Age Below 30 years.

*Education qualifications & Experience:- Master’s Degree in Library Science or equivalent qualifications with **03 years working experience** and good working knowledge of Library Software applications.*

Desirable:-1) Knowledge in Hindi. 2) Experience in handling publications dealing with Science & Technology.

Deputation:- Deputation Officers of the Central/State Govt./Autonomous bodies.

- 1. Holding analogous posts on regular basis Or*
- 2. With five years regular services in the grade Pay Rs. 2800/- or equivalent in a recognized Institution/ College/University.”*

The petitioner was called for a written test. In the written test, the petitioner was declared to be the first waitlisted candidate. The results of the written test was published on March 30, 2022. The selected candidate was initially appointed but duly resigned from the said post of the *Librarian*. Thereafter, the petitioner made a representation to the authorities/the Director, NILD for being employed/appointed to the post of *Librarian*. Such prayer was not acceded to.

Being aggrieved and dissatisfied by the in action on the part of the respondent No. 4/ the Director, NILD and the authorities concerned, the petitioner has filed the present writ petition.

Mr. Mandal, learned counsel appearing on behalf of the petitioner submits that there was no legally tenable reason in not appointing the petitioner to the post of *Librarian*. The petitioner was the first waitlisted candidate. The selected candidate resigned from his job. The petitioner had all the necessary qualifications for appointment to the post of *Librarian*.

Mr. Basu, learned counsel appearing on behalf of the NILD submits that the petitioner did not have three years working experience **post** qualification. From the application form submitted on behalf of the petitioner, it would appear that she had two years eleven months working experience **post** qualification. She had one year three months working experience during the period

when she was pursuing her necessary educational degrees from the University of Calcutta.

He also draws the attention of this Court to a document dated June 18, 2019 issued by the Principal, Deshbondhu College for Girls to contend that even though a document was submitted verifying her work experience along with the application form filed in June 2021, the same was not an updated document. From the said document, it appears that the petitioner was working “*till date*” as on June 18, 2019 and not as on June 15, 2021 with the Deshbondhu College for Girls as the Library Assistant.

Considering the rival submissions of the parties and the materials on record, this Court finds that upon verifying the credentials of the petitioner, the petitioner was called for written test. Subsequently, the panel was also prepared whereby the petitioner was held to be the first waitlisted candidate.

There is no requirement for ***post*** qualification work experience as per the advertisement. The work experience of the petitioner has attained during the time she was pursuing for her Bachelor/Masters degree has to be considered as a whole. The respondent authorities have sought to give an interpretation to the advertisement that they could not have. The advertisement has to be construed giving its “literal” meaning as there is no ambiguity in the terms of the advertisement. A beneficial reference can be made to a

Judgment dated December 21, 2022 in RVW 111 of 2021 (**The State of West Bengal & Ors. vs. Mamun Shaikh**).

The respondent authorities did not act in a *bona fide* manner by seeking to construe that the work experience for the period of two years eleven months **post** qualification did not tantamount to three years work experience **post** qualification after waiving the said criterion and declaring her to be the first waitlisted candidate upon perusal of documents. Reliance is placed on a Division Bench Judgment of this Hon'ble Court passed in MAT 1089 of 2018 (**Jyotirmoy Roy v. The State of West Bengal & Ors**).

The respondents have sought to reject the candidature of the petitioner since the certificate handed over by her was dated June 18, 2019 when after perusing such certificate she was held to be an *eligible* candidate. They could have given the petitioner of an opportunity to produce an updated certificate which for reasons best known to themselves, the respondent authorities failed to do.

This Court is of the view that there is arbitrariness and perversity in the decision making process of the respondent authorities.

In such view of the matter, this Court directs the petitioner to be appointed to the post of Librarian of NILD within a period of one month from date, upon

compliance of all the necessary formalities, if any, by the petitioner.

With the directions aforesaid, **WPA 1174 of 2023** is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)