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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8380-2023 (O&M)
Date of decision: 21.08.2024

Anuradha

...Petitioner

VERSUS

Shri Vishwakarma Skill University

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Viraj Gandhi, Advocate, for the petitioner.

Mr. Hitesh Pandit, Advocate, for the respondent.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondent to issue appointment letter to the petitioner for appointment to the post of Game Organizer for which she has been selected and approved as per the Executive Council meeting held on 15.11.2022 (Annexure P-7), with a further prayer for restraining the respondent from appointing any other person to the post of Game Organizer.

2. Mr. Viraj Gandhi, learned counsel appearing on behalf of the petitioner submitted that in the present case the respondent-University which has been created by way of an Act of Legislature, initiated recruitment process for various posts. The petitioner applied for the post of Game Organizer and



the advertisement in this regard is attached as Annexure P-1 and there was only one post of Game Organizer. After the petitioner applied for the aforesaid post, she was selected being at the highest position in the merit and he referred to Annexure P-7 wherein the agenda item regarding various positions including the aforesaid post was considered by the Establishment Committee and it was so decided that the Council had considered and approved the recommendations of the Establishment Committee for non-teaching posts and at serial No.5 for the post of Game Organizer, the petitioner has been shown to be selected. Thereafter, on the basis of the aforesaid decision of the Council, the result was declared by the University on 22.11.2022 vide Annexure P-8 in which it has been specifically so stated that the Executive Council in its 25th meeting held on 15.11.2022 has approved the recommendations of the Establishment Committee for appointment on regular posts and at serial No.5, the petitioner is shown to have been selected for the post of Game Organizer. However, there was a note attached with the aforesaid result so declared that the appointment is subject to background verification, document and experience verification in compliance with the terms and conditions as advertised.

3. Learned counsel submitted that however even after the declaration of the aforesaid result, the petitioner was not permitted to join the duties and was not issued any appointment letter, even though she was the sole candidate who has been selected for the aforesaid post on merit. Therefore, the petitioner vide Annexure P-9 wrote an email dated 19.12.2022 to the respondent-University with a request to issue her an offer of appointment. On the basis of the aforesaid request letter sent by the petitioner, the respondent-University vide Annexure P-11 dated 02.01.2023 issued a letter to the petitioner requesting



her to provide the practical/professional experience certificates alongwith pay scales as mentioned in the eligibility conditions for the aforesaid post and was also requested to produce the certificate mentioning jobs and responsibilities for the claimed period/duration, signed and countersigned by the competent authority within 15 days from the date of issuance of the letter for further necessary action. Thereafter, vide Annexure P-12 dated 12.01.2023, the petitioner replied to the aforesaid communication sent by the University by attaching the photostat copies of the certificates in this regard. The certificate which was issued by the Raja Ravi Verma Servodaya Kanya Vidyalala, Nand Nagri Delhi, was also attached with the aforesaid letter written by the petitioner to the respondent-University in which the entire period of her experience was mentioned which was more than 5 years and the same was signed by the Head of the Institution. However, the respondent-University vide Annexure P-13 again wrote a letter to the petitioner by stating that the experience certificate duly countersigned by the DDE be sent to the University within 15 days. Thereafter, vide Annexure P-14, the petitioner sent the certificate which was signed by the Deputy Director and countersigned by the DDE but still no appointment letter was issued to the petitioner.

4. Learned counsel appearing on behalf of the petitioner further submitted while referring to the reply which has been filed by the respondent-University that the ground which has been taken by the respondent-University in the present case was that the petitioner did not fulfil the essential qualifications so stated in the advertisement because the respondent-University was now calculating the days per year after excluding the days on which the petitioner did not work because she was on daily wage basis. He submitted that



rather a Committee was constituted and in the minutes of the meeting dated 03.12.2022 (Annexure R-3) the total period of practical/professional experience of 5 years has been disputed by the respondent-University. He submitted that as per the terms and conditions of the advertisement, a candidate applying for the post of Game Organizer was required to have 5 years practical/professional experience regarding which the petitioner has already attached the certificates and sent to the respondent-University but the respondent-University has non-suited the petitioner by wrongly interpreting the aforesaid eligibility qualification so mentioned in the advertisement by stating that it is the number of days which are to be counted per year and not the full academic year. While further substantiating his arguments, he referred to the aforesaid period and submitted that a perusal of the aforesaid period would show that the petitioner had worked for full academic year after excluding the vacations and her experience is more than 5 years and therefore, there was no justification for the respondent-university to have non-suited the petitioner by converting the same into number of days per year and therefore, the aforesaid ground was totally unjustified. He submitted that in view of the above, a direction may be issued to the respondent-University to issue offer of appointment to the petitioner since she has been selected on merit by way of a regular selection process and rights have been vested in the petitioner after declaration of her result.

5. On the other hand, Mr. Hitesh Pandit, learned counsel appearing on behalf of the respondent-University submitted that it is correct that the respondent-University has been created by way of an Act of Legislature. He while referring to the reply which has been filed by the respondent-University



submitted that after the petitioner was selected for appointment to the aforesaid post, she was told to provide the certificate of experience which should be countersigned by the competent authority, which she supplied but a perusal of the aforesaid certificate would show that the petitioner was only on daily wage basis without any paid leave and her total experience comes out to be only of 1288 days in total and therefore, it cannot be said that the petitioner has worked for 5 years because her working days were much less considering the number of days spent by a regular employee. The petitioner had in fact worked only for 45.5 months, whereas as per the advertisement the experience required is 5 years i.e 60 months. Not only this, the experience letter also does not indicate any pay scale on the aforesaid post and therefore, it cannot be said that the petitioner was having 5 years practical/professional experience.

6. I have heard the learned counsels for the parties.
7. The issue involved in the present case is as to whether the petitioner fulfills the qualifications as per the advertisement or not. The qualifications which have been so prescribed in the advertisement Annexure P-1 for the post of Game Organizer are reproduced as under:-

“10. Game Organizer

1	Name of the Post	Game Organizer
2.	Pay Matrix	Level-6
3.	Age limit	50 years
4.	Essential Qualification	Bachelor's degree with at least 50% marks in Physical Education /sports/Yoga with 05 (five) years practical/professional experience.

8. A perusal of the aforesaid qualifications which have been so prescribed would show that for the purpose of experience, it has been so



provided that a candidate should have 5 years of practical/professional experience. The experience of the petitioner so depicted in her certificate has been considered by the respondent-University vide Annexure R-3 is also reproduced as under:-

1. *The candidate have submitted the experience letters issued HOD and countersigned by the DDO and the details are as under:-*
 - a. 26.08.2014-08/05/2015 :- 172 days DOI:-03/05/2019
 - b. 01.07.2015-10.05.2016 :- 212 days DOI:- 03/05/2019
 - c. 01.07.2016-03.06.2017 :- 218 days DOI:-03/05/2019
 - d. 01.07.2017-30.06.2018 :- 254 days DOI:-03/05/2019
 - e. 03.07.2018-03.07.2019 :- 206 days DOI:-19/06/2019
 - f. 01.07.2019-08.05.2020 :- 226 days DOI:-03/11/2020
 - g. 01.09.2020-30.06.2021 :- 173 days DOI:-09/07/2021

9. A perusal of the aforesaid period which has not been disputed by the respondent-University would show that the aforesaid period for the first year starts from 26.08.2014 and ends on 08.05.2015 which would be one academic year. Similar would be the position with regard to the subsequent periods and in total there is 7 years of experience. While considering the aforesaid certificates, the respondent-University has now considered on the premise that the number of days per year are to be counted but the full length of the year is not to be counted because the petitioner was serving on daily wage basis without any paid leave. It is the contention of the learned counsel for the respondent-University that if the petitioner was working on daily wage basis for the aforesaid period which is undisputed, then the number of days during which the petitioner had worked has to be counted first and then it has to be converted into number of months which in turn has to be compared with the



total period of 5 years. He submitted that for 5 years the total number of months has to be $12 \times 5 = 60$ months, whereas if the aforesaid number of days are calculated, then the number of months come out to be 45.5 months which are less than 60 months and therefore, the petitioner has not fulfilled the eligibility qualification

10. The argument which has been raised by the learned counsel for the respondent-University is not only unjustified but it is absolutely hypothetical and perverse in nature. A perusal of the essential qualifications which have been so prescribed in the advertisement would show that the only requirement is 5 years practical/professional experience and it does not in any way indicate that the aforesaid experience has to be on regular basis or on adhoc basis. In other words, the essential qualifications would be 5 years of practical /professional experience and when an year is to be seen, then of course the academic year during which the classes are being held is to be seen as the entire academic year. There was no justification for the respondent-University to have interpreted the aforesaid essential qualifications in a manner which suits it by first converting the year into number of working days and after converting them into days, the same is again calculated in terms of months and once it is counted in terms of months, then again it is compared to the total number of months in 5 years which is 60 months. Such kind of approach of the respondent-University is absolutely perverse in nature and hypothetical which has defeated the rights of the petitioner who was selected on merit and was a sole candidate.

11. During course of arguments, learned counsel for the petitioner has also referred to a judgment of a Division Bench of this Court in ***Chandigarh***



Administration Versus Vipin Gupta and another, 2010 SCC Online P&H 10726 and also a Co-ordinate Bench of this Court in *Jyoti Bala Versus State of Punjab and others, 2024 SCC Online P&H 3590* to contend that it is also settled law that even the experience gathered during the service on adhoc basis would also be counted for the purpose of calculating the experience. Further, a Co-ordinate Bench of this Court has also held that even if a candidate has got the experience as a guest faculty or even a stopgap arrangement or even as a part time and contractual etc. the effect of the experience would be the same. Even otherwise also had there been a provision in the advertisement that the candidate ought to have experience as a regular employee or in any other capacity, then the petitioner might not have any case but when the University itself has prescribed the essential qualifications which provides 5 years practical /professional experience without further putting any condition, then thereafter the University should not have misinterpreted the aforesaid provision by wrongly reducing the same into number of days and then calculating in terms of months. The approach of the University is absolutely unsustainable and against the advertisement itself.

12. In view of the aforesaid facts and circumstances, the present petition is allowed. The respondent-University is directed to issue the letter of appointment to the petitioner forthwith and not later than two months from today to enable her to join the job.

13. Before parting with this judgment, this Court would also take note of Annexure R-3 which has been issued jointly by the Assistant Registrar and Deputy Director of the University. A perusal of the same would show that in almost each and every line there are number of grammatical mistakes in the



English language. Such kind of English language being used by none other than the higher officers of a University is highly deprecated. It is not expected from the senior officers of the University and that too of the rank of Assistant Registrar and Deputy Director to have committed such glaring grammatical mistakes. Annexure R-3 is reproduced as under:-

“3rd Meeting in reference to office order no.SVSU/2022/Estt./E-1829/2492-2493 dated 03.12.2022 was held on 10.03.2023 at 11:00 AM

The observations of the committee on the reply received from the candidate against the observations raised in the second meeting held on 24.01.2023 are as under:-

“1. The candidate have submitted the experience letters issued HOD and countersigned by the DDO and the details are as under:-

- a. 26.08.2014-08/05/2015 :- 172 days DOI:-03/05/2019*
- b. 01.07.2015-10.05.2016 :- 212 days DOI:- 03/05/2019*
- c. 01.07.2016-03.06.2017 :- 218 days DOI:-03/05/2019*
- d. 01.07.2017-30.06.2018 :- 254 days DOI:-03/05/2019*
- e. 03.07.2018-03.07.2019 :- 206 days DOI:-19/06/2019*
- f. 01.07.2019-08.05.2020 :- 226 days DOI:-03/11/2020*
- g. 01.09.2020-30.06.2021 :- 173 days DOI:-09/07/2021*

As per the experience letter, the guest teacher are being paid on daily basis without any paid leaves and is simply a certification of attendance.

As per the experience letter, the total paid days from serial no.a to f is 1288 days and 01.09.2020 to 21.12.2020 (cut-off date of application submission), the no. of days are around 75 days. Considering all the working days as per the experience letters, the experience comes out around 45.5 months. In addition, the experience letters does not have any pay scale of the said post.

As per the eligibility criterion given in the advertisement, the applicant should have Bachelor degree with at least 50% marks



in Physical education/sports/yoga with 05 years practical /professional experience.

The committee is in the view that the as per the experience letter submitted by the candidate, candidate is found to fail to meet the required minimum practical/professional experience as per the advertisement.

*Sd/-
Vinay Saini
Assistant Registrar*

*Sd/-
Dr. Raj Kumar
Deputy Director (CB)”*

14. It is, therefore, directed that the Vice-Chancellor of the University shall look into this issue and in case he so desires, then he may take appropriate action in accordance with law against the aforesaid two officers who had issued the aforesaid letter Annexure R-3.

15. Since the action of the respondent-University was *ex facie* perverse and hypothetical in nature, the petitioner is also entitled for costs which are assessed as Rs. 25,000/- which shall also be paid to the petitioner within a period of two months from today.

(JASGURPREET SINGH PURI)
JUDGE

21.08.2024
rakesh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No