

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

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CWP No.8018 of 2013 (O & M)

Date of Decision : 11.1.2024

*Savita Arora**..... Petitioner**versus**Maharishi Dayanand University, Rohtak and another**..... Respondents***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Ashwani Bakshi, Advocate, for the petitioner

Mr. Anurag Goyal, Advocate and

Mr. Amit Rao, Advocate, for respondent no.1/University

Mr. S.K. Redhu, Advocate, for respondent no.2

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the selection and appointment of the second respondent on the post of Technical Assistant (Software Support); a writ of *mandamus* directing the first respondent to appoint the petitioner on the post by taking into account her experience and granting due marks for the same as per the criteria.

2. Facts of the case in brief are, the first respondent/University advertised certain posts, including one post of Technical Assistant (Software Support), vide advertisement no.1 of 2012, Annexure P-1. The requisite qualification and experience for the post were as under:

4. Technical Assistant (Software Support)**Qualification**

First class BCA or First class 3-year Diploma in CSE/ECE from State Technical Board or equivalent.

Experience

3 years experience in software support/handing/development for an enterprise (preferably a university or its equivalent size).

The applicants were required to apply online and upload scanned copies of the matriculation, graduation and other degrees as well as experience certificates, etc. A printout of the application form was to be sent to Superintendent-In charge (Establishment) in the University. It was also stipulated that original testimonials must be brought by the candidates for verification at the time of interview. The ones who were in employment were required to submit applications through proper channel, or 'No Objection Certificate' from their employer at the time of interview.

2.1. The petitioner applied for the post and uploaded the required documents, and was called for interview along with other candidates. She appeared before the Interview Board and produced her experience certificates too, but was not selected; instead, the second respondent was selected for the post. On seeking information from the University, the petitioner came to know that she had been awarded only two marks for experience; whereas, the second respondent/selected candidate was awarded eight marks for experience, though was not qualified for the same.

2.2. The candidates are entitled to two marks for each year's experience and maximum of eight marks as per the criteria, which is as under:

Experience –

Upto 3 years of experience in relevant field-	marks nil
Marks beyond above experience	- 2 marks per year
Maximum marks	- 8

It is also provided in the advertisement that the requisite experience should be full-time in the relevant field, and will be counted only from the

date of acquiring the qualification.

2.3. It is claimed that the petitioner obtained Diploma in Computer Science Engineering (CSE) in the year 2000, with first division, and thereafter gained experience as Assistant Programmer in Logitech Infoways, from 5.2.2004 to 6.3.2006, and also as Information Assistant in the office of Civil Surgeon, District Health and Family Welfare Society, Sirsa, from 8.3.2006 to 26.9.2007 and 27.9.2007 to 11.6.2012, Annexure P-3 Colly. Accordingly, she has the requisite experience of about eight years after acquiring the essential qualification, and is entitled to award of maximum eight marks on that account as per the criteria, whereas she was given only two marks.

2.4. It is also claimed that the second respondent did not have the requisite experience, and was wrongly given eight marks for the same. He obtained B.Sc. degree in Information Technology on 5.12.2007, and the experience certificates submitted by him are for working as Computer Operator; firstly, in the office of Civil Surgeon, Rohtak, from 1.10.2001 to 9.11.2005, and thereafter as Software Developer in the office of Deputy Commissioner, Rohtak, from 10.11.2005 to 24.2.2012. Therefore, his experience prior to acquiring the essential qualification, could not have been taken into consideration for award of marks. It is also contended that his experience certificates are bogus, as the same are un-dated and without any reference number. On this account also, the same could not have been considered valid for awarding marks of experience to him.

2.5. In this factual background, the instant petition was filed claiming that the petitioner is entitled to eight marks on the basis of experience certificates, and adding these to her total score of twenty-one

marks will make her score more than that of the selected candidate, who scored twenty-five marks.

3. Learned counsel for the petitioner contends that the University has deliberately not taken into account the petitioner's experience certificates, since it intended to select the second respondent for the post in question. Otherwise, there is no reason for not considering the same. All the documents/certificates were duly uploaded by the petitioner along with the application form; and the originals as also the NOC from her employer, were produced at the time of interview. Only after verifying the same, she was interviewed and deliberately not selected. It was because the University wanted to favour the second respondent, who could not have been selected/appointed on the post for want of requisite experience.

4. Learned counsel for the University, on the contrary, contends that the selection has been carried out in a fair manner; no *mala fides* have even been alleged in the process against anyone. None of the Interview Board members has been impleaded as a party to the petition. Based on the affidavit filed by the Registrar on behalf of the University, he contends that the reason for not giving marks for experience to the petitioner was her failure to produce original certificates and NOC from the employer at the time of interview. The experience certificates of the second respondent are genuine, as they were duly verified by the Deputy Commissioner under whom he was working, vide letter dated 28.8.2012, Annexure A-4. Besides, so far as academic qualification of the second respondent is concerned, he obtained B.Sc. Degree in Information Technology in 2007, with first division, from Sikkim Manipal University; and Advanced Diploma in Software Engineering from Aptech Computer

Education in 2003, with first division. This is apparent from the application form, Annexure A-1, as well as the Diploma Certificate, Annexure A-2, which was considered equivalent to the requisite qualification of first class BCA or three year diploma in Computer Science Engineering (CSE) from the State Technical Board. He has further contended that the Interview Board consisted of senior academic authorities as well as subject experts, i.e., Dean, Academic Affairs, Director, Computer Centre and Director, School of Computer and Information Science. This Expert Body has considered the second respondent's diploma equivalent to the requisite qualification, and no exception can be taken to it. Therefore, the petitioner has no right to be appointed on the post.

5. Heard.

6. As per the facts apparent on record, the second respondent had the requisite qualification as well as experience for the advertised post. His advanced diploma in software engineering obtained in 2003, was considered equivalent to the required qualification of "First class BCA or First class 3-year Diploma in CSE/ECE from State Technical Board or equivalent" by the Interview Board, which consisted of academics and subject experts in the relevant fields. This Court has no reason to differ with the same, nor any material has been placed on record which could even *prima facie* indicate the experts opinion was wrong. It is settled law that matters of equivalence of qualification must be left to the experts. A reference can be made to the Supreme Court judgment in *Anand Yadav and others v. State of Uttar Pradesh and others*, (2021) 12 SCC 390.

Relevant paragraph no.35 of the same reads as under:

35. We say so in view of the fact that matters of education must be left to educationists, of course subject to being governed by the relevant statutes and regulations. It is not the function of this Court to sit as an expert body over the decision of the experts, especially when the experts are all eminent people as apparent from the names as set out. This aspect has received judicial imprimatur even earlier and it is not that we are saying something new. We may refer to the pronouncement in *Zahoor Ahmad Rather* in this behalf which has dealt with the dual aspects: (a) it is for the employer to consider what functionality of qualification and content of course of studies would lead to the acquisition of an eligible qualification; and (b) such matters must be left to educationists.

Besides, the second respondent's experience certificates as Software Developer in the office of Deputy Commissioner, from 10.11.2005 to 24.2.2012, were duly verified by the officer himself vide letter/certificate dated 28.8.2012. And the experience was gained after obtaining the advanced diploma in software engineering in 2003, which has rightly been counted by assigning eight marks on that basis, as per the criteria. Therefore, it cannot be said that any experience prior to acquiring the essential qualification has been taken into consideration for award of marks to him.

6.1. Further, there is dispute on facts so far as claim of marks to the petitioner on the basis experience certificates and submission of NOC by her are concerned. On the one hand, the petitioner has averred that the original certificates as well as the NOC were duly submitted at the time of interview, the same were verified and only thereafter she was interviewed. Had the petitioner not produced the original certificates/documents and the same had not been verified, she would not have been allowed to appear in the interview. Therefore, the University's stand cannot be

accepted. On the other hand, the University Registrar in his affidavit has stated that the original testimonials were not produced by the petitioner at the time of interview, therefore, she could not have been awarded marks for experience and it was rightly not done.

6.2. In face of this apparent factual dispute regarding production of the original certificates at the time of interview, merely because the petitioner was interviewed by the Board, it cannot be assumed that the original certificates were also produced by her which were verified too. Had it been so, there was no reason for the Interview Board not to give her marks for experience on that basis. The entire selection was conducted fairly, and no *mala fide* or wrongdoing on the part of members of the Interview Board has been alleged by the petitioner, nor has any one of them been impleaded as a party in the petition. Therefore, this Court has no reason to doubt the assertion on oath by the Registrar that the originals were not submitted by the petitioner at the time of interview. Nor is there any valid reason to raise a presumption of wrongdoing against the University or the members of Interview Board, that too in the absence of any relevant material or allegation.

7. In view of this discussion, there is no merit in the petition and the same is accordingly dismissed.

8. Pending miscellaneous application(s), if any, stands disposed of accordingly.

(TRIBHUVAN DAHIYA)
JUDGE

11.1.2024

Ashwani

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No