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

+ **W.P.(C) 9798/2024**

BALRAJ PRASHAR

.....Petitioner

Through: Mr. M.N. Dudeja and Mr. Aditya
Mishra, Advocates

versus

DIRECTOR OF EDUCATION & ANR.

.....Respondents

Through: Mr. Gaurav Dhingra with Mr.
Shashank Singh and Mr. Piyush Kant Rai,
Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **19.07.2024**

CM APPL. 40173/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking grant of notional seniority from the date of selection i.e. 15.04.2008 as Librarian at Union Academy Senior Secondary School ('School').
4. It is the case of the Petitioner that on 20.02.2008, the School published a Notification inviting applications for the post of Librarian. On 08.04.2008, Petitioner was called upon to appear before the Selection Committee for a personal interview scheduled on 15.04.2008. Petitioner was



selected in the interview but was not given the final appointment letter for want of age relaxation letter from the Directorate of Education, Respondents herein. Petitioner sent number of representations to the Directorate but received no response and filed writ petition bearing W.P.(C) No. 479/2011 on 24.01.2011 before this Court raising a grievance that despite his selection to the post of Librarian by a duly constituted Selection Committee, in which nominee of the Directorate of Education was also present, no appointment letter was issued. The stand of Directorate was that Petitioner's selection was subject to relaxation of age and the matter was under consideration with the Competent Authority. Writ petition was disposed of with a direction to the Competent Authority to take a decision on the age relaxation within four weeks.

5. It is averred that pursuant to the orders of the Court, case of the Petitioner was considered but was rejected and aggrieved with the same, Petitioner filed a writ petition bearing W.P.(C) No.2272/2012. Case of the Petitioner was that as per Circular dated 20.01.2009, Librarians are equated with Teachers and therefore, age relaxation ought to have been granted by the Directorate of Education. Relying on Rule 98(4) of Delhi School Education Rules, 1973, it was urged that since approval was not granted by the Directorate within 15 days, it was deemed that the approval was granted, more so, when Director's nominee was part of the Selection Committee. After hearing the parties to the writ petition, the Court dismissed the writ petition holding that Circular dated 03.05.1976 pertained to grant of age relaxation for recruitment to various categories of Teachers and did not apply for appointment of a Librarian which is a non-teaching post and it is only in 2011 that vide office order dated 21.01.2011, Librarians were called



upon for the first time to take classes in addition to the work of Librarian but this office order cannot be applied retrospectively. On the aspect of deemed approval, the Court held that the recommendation by the Selection Committee was subject to grant of age relaxation and the applicable rule was Rule 97 and not Rule 98 pertaining to deemed approval.

6. The matter was taken up in appeal by the Petitioner and by a detailed judgment dated 04.04.2019 in LPA No.502/2018, the Division Bench allowed the appeal and set aside the judgment of the learned Single Judge directing the Petitioner to report for duty as a Librarian in the school on 15.04.2019 and function as a Librarian from the said date but without arrears of pay. The Review Petition filed by the Respondents was dismissed on 20.05.2019 followed by dismissal of Special Leave Petition on 31.01.2020 by the Supreme Court. On 03.11.2023, Petitioner sent a detailed representation to Respondent No.1 claiming notional seniority from the date of his actual selection i.e. the date on which he was directed to join duties pursuant to orders of the Division Bench of this Court as upheld upto the Supreme Court. Reminder was sent on 21.12.2023. However, till date, there is no response.

7. Issue notice.

8. Mr. Gaurav Dhingra, learned counsel accepts notice on behalf of Respondents.

9. In my view, it would be appropriate, at this stage, to dispose of the writ petition with a direction to Respondent No.1 to decide the representation of the Petitioner and pass a reasoned and speaking order on the aspect of notional seniority. The decision shall be taken within eight weeks from today and will be communicated to the Petitioner within one



week thereafter, who will be at liberty to take recourse to legal remedies in case of any surviving grievance.

10. Needless to state that this Court has not expressed any opinion on the merits of the case.

11. Petition stands disposed of in the above terms.

JYOTI SINGH, J

JULY 19, 2024/kks