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

+ **W.P.(C) 5785/2017**

PRADEEP KUMAR

.....Petitioner

Through: Mr. Shanker Raju and Mr. Nilansh
Gaur, Advocates.

versus

INSTITUTE OF ECONOMIC GROWTH & ANRRespondents

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Mokesh Pandey, Advocate
for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

20.02.2026

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1. The petition primarily challenges the Office Order dated 6th May, 2016, by which the Petitioner's services, as a probationer in the post of Library Attendant (later redesignated as Multi-Tasking Staff) in the Respondent Institute, were terminated on the ground that he did not possess a valid certificate of the essential qualification in Library Science. The Petitioner, *inter alia*, also assails the subsequent communication dated 5th July, 2016, rejecting his representation and affirming the termination.

Facts

2. The Respondent Institute issued an advertisement dated 6th November, 2013 for the post of Library Attendant, including one post on regular basis and another on *ad hoc* basis. The essential qualifications, as set out on the Institute's website, included: (i) Secondary School Certificate (10th Standard); (ii) Certificate in Library Sciences/Library Information



Science; and (iii) Six months' basic course in Computer Applications.

3. On 25th November, 2013, the Petitioner applied for the post. Along with his application, he enclosed copies of mark statements/certificates issued by Eastern Institute for Integrated Learning in Management University, Sikkim ("*EIILM*"), including for a Diploma in Library Science (January, 2011 to December, 2011) and for Bachelor of Commerce for the first and second years for the sessions July, 2010 to June, 2012.

4. The Petitioner was issued an appointment letter dated 5th August, 2014. He joined on 8th August, 2014. The appointment letter recorded that he would be on "*probation for a period of one year, extendable by a further period of one year at the discretion of the Institute*". It also recorded that the appointment was terminable by three months' notice from either side, with a power in the Director to waive notice in special cases. The letter of appointment, reads as follows:

"August 5, 2014

Sub: Appointment for the post Library Attendant

Dear Mr. Pradeep Kumar,

With reference to your application and subsequent test, and interview held on August 4, 2014 for the post of Library Attendant, I am writing to inform that you have been selected for appointment to the post of Library Attendant in the scale of pay of Rs.5200-20200 GP:1800 plus usual allowances admissible from time to time at the Institute. The other terms and conditions of your appointment are as under: -

- 1. You will be on probation for a period of one year, extendable by a further period of one year at the discretion of the Institute, from the date of your joining the post.*
- 2. You will be required to undertake such work as may be assigned by the Institute from time to time.*
- 3. You will not be allowed to engage yourself directly or indirectly in any trade, business or profession, which carries any kind of*



remuneration, without Director's permission.

4. *As regards working hours, leave rules and other conditions of service, you will be governed by the Terms and Conditions of Service, Rule 1979 of the Institute and amendments as be in force from time to time.*
5. *Your appointment is terminable by three month's notice from either side. The notice period can be waived by the Director in special cases.*
6. *You are required to furnish attested copies of your certificates of education along with mark-sheets starting from High School/Higher Secondary before or at the time of joining the Institute.*
7. *You are required to produce medical fitness certificate at the time of joining the Institute from the Medical Officer on the approved panel of IEC.*
8. *The appointment of a candidate belonging to SC/ST/OBC is provisional till such time the claim is verified from the appropriate authority. In case the claim is found to be false, his/her services will be terminated forthwith without assigning any reason and without prejudice to further such action that may be taken against him/her.*

In case the above terms and conditions are acceptable, you are required to sign second copy of this letter and join the Institute on or before August 31, 2014.

Yours sincerely,

Sd/-

*(Sushil Kumar Sen)
Academic Programmes Officer"*

5. Complaints were thereafter received questioning the validity of the Petitioner's qualification and the legality of his appointment. The Petitioner's probation was extended from time to time while the Respondent Institute verified the qualification certificates.
6. By an Office Order dated 6th May, 2016, the Respondent Institute terminated the Petitioner's services with effect from 6th May, 2016 (A.N.),



holding that the Petitioner did not have a valid essential qualification in Library Science and treated the appointment as “*null and void*”. The Office Order relies upon the University Grants Commission (“*UGC*”) letter dated 4th May, 2016, which clarified that validation by the State Government of Sikkim was confined to the academic year 2009-10 and only for three disciplines, namely B.A. (Hospitality and Tourism), BCA and MBA, for students admitted within the territorial jurisdiction of the State of Sikkim, and that degrees in other disciplines and beyond the academic year 2009-10 “*shall not be valid*”. On that basis, the Respondent Institute concluded that the Petitioner did not possess the essential qualification.

7. The Petitioner submitted a representation dated 13th May, 2016, which was rejected by the Respondent Institute by communication dated 5th July, 2016. That communication explains the Respondent Institute’s reasoning in detail, relying upon the regulatory position taken by UGC and the State Government of Sikkim, and reiterating that the EIILM Diploma relied upon was not a valid essential qualification. It also refers to the probation rules of the Institute, and states that the Petitioner’s appointment could not be sustained once the essential qualification was found “*invalid*”.

Submissions

8. Mr. Shanker Raju, counsel for the Petitioner, makes the following submissions in support of the petition:

8.1. The Petitioner obtained a Diploma in Library Science in 2011 from EIILM University and thereafter acquired a Degree in Library Science in April 2015 from Madurai Kamaraj University. The post of Library Attendant stood redesignated as Multi-Tasking Staff (“*MTS*”) with retrospective effect pursuant to implementation of the 6th Central Pay



Commission (“CPC”) recommendations and resolutions adopted by the Respondent Institute, and under the Recruitment Rules applicable to MTS, the essential qualification is only Senior Secondary, which the Petitioner possesses. Once the post stood redesignated, insistence on a Diploma in Library Science is untenable. Reliance is placed on ***M. Nagaraja v. Government of A.P.***¹ to contend once the post stood redesignated as MTS with retrospective effect, the applicable eligibility conditions must be read accordingly.

8.2. The UGC letter dated 4th May, 2016, pertained to graduate degrees and was wrongly applied to a Diploma; in any event, it cannot operate retrospectively to invalidate a qualification acquired earlier. Reliance is also placed on the UGC Public Notice dated 23rd February, 2018, to contend that degrees and diplomas awarded through Open and Distance Learning (“ODL”) institutions recognised by the erstwhile Distance Education Council (“DEC”)/UGC are to be treated at par with corresponding awards of traditional universities. EIILM was established under a State Act, recognised under Section 2(f) and empowered under Section 22 of the UGC Act, and there was DEC recognition for distance programmes during the relevant period. Even assuming any defect in Diploma, the Petitioner had acquired a valid degree from a recognised University prior to termination and, thus, satisfied the eligibility requirement on the date of discharge.

8.3. Reliance is placed on ***Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro & Ors.***² to contend that the Supreme Court recognised degrees awarded through distance mode and moulded relief to protect the aggrieved,

¹ (2007) 11 SCC 522.

² (2018) 1 SCC 468.



and that technical objections as to regulatory approval should not defeat substantive rights where the qualification was obtained from a university established under law.

8.4. The Petitioner had successfully completed probation and was deemed confirmed; the extension of probation was issued after expiry of the initial period and therefore permanency must be presumed. Further, the termination was not approved by the competent authority, namely the Board of Governors, and suffers from jurisdictional infirmity. Treating the appointment as “*null and void*” on the ground of alleged invalid qualification amounts to imputing misconduct, necessitating disciplinary proceedings under the applicable Service Rules. Reliance is also placed on doctrines of legitimate expectation, promissory estoppel, and the power of relaxation vested in the Board of Governors to alleviate undue hardship.

9. Mr. Bhagvan Swarup Shukla, CGSC appearing for the Respondents, opposes the present petition and contends as follows:

9.1. The Petitioner’s appointment was premised upon satisfaction of a valid essential qualification, namely a certificate or diploma in Library Science. The Diploma relied upon by the Petitioner was obtained through distance mode in 2011 and was not recognised for that course and period by DEC/UGC. As per the DEC/IGNOU communication dated 9th September, 2009, recognition to EIILM for distance education was confined to the academic year 2009-10 and to specified programmes, subject to territorial limitation within the State of Sikkim. The Petitioner’s diploma in Library Science was neither shown to be among the approved programmes nor obtained within the recognised academic year.

9.2. The UGC communication dated 4th May, 2016 merely clarifies the



regulatory position following the Fact-Finding exercise, and that no valid approval existed for the programme pursued by the Petitioner in 2011. Further, the UGC Public Notice dated 23rd February, 2018 applies only to programmes conducted by ODL institutions duly recognised by DEC/UGC, and cannot validate an unrecognised course or one pursued beyond the period of approval.

9.3. The redesignation of the post as MTS did not obliterate the essential qualification applicable at the time of recruitment. The Petitioner was a probationer, never formally confirmed, and his services were discontinued upon discovery of ineligibility. The termination is a non-punitive discharge founded on absence of a valid essential qualification, and no disciplinary enquiry was required.

Analysis

Effect of redesignation of post as MTS:

10. The argument founded on the plea of redesignation proceeds on an erroneous premise. A change in nomenclature or pay structure pursuant to pay commission recommendations does not, by itself, rewrite recruitment qualifications. For recruitment, what matters is the rule or eligibility condition governing entry into service for the post in question. The Respondent Institute's contemporaneous record shows that the post was filled against a position described as Library Attendant with a specified essential qualification that included a Library Science diploma/certificate.

11. The Petitioner's own case is that he was selected for appointment after test and interview held on 4th August, 2014 for the post of "*Library Attendant*", and the appointment letter of 5th August, 2014, is issued for that post. The later redesignation as MTS is an administrative re-labelling of



Group 'D' posts. It does not erase the essential qualification on which the Petitioner's candidature was evaluated and on the strength of which he was selected. The Respondent Institute's letter dated 5th July, 2016 also records that the Recruitment Rules pertaining to the Library Attendant/MTS post remained unchanged, including the requirement of a Library Science diploma/certificate.

12. The decision in **M. Nagaraja** is relied upon to say that rules can operate retrospectively. That proposition, as a general principle, is not in dispute. However, retrospective redesignation does not, cure ineligibility at entry. The Petitioner's eligibility must therefore be tested on the basis of the essential qualifications applicable at the time of recruitment and appointment.

Validity of the EIILM Diploma for employment purposes:

13. The Petitioner leans heavily on EIILM's status as a State private university and its recognition under Section 2(f), coupled with its power under Section 22 of the UGC Act to award degrees. That, however, does not answer the question the case actually poses. The controversy is not about EIILM's existence as a university in the abstract. It is about the legal status of the particular qualification relied upon by the Petitioner for public employment.

14. The regulatory architecture governing universities cannot be reduced to the bare fact of incorporation under a State enactment. In **Prof. Yashpal v. State of Chhattisgarh**³, the Supreme Court was confronted with a situation where universities had been brought into existence in a mechanical manner by issuance of gazette notifications, without regard to infrastructure,



teaching facilities, or regulatory control. The Court held that, notwithstanding the State's competence to legislate on incorporation of universities under Entry 32 of List II, the field of coordination and determination of standards in higher education is reserved to Parliament under Entry 66 of List I, and any State action trenching upon that domain would be impermissible. It was emphasised that the conferment of the status of a university, and the power to award degrees under Section 22 of the UGC Act, cannot operate in isolation from the statutory regime designed to ensure uniform standards and regulatory oversight.

15. In that backdrop, the mere fact that EIILM was established as a State private university and recognised under Section 2(f) of the UGC Act does not conclude the enquiry. The decisive question is whether the programme relied upon by the Petitioner was conducted in conformity with the applicable approval and regulatory framework governing distance education, including authorisation for study centres or off-campus operations. The material on record indicates that no such approval had been granted. The issue, therefore, is not one of theoretical existence, but of lawful conduct of the programme and recognition of the Diploma for employment purposes.

16. The record further shows that a Fact-Finding Committee was constituted by UGC in the light of complaints about EIILM's activities, including unauthorised study centres, franchising of higher education, and issuance of degrees without the prescribed academic framework. The Committee visited the University in April 2015. The material relied upon by the Institute records that the Committee recommended dissolution of EIILM University under the State Act, noted that EIILM, being unitary, had no

³ (2005) 5 SCC 420.



mandate to affiliate colleges and had not received permission to establish off-campus/study/off-shore centres, and also recorded a limited validation approach recommended to protect students admitted within Sikkim for academic year 2009-10 in specified disciplines. A public notice was thereafter issued by UGC on 5th August, 2015, and the State Government of Sikkim proceeded with dissolution and stopped fresh admissions.

17. The record reflects validation, if any, was confined to the academic year 2009-10 and only to three disciplines, namely B.A. (Hospitality and Tourism), BCA and MBA, and that too for students admitted within the territorial jurisdiction of Sikkim, subject to verification from admission records. The Petitioner's qualification falls outside that narrow window on both counts. It is a Diploma in Library Science, which does not feature in the validated disciplines, and it was pursued and completed in 2011, beyond the academic year 2009-10.

18. The Petitioner's attempt to treat the UGC communication dated 4th May, 2016 as confined to graduate "*degree*" programmes is unpersuasive. The position reflected in the regulatory record, as explained by UGC and reflected in the Institute's record, is that distance education recognition was granted for one academic year and for specific courses only, and that the institution could not offer any other programme through distance mode beyond what was approved. Once that is the premise, the debate about whether the programme is styled as "*degree*" or "*diploma*" does not help. The question is approval and recognition for that programme and that period. The Petitioner has not shown any DEC/UGC recognition for Diploma in Library Science for the year 2011.

19. The public notice dated 23rd February, 2018 does not carry the



Petitioner's case further. It speaks of equivalence for “*degrees*” and “*diplomas*” awarded for programmes conducted by ODL institutions recognised by the erstwhile DEC/UGC. It is not a curative device that transforms an unapproved programme into an approved one.

20. The Petitioner has contended that Diploma in Library Science formed part of programmes approved by DEC. Even assuming there is a list that reflects approval in principle for certain programmes, the decisive question remains whether the specific programme pursued by the Petitioner in 2011 fell within the scope of a valid and subsisting recognition, both in terms of academic year and territorial jurisdiction. The regulatory material on record indicates that recognition, if any, was confined to the academic year 2009-10 and to specified disciplines. No contemporaneous approval covering Diploma in Library Science offered in 2011 through distance mode has been shown. Thus, the material on record does not establish that the Petitioner possessed a recognised essential qualification at the time of appointment.

21. The retrospectivity argument rests on an erroneous premise. The Petitioner proceeds as though the UGC letter dated 4th May, 2016 created the ineligibility. The regulatory record indicates otherwise. Recognition for distance mode, if at all, was determined earlier through the DEC/IGNOU communication dated 9th September, 2009, which was confined to the academic year 2009-10 and to specified programmes. The 2016 communication merely sets out that position and records the regulatory outcome following the Fact-Finding exercise. It does not withdraw an existing approval with retrospective effect. It clarifies that, for the Petitioner's programme and period, no approval existed in the first place.

22. Similarly, the Petitioner's submission that he acquired a recognised



degree in Library Science in April 2015 does not cure the foundational defect. Eligibility must exist on the date of appointment. A qualification acquired subsequent to entry into service cannot retrospectively validate an appointment that was deficient at inception, unless the governing rules so permit. No such provision is shown here. It is also not disputed that the Petitioner undertook the said course during his employment without seeking prior permission, as required under Rule 16(f) of the Institute's Service Rules, which mandates prior approval for pursuing studies while in service. While this factum is not determinative, the circumstance reinforces that the subsequent acquisition of qualification cannot be invoked as a curative or equitable ground to sustain an otherwise ineligible appointment.

23. Once it is found that the Petitioner did not possess a valid essential qualification at the time of appointment, the legal consequences must follow. An appointment made contrary to essential eligibility conditions cannot be sustained on considerations of equity, and that a candidate who was ineligible on the cut-off date cannot claim a right to continue merely because time has elapsed. The appointment does not gain legality by passage of time or by internal recommendations. The employer is entitled, indeed obliged, to correct the position when the defect is discovered.

Whether the termination is punitive or stigmatic:

24. The Petitioner further contends that the termination is, in substance, founded on allegations of fraud or misrepresentation and, therefore, could not have been effected without disciplinary proceedings. The submission requires the Court to identify the true foundation of the impugned action. That enquiry begins with the operative order itself, not with expansive language employed later while rejecting a representation.



25. The Office Order dated 6th May, 2016 records the documents furnished by the Petitioner, sets out the essential qualifications, refers to the clarification received from UGC, and concludes that the Petitioner did not possess a valid essential qualification in Library Science for the post. It then treats the appointment as unsustainable on that footing and terminates the Petitioner's probationary service. The order does not return a finding of misconduct, does not record an adjudication of fraud, and does not visit the Petitioner with a penal consequence after an enquiry. Its premise is ineligibility.

26. The communication dated 5th July, 2016, while dealing with the Petitioner's appeal/representation, employs stronger language. Even so, the thread running through that communication remains the same: the qualification relied upon as essential was not valid for employment purposes. On a proper reading, therefore, the foundation of the action is not misconduct but lack of eligibility. In service law, termination founded on absence of an essential qualification is not a punitive dismissal; it does not attract the procedural requirements that become mandatory when an employer seeks to impose a punishment for misconduct.

27. The Petitioner also seeks to draw support from an ACR entry suggesting permanence and from an internal recommendation for confirmation. Neither advances his case. A recommendation is only a recommendation. Confirmation follows only upon a formal order by the competent authority. The contemporaneous record shows that the Petitioner's probation was extended up to the date of termination while the Respondent Institute was verifying the validity of the essential qualification. A stray description in an internal assessment record cannot, by itself, alter



the legal character of the appointment or foreclose an eligibility-based action once the defect is established.

28. The contention that the termination was not approved by the Board of Governors and therefore suffers from jurisdictional infirmity does not advance the Petitioner's case. The impugned action is not a disciplinary penalty, but a discontinuation founded on absence of essential eligibility. Where an appointment is rendered unsustainable for want of a valid qualification at entry, the employer is entitled to correct the position. Even assuming some irregularity in internal approval procedure, such irregularity cannot compel continuation of an appointment made contrary to statutory eligibility conditions.

29. The plea of deemed confirmation is equally untenable. Confirmation does not follow automatically upon expiry of the initial probation period unless the governing rules expressly so provide. The appointment letter clearly stipulates probation "*extendable by a further period of one year at the discretion of the Institute*". In the absence of a formal order of confirmation by the competent authority, no vested right of permanency accrued to the Petitioner.

30. The reliance on doctrines of legitimate expectation, promissory estoppel and power of relaxation is misplaced. Legitimate expectation cannot override statutory eligibility requirements. Nor can estoppel operate against law. The power of relaxation, even if available, cannot be invoked to validate an appointment made in the absence of a recognised essential qualification unless the rules expressly permit relaxation of that very condition. No such statutory relaxation of the essential qualification is shown.



31. The reliance on ***Orissa Lift Irrigation*** is misplaced. In that decision, the Supreme Court categorically held that Engineering degrees awarded through distance education mode without the requisite approval of AICTE were illegal and stood suspended/cancelled. The Court did not validate such degrees as a matter of right. Instead, having found systemic regulatory failures, it fashioned a one-time equitable arrangement in the larger interest of students by permitting them to undergo a supervised test process within a stipulated time, failing which the degrees would remain cancelled. The relief was thus transitional and conditional, not a declaration of inherent validity. The present matter concerns public employment, where possession of a valid essential qualification at the threshold is mandatory. The equitable, student-centric directions issued in ***Orissa Lift Irrigation*** cannot be invoked to compel recognition of an ineligible qualification for purposes of appointment, nor can they justify sustaining an appointment that fails to meet the basic eligibility condition at the point of entry.

Conclusion

32. The writ petition is dismissed. The impugned orders/communications do not call for any interference.

SANJEEV NARULA, J

FEBRUARY 20, 2026/as