

5

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 95/1990.

DATE OF DECISION: September 12, 1990

Shri D.P. Das Gupta .... Applicant.

Shri B.S. Maineee .... Counsel for the Applicant.

V/s.

Union of India & Ors. .... Respondents.

Shri M.L. Verma .... Counsel for Respondents  
No.1 and 2.

Shri T.C. Aggarwal .... Counsel for Respondent  
No.3.

CORAM: Hon'ble Mr. Justice Amitav Banerji, Chairman.  
Hon'ble Mr. P.C. Jain, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the Reporter or not? Yes.
3. Whether their lordships wish to see the fair copy of the judgment? No.
4. To be circulated to all Benches of the Tribunal? No.

(See 14519)  
(P.C. JAIN)  
Member (A)

(AMITAV BANERJI)  
Chairman.

6

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Shri B.S. Maine .... Counsel for the Applicant.

V/s.

Union of India & Ors. .... Respondents.

Shri M.L. Verma .... Counsel for Respondents No.1 and 2.

Shri T.C. Aggarwal .... Counsel for Respondent No.3.

CORAM: Hon'ble Mr. Justice Amitav Banerji, Chairman.  
Hon'ble Mr. P.C. Jain, Member (A).

(Judgment of the Bench delivered by  
Hon'ble Mr. P.C. Jain, Member (A).

JUDGEMENT

The applicant, who is posted as Reference Librarian, Research & Reference Division, Ministry of Information & Broadcasting, New Delhi, has, in this application under Section 19 of the Administrative Tribunals Act, 1985, assailed the order dated 9.1.1990 by which respondent No.3, a Documentation Officer in the same organisation, has been appointed as Chief Documentation Officer in the same Division in an officiating capacity until further orders and on probation for a period of two years. The applicant has prayed that the aforesaid order as well as the D.P.C. proceedings be quashed and the respondents be directed to promote him to the post of Chief Documentation Officer from the date from which respondent No.3 had been promoted with all consequential benefits.

2. The applicant was appointed as a Reference Librarian (Class II Gazetted) as a direct recruit through the U.P.S.C. on regular basis on 8.6.1981, even though he had been selected for the same on 12.1.1981. He could not join earlier as he was not relieved by his previous employer.

i.e., Department of Statistics, Ministry of Planning. The applicant's case, in brief, is that he being senior to respondent No.3 in the feeder grade for promotion to the post of Chief Documentation Officer, had a better claim for the post and respondent No.3, who has been given promotion to the aforesaid post is not eligible in accordance with the recruitment rules for appointment to that post inasmuch as she does not possess either a Bachelor's degree in Library Science or equivalent Diploma in Library Science; the Diploma in Library Science possessed by respondent No.3 is not equivalent to the Bachelor's Degree in Library Science.

3. The case of the official respondents is that respondent No.3 had been selected by the D.P.C. and appointed by the competent authority after due consideration of the recruitment rules, qualifications and eligibility etc. of the candidates. It is stated that respondent No.3 had passed the Diploma examination held by the Board of Technical Education (Delhi Administration) in Library Science in 1965 after she had obtained degree of B.A. (Honours course) in the year 1962. This Diploma course being of two years duration, cannot be considered inferior to the one-year Diploma possessed by the applicant. As regards the inter-se seniority, it is stated that the post of Reference Librarian and Documentation Officer belong to two different cadres, even though they carry the same scale of pay and respondent No.3 was appointed to the post of Documentation Officer on regular basis on 14.5.1981 while the applicant was appointed as Reference Librarian on 8.6.1981. There is no inter-se seniority between the applicant and respondent No.3 and the date of confirmation in the respective cadres has no direct bearing in the matter of seniority.

4. In her reply, respondent No.3 has asserted that she is a Graduate and holds a Diploma in Library Science

and, as such, is eligible for promotion to the post of Chief Documentation Officer. It is also stated that educational qualification is not to be insisted upon in the case of promotion.

5. We have carefully perused the material on record and have also heard the learned counsel for the parties.

6. Research & Reference Division (Chief Documentation Officer) Recruitment Rules, 1980 were notified on 10.4.1980. As per these rules, there is one post of Chief Documentation Officer, which is a Group 'A' Gazetted non-ministerial post. The post is a selection post, which is to be filled by promotion failing which by transfer on deputation (including short-term contract) and failing both by direct recruitment. Documentation Officer and Reference Librarian with 8 years' regular service in the respective grade are eligible for promotion to the post of Chief Documentation Officer, but the candidate "must possess at least a Bachelor's Degree or equivalent Diploma in Library Science". The applicant, who was Reference Librarian and respondent No.3, who was Documentation Officer, both had 8 years' regular service in the respective grades. The point at issue is whether respondent No.3, who has been appointed to the post of Chief Documentation Officer possessed the minimum qualifications, as stated above. The applicant has filed a copy of a certificate dated 22.1.1990 issued by Professor D.S. Aggarwal, Head of the Department, Department of Library and Information Science, University of Delhi, to the effect "that the Diploma in Library Science awarded by this University upto the academic session 1964-65 is equivalent to Bachelor's degree in Library Science awarded by this University from the academic session 1965-66". He has also filed a copy of Memo dated 15.2.90 from the Principal, Delhi Administration, Women's Polytechnic, Maharani Bagh, New Delhi, addressed to one Mrs. Jsha Sehgal, W.C, Railway Board Library, Rail Bhawan, New Delhi.

with reference to her application dated 24.1.90, wherein the addressee was informed "that the Diploma's awarded for pursuing courses in Polytechnics are not equivalent to the degree awarded by the Universities. Diploma in Library Science is also considered lower than the degree in Library Science. There is no documentary proof available with this Polytechnic. For this, she is advised to contact the Registrar, Board of Technical Education, Old Sectt., Delhi & Association of Indian Universities". A copy of letter dated 20.6.1990 from the Deputy Secretary, Association of Indian Universities, New Delhi, addressed to the Director, Research and Reference Division, Ministry of Information & Broadcasting, New Delhi, with reference to the addressee's letter dated 25.5.1990, has also been filed by the applicant. According to this letter, "Diploma in Library Science of Women's Polytechnic may not 'NOT' be equated with the Bachelor's degree, as the objective, duration, eligibility requirement etc. differ for both the programmes". Thus, on the basis of documents available on record, it cannot be stated that the Diploma in Library Science acquired by respondent No.3 is equivalent to a Bachelor's degree in Library Science. Apart from this, there is neither any averment either from the official respondents No.1 and 2 or from the affected respondent No.3 that the Diploma possessed by respondent No.3 is equivalent to Bachelor's degree in Library Science; nor any material in support of such contention has been placed before us by respondent No.3.

7. The learned counsel for respondent No.3 laid great emphasis on his interpretation of the qualifications prescribed for promotion, according to which, Diploma in Library Science is not required to be equivalent to Degree in Library Science. We are unable to uphold this contention. For proper interpretation, complete structure of the relevant provisions has to be seen and read as a

whole and not in piecemeal. As per the Recruitment Rules, for promotion to the post of Chief Documentation Officer, a candidate "must possess at least a Bachelor's Degree or equivalent Diploma in Library Science". The words "or equivalent Diploma" can only mean a Diploma which is recognised as equivalent to a "Bachelor's Degree" - the words which precede the above words.

8. We are fortified in our conclusion also by reference to the essential qualifications prescribed in the Recruitment Rules in the event of direct recruitment to the post of Chief Documentation Officer. Though these are not directly relevant to the case before us, yet the spirit underlying the rules becomes clear. The heading of column 7 of the Schedule annexed to the Recruitment Rules is "Educational and other qualifications required for direct recruits". These are reproduced below: -

" Essential

1. At least Second Class Master's Degree of a recognised University or equivalent.
2. Degree or equivalent Diploma in Library Science of a recognised University or Institute.
3. 7 years' experience of documentation work in a responsible capacity in a Library or Institution of standing.

Note 1. Qualifications are relaxable at the discretion of the U.P.S.C. in case of candidates otherwise well qualified.

Note 2. The qualification(s) regarding experience is/are relaxable at the discretion of the U.P.S.C. in the case of candidates belonging to scheduled castes and scheduled tribes if, at any stage of selection the U.P.S.C. is of the opinion that sufficient number of candidates both these communities possessing the requisite experience are not likely to be available filled up the vacancies reserved for them.

Desirable

Should have published books etc. in the field of Library Science / Documentation

From the above, it is clear that among the Essential qualifications prescribed for direct recruits are not only the educational qualifications, but also professional qualifications and experience. The educational qualification prescribed for direct recruits is not applicable in case the post is filled up by promotion. However, the professional qualification for direct recruits as also for the promotees has been stated virtually in identical language. The experience required is seven years in the case of direct recruits and eight years in case of promotees. Thus, what has been given up in case of promotion is the general educational qualification. It may also be noted here that while in case of direct recruits qualifications can be relaxed at the discretion of the U.P.S.C., there is no such provision in the case of promotion.

9. It is not the case of either the official respondents or the affected respondent No.3 that the appointment of respondent No.3 had been made by relaxing the prescribed qualification or in relaxation of the rules, nor any material relating thereto has been placed before us. Therefore, there would be no basis for us to presume that the appointment of respondent No.3 to the post of Chief Documentation Officer has been made either in relaxation of the rules or after relaxing the provision in regard to the minimum qualification prescribed for promotees.

10. Both the applicant and respondent No.3 have considerably dilated on the issue of inter-se seniority. Admittedly, the applicant belongs to the cadre of reference Librarian while respondent No.3 belongs to the cadre of Documentation Officer; as such, their seniority in the respective cadres is not comparable. No integrated seniority list of the two cadres for purpose of promotion appears to have been issued. Even otherwise, the seniority alone is not to be the basis for promotion to the post of Chief *See*.

Documentation Officer, which is a 'selection' post as per the Recruitment Rules, and, therefore, the promotion to this post cannot be made on the basis of seniority subject to rejection of the unfit, but on the basis of inter-se merits of the candidates eligible for consideration for promotion. We do not consider it necessary to give any finding on the inter-se seniority of the applicant and respondent No.3, but we would like to state that seniority cannot take the place of eligibility; the first requirement is that a person must be eligible in terms of the provisions of the Recruitment Rules for being considered for appointment or promotion to the post. The seniority of the eligible candidates would be relevant only in the case of consideration for promotion on the basis of seniority.

11. The learned counsel for the respondents submitted at the bar that the documents filed by the applicant to show that the Diploma possessed by respondent No.3 is not equivalent to a Bachelor's Degree in Library Science, do not say so in positive terms and, as such, should not be relied upon. We are unable to agree with this contention. The respondents have not placed before us any material whatsoever to show that the Diploma possessed by respondent No.3 is equivalent to a Bachelor's Degree in Library Science. The documents filed by the applicant in support of his contention cannot be stated to be vague. The Diploma possessed by the applicant, even though of one year's duration, has been certified to be equivalent to Bachelor's Degree in Library Science. The relevant portion from the "UNIVERSITIES' HANDBOOK - INDIA & CEYLON - 1964" issued by Inter-University Board of India & Ceylon, House Avenue, New Delhi (Annexure IX) shows that for admission to Diploma in Library Science in Delhi University, minimum requirement was B.A. or B.Sc. examination or an examination recognised as equivalent thereto. This Diploma was sufficient to seek admission to M. Lib. Science course of the University. On

3

the other hand, for the two years full time Diploma course in Library Science for women under the Directorate of Training and Technical Education, Delhi Administration, minimum admission qualification was 10th class of 10+2 / Matric or Equivalent with a minimum of 45% in English. (Annexure VII to the Rejoinder). Letter dated 20th June, 1990 (Annexure VII to the Rejoinder) from the Deputy Secretary, Association of Indian Universities, New Delhi, addressed to the Director, Research and Reference Division, Ministry of Information & Broadcasting, New Delhi, states that "Diploma in Library Science of Women's Polytechnic may not 'NOT' be equated with the Bachelor's degree, as the objective, duration, eligibility requirement etc. differ for both the programmes". We have ~~also~~ shown the difference in the eligibility requirement for the Diploma possessed by the applicant and for the Diploma possessed by respondent No.3 and this shows that prima-facie the Diploma possessed by respondent No.3 cannot be held to be equivalent to a Bachelor's degree.

12. Another point emphasised by the learned counsel for respondent No.3 is that she has been holding the charge of the post of Chief Documentation Officer with effect from 18.11.86. This does not appear to be factually correct. Order dated 18.11.86 (Annexure AII-1) required respondent No.3 only to look after the work of Chief Documentation Officer in addition to her own duties until further orders and she was not to be paid any remuneration for the additional charge. Further, notification dated 6.5.1988 (Annexure-II to the rejoinder to the counter-affidavit of respondent No.3) shows that one Shri P.K. Verma, who was Librarian Grade I in Bharat Heavy Electricals Ltd., was appointed as Chief Documentation Officer on deputation for a period not exceeding three years w.e.f. 27.4.88. Thus, respondent No.3 had neither been appointed to the post of Chief Documentation Officer on 18.11.86, nor she continued

to discharge the duties of that post continuously since then.

13. In the light of the foregoing discussion, there is no escape from the conclusion that respondent No.3 was not eligible for consideration for promotion to the post of Chief Documentation Officer in accordance with the Recruitment Rules and that her case cannot be held to have been considered for the aforesaid promotion in relaxation of the rules. Accordingly, the impugned Office Order dated 9th January, 1990 (Annexure A-1) by which respondent No.3 has been appointed as Chief Documentation Officer, and the D.P.C. proceedings on the basis of which she is said to have been appointed, cannot be sustained in law and the same are, therefore, hereby quashed.

14. Since respondent No.3 has worked on the post of Chief Documentation Officer from the date of her appointment in January, 1990, we do not direct recovery of payment made to her on this account, but she would not be entitled to continue to hold the post of Chief Documentation Officer from the date of this order, which she has been holding in pursuance of Office Order dated 9.1.1990.

15. We are, however, unable to grant to the applicant the relief to the effect that the respondents be directed to promote him from the date from which respondent No.3 had been promoted with consequential benefits, for the reason that as per the Recruitment Rules, the post of Chief Documentation Officer is a 'selection' post and the applicant has first to be selected and recommended for appointment to the aforesaid post before he can be appointed thereto. The Tribunal cannot function as a substitute of the Selection Committee.

16. Respondents No.1 and 2 are, however, directed to hold a fresh selection in accordance

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with the rules within a period of six weeks from the date of receipt of a copy of this order. The application is, thus, partly allowed in terms of the above directions, with costs on the parties.

*C. C. Jain*  
(P.C. JAIN) 12-9-90  
Member(A)

*A. B.*  
(AMITAV BANERJI) 12-9-90  
Chairman.