

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

ORIGINAL APPLICATION NO.60/01204/2019

ORDER RESERVED ON 18.02.2021

DATE OF ORDER: 09.03.2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

(On video conference from Central Administrative Tribunal, Bangalore Bench at Bangalore)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

(On video conference from Central Administrative Tribunal, Bangalore Bench at Bangalore)

Dr.Parveen Kumar
Son of Sat Narayan
Aged 37 years
Resident of House No.2/49
Ward No.9, Shastri Nagar
Near M.C.Water Tank
Ganaur, District-Sonepat
Haryana-131101. (Group A)

....Applicant

(By Advocate Shri S.S.Pathania – through video conference)

Vs.

1. Union of India through Secretary
Ministry of Food Processing Industries
North Block, New Delhi – 110049.
2. National Institute of Food Technology
Entrepreneurship and Management
(Deemed University)
Plot No.97, Sector 56
HSIIDC Estate, Kundli
District Sonepat (Haryana)
PIN-131028 through its Registrar.
3. Selection Committee through its
Chairman-cum-Vice Chancellor of
National Institute of Food Technology

Entrepreneurship and Management
(Deemed University)
Plot No.97, Sector 56
HSIIDC Estate, Kundli
District Sonepat (Haryana)
PIN-131028.

.....Respondents

(By Advocates Shri B.B.Sharma for R1 & Shri Jagbir Singh for R2 & R3 –
through video conference)

ORDER

PER: RAKESH KUMAR GUPTA, MEMBER (A)

The applicant has filed the present Original Application under Section 19 of the Administrative Tribunal's Act 1985 seeking the following relief:

- i. The respondents may please be directed to prepare the panel with minimum two names in the waitlist in the order of merit and consequently offer an appointment letter to the most meritorious candidate.
- ii. The Hon'ble Tribunal may also pass any other order for the grant of relief to the applicant which it may deem fit and proper in the peculiar facts and circumstances of the case.
- iii. The cost of this application may also be awarded in favour of the applicant.

2. The facts of the case as pleaded by Shri S.S.Pathania, learned counsel for the applicant are as follows:

- a. The respondent No.2 (National Institute of Food Technology Entrepreneurship and Management) is an autonomous institution under Ministry of Food Processing Industries, Govt. of India.

b. The respondent No.2 issued an advertisement to fill up posts, including one that of a Deputy Librarian, vide Advertisement dated 29.11.2015 for recruitment. The applicant being eligible and qualified, applied for the post of Deputy Librarian in the prescribed format.

c. The applicant did not receive any interview call letter nor was the recruitment notified as cancelled. However, the post of Deputy Librarian was again advertised vide Advertisement dated 08.10.2016. The applicant being qualified and eligible, again applied for the post and was called for the interview to be held on 28.03.2017. However, just two days prior to the date of interview i.e. on 26.03.2017, the interview was deferred till further orders.

d. The same post of Deputy Librarian was again advertised by respondent No.2 along with many other posts vide Advertisement dated 24.04.2018. The applicant being eligible and qualified again applied for the post of Deputy Librarian. Total of 27 candidates applied for the one post of Deputy Librarian. These applications were scrutinized by the Screening Committee and the applicant was found eligible along with 24 others. The evaluation sheet of screening of the candidates found eligible is enclosed as Annexure-A5 vide which it is apparent that the applicant has scored 61.79 marks out of possible of 87.50 marks as verified/awarded by the Screening Committee.

e. The applicant was called for interview to be conducted on 15.03.2019. The interview was conducted on 15.03.2019. A total of five candidates had been called for interview, but only three candidates (including the applicant) actually appeared in the interview. Subsequently, upon inquiry from respondent No.2, it was intimated to the applicant that the Selection

Committee had found none suitable for the post of Deputy Librarian. The result notice dated 29.03.2019 issued by respondent No.2 is enclosed as Annexure-A7 wherein it is mentioned that the Selection Committee found none suitable for appointment to the post of Deputy Librarian.

f. The applicant obtained information under RTI pertaining to the manner in which assessment for selection was done for the post of Deputy Librarian.

As per the score card, a total 87.5 marks were allotted for various academic and other achievements by the candidates and a total 12.5 marks were allotted for the performance in the interview. The detailed break-up of the score card including the areas of assessment is as follows:

SN	Particulars	Marks Allotted
1.	Academic background	20
2.	Experience in the field of Library Science/ Information Science/Documentation	17
3.	Scientific Publications	20.5
4.	Attainment in the Field as Assistant Librarian and above	20
5.	Exposure to Symposium/ Seminar/ Summer Institute/ Winter Institute/ Refresher Courses/ Workshop & Training Program (during the tenure of Assistant Librarian/ College/ Librarian/ Documentalist	10
6.	Performance in the Interview	12.5
	Communication Skills	
	Knowledge about library organization and management	
	Response during interview	
	Overall personality assessment	

g. The applicant had obtained a total score of 61.79 marks out of 87.5 marks for the item listed under Serial Nos.1 to 5 of the score card and was accordingly,

called for interview. However, as per the information, the respondents have declared that no one has been found suitable by the selection committee.

h. In the MA.No.1333/2020 filed by the applicant, it is mentioned that in the meanwhile, the respondents have issued another advertisement for the post of Deputy Librarian on 09.11.2020 mentioning the last date of receipt of applications as 11.12.2020.

i. The applicant stated that if the further recruitment is allowed to be continued, the OA would be rendered infructuous and hence, it is prayed that further recruitment to the post of Deputy Librarian may also be stayed.

3. Shri Jagbir Singh, learned counsel for respondents No.2 & 3, in his reply, has averred as follows:

a. The respondents issued a recruitment notification dated 24.04.2018 for various posts of teaching as well as non-teaching staff which included one post of Deputy Librarian(unreserved). Twenty four(24) candidates, including the applicant, were found eligible for the said post. As per the terms and conditions of selection process, based on the marks obtained as per score card out of 87.5, the top 5 candidates were called for interview. These 5 candidates who were called for interview included the applicant. As per condition No.6 of interview call letter, it was specifically mentioned that mere appearing in the interview does not confer any right of appointment.

b. The interview for the post of Deputy Librarian was conducted on 15.03.2019 in which out of 5 candidates, only 3 candidates, including the applicant, appeared and 2 remained absent. The selection committee interviewed the 3 appeared candidates and after evaluation of the performance during

interview, none of the candidates were found suitable and a result notice was also issued. Copy of the interview proceedings of 15.03.2019 and result notice dated 29.03.2019 are annexed as Annexure-R5 & R6 respectively.

c. As per general instructions, condition No:viii of the advertisement dated 24.04.2018 is as below:

“Interviews wherever applicable will be conducted by the selection committee duly constituted as per the rules of the University and the marks as prescribed in the score card as well as for performance in interviews will be awarded by the selection committee and the decision of the selection committee shall be final.”

d. Additional condition is mentioned as below:

- *“Invitation to candidate for interview merely indicates that it is felt that he/she with others may be suitable for the post and conveys no assurance whatsoever that he/she will be recommended or selected or his/her conditions specified in the application will be accepted”.*
- *“The institute reserves right to place a reasonable limit of candidates to be called for test or interview. Fulfilment of qualifications per-se does not entitle a candidate to be called for test or interview. The institute reserves the right not to fill up the posts, cancel the Advt. in whole, or in part without assigning any reason and its decision in this regard shall be final”.*

e. It is the prerogative and falls under the domain of selection committee to search/select the suitable candidate for the institute. Hence, the respondents are entitled to re-advertise the post of Deputy Librarian(UR).

f. It was further averred that the post of Deputy Librarian (UR) in the answering respondent institute has since been upgraded with higher entry pay so as to attract better talent to meet the academic requirements of the institute. The pay has also been revised from Rs.78,800/- to Rs.79,800/-. The essential qualification has also been revised to meet the needs of the

institute. The age limit to apply for this post has also been revised from 45 to 50. The applicant is free to apply and compete with the candidates afresh. It is a well settled law and pronounced by the Hon'ble Apex Court that if suitable candidates are not found, the employer is not obliged to fill up the posts.

4. The record of proceedings of the Selection Committee, furnished along with the reply given by the respondents was perused. This indicates that for the interview to be conducted by the Selection Committee, there was a prescribed proforma which was required to be filled up, indicating the performance of each of the interviewed candidates in four broad areas. These included “Communication Skills” (maximum marks 04), “Knowledge about Library Organization and Management and related Rules & Regulations” (maximum marks 04), “Response of the candidate during interview” (maximum marks 02), and “Overall Personality Assessment” (maximum 2.50 marks).
5. However, as per the record of proceedings of the interview conducted on 15.3.2019, none of the three Candidates, who were interviewed by the Selection Committee, had been awarded any marks or assessed in this manner. No marks had been awarded by the Committee to any of the three candidates who had appeared in the interview including the applicant. Simply, a line was drawn across the whole chart, with the remarks that “none was found suitable”. The signatures of the Members of Selection Committee were appended on this form under this remark.
6. Prior to this interview, marks had been awarded to candidates in various attributes by the Screening Committee. The chart awarding these marks indicated that the 5

candidates who were shortlisted for the interview, out of the 27 candidates who had applied for the post, had indeed secured the highest marks, in order of merit, and had been called for the interview. All the 5 candidates had secured marks exceeding 50, out of the possible 87.5 marks as awarded by the Screening Committee. These marks had been awarded to them, on the basis of their academic qualifications and other records, as per the chart mentioned above.

7. As per the scheme of selection, there were no prescribed minimum qualifying marks, which a candidate had to score in the interview, to qualify for selection. There was, therefore, no prescribed basis for rejecting or disqualifying any candidate shortlisted for the interview on the basis of marks awarded to him in the interview by the Selection Committee. Moreover, by not assigning any marks to any of the three candidates who were interviewed, it is apparent that the Selection Committee had failed in its duty to assess each of the candidate, and then to award them marks in the four broad areas which were to be assessed by them. The entire interview process was closed with the written remark that no candidate was found to be suitable.
8. A mere statement that none of the candidates has been found suitable, without assigning any reason for the same, or without assigning any marks to any candidate which could form the basis of rejection or acceptance of any candidate, amounts to an arbitrary act which cannot be justified. The Selection Committee was supposed to recommend a panel of suitable candidates after evaluation of their performance in the interview, based on the combined merit obtained by them in the interview as well as the marks awarded to them by the Screening Committee.

9. The three candidates, who had appeared in the interview, had already scored reasonable marks, as awarded to them by the Screening Committee based upon their academic background, experience in the field of Library Science, Scientific Publications etc. The Selection Committee failed to evaluate the performance of the candidates in the interview by not awarding any marks to any of them. In the absence of such an evaluation, its conclusion, that none is found suitable, is arbitrary, and such an action does not stand the scrutiny of Article 14 & 16 of the Constitution. The evaluation made in the interview process, therefore being non-existent, cannot be acted upon or relied upon.

10. The OA is accordingly allowed. The respondents are directed to constitute a fresh Selection Committee for the purpose of conducting interview of the shortlisted candidates and conduct the interview process de-novo. Subsequent to the interview, the Selection Committee shall award marks to the interviewed candidates and then recommend the panel, with minimum of two names in the wait list, in the order of merit, as prescribed in the selection process. The entire process shall be completed within a period of one(1) month from the date of receipt of a certified copy of this order.

11. There shall be no orders so as to costs.

(RAKESH KUMAR GUPTA)
MEMBER (A)

(SURESH KUMAR MONGA)
MEMBER (J)

/ps/