

**Central Administrative Tribunal
Principal Bench**

**OA-264/2017
MA-379/2018**

New Delhi, this the 30th day of January, 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Annu Yadav
w/o Virender Yadav
Roll No 69003839
Age about 36 years,
R/o WZ-109, Shakurpur Village,
Delhi-110034.
(Post-Librarian) ... Applicant

(By Advocate Shri B.K. Berera)

Versus

1. The Govt. of NCT of Delhi,
Through the Chief Secretary,
Delhi Secretariat, Players Building, New Delhi.

2. The Secretary,
Delhi Subordinate Service Selection Board
Govt. of NCT of Delhi,
FC-18, Institutional Area, Karkardooma,
Delhi-110092.

3. The Secretary,
Directorate of Education, Old Sectt.
Govt. of NCT of Delhi,
Delhi-110054. ... Respondents

(By Advocate Shri K.M. Singh)

ORDER(ORAL)

Hon'ble Mr. Justice Permod Kohli

MA No. 379/2018 (for preponement of date of hearing of the OA)

Issue notice in the MA. Learned counsel Sh. K.M. Singh accepts notice.

2. MA is allowed. Main matter which is listed on 04.04.2018 is taken on board.

OA No. 264/2017

3. The applicant is aggrieved of rejection notice dated 27.07.2016 issued by the respondents whereby candidature of the applicant for the post of Librarian under Post Code No.02/13 has been rejected.

4. Briefly stated, the facts as available on record are that Delhi Subordinate Services Selection Board (DSSSB) issued advertisement No.01/13 inviting applications for the post of Librarian in Directorate of Education under Post Code 02/13 for total 382 vacancies, out of which, 113 vacancies were for OBC candidates. The essential qualifications for the said post as per advertisement are as follows:-

- “1) Degree from a recognized university or equivalent.
- 2) Bachelor's Degree or equivalent diploma in Library Science from a recognized University/Institute or equivalent.

- 3) Experience of two years in a Library/Computerization of a Library from a recognized Institute or equivalent."

The applicant applied for the said post under OBC category. He was called for written examination held on 31.08.2014. He secured 74.75 marks in the written examination. Vide notice dated 14.03.2016, the applicant was required to appear at the Board Office along with all relevant documents and proof of recognition of one year certificate of computer application from a govt. recognized Institute. Being declared as provisionally selected, she appeared before the Board for document verification and produced all the relevant certificates. The candidature of the applicant has, however, been rejected vide impugned notice on the ground that Certificate in Computer application possessed by the applicant is not from a recognized institute.

5. The grievance of the applicant is two-fold; firstly, that the applicant possessed Bachelor's Degree in Library and Information Science and M.Lib in Information Science which are much higher qualification than one year's certificate course in computer application. The equivalence of qualification has not been considered by the respondents. Secondly, that the respondents have not notified the list of recognized institutes from where a candidate should

possess the certificate in computer application. Even the RRs do not provide any such recognized institute.

6. In the counter affidavit, the stand of the respondents continues to be same. It is stated that the applicant has done certificate in computer application from Delhi Institute of Computer Science (DICS) which is not recognized, either by NCVT or SCVT or Board of Technical Education, and she does not fulfill the eligibility conditions as per the provisions of RRs and thus her candidature has been rightly rejected by DSSSB. Apart from above, it is also mentioned that the Selection Board had sought clarification from the user department and vide letter dated 19.01.2016, the user department furnished further clarification, which is as under:-

“With reference to your letter No.F.4(407)/DSSSB/CC-I/2015/617/dated 04.01.2016, it is submitted that as per RR's one year certificate in Computer Application Course is required from a Recognized Institute which can be recognized by Govt. of India/State Govt./UT Govt. No registered Institute is equivalent or recognized institute.”

Based upon the aforesaid information furnished by the user department, the respondents have justified the rejection of candidature of the applicant.

7. We have heard learned counsel for the parties.

8. It is not in dispute that the applicant possesses all other essential qualifications prescribed in the RRs and the advertisement. The only dispute relate to the validity of one year certificate in computer application which is said to be not from a recognized institute. It is also not in dispute that the respondents have not notified any recognized institute which is imparting one year certificate in computer application. The respondents have heavily relied upon the information supplied by the user department. Otherwise, no rule, notification, guidelines or norms have been placed on record which may prescribe or notify the recognized institute imparting one year certificate in computer application. The institute, i.e., Delhi Institute of Computer Science is an institution which is duly registered. It is also contended that the RRs itself provide for grant of such relaxation in case of candidates who are otherwise well qualified, more so, in respect of candidates who belong to the category of SC/ST. The validity of one year computer application certificate issued by the so called unrecognised institute came up for consideration before this Tribunal in OA No.2638/2011 and other connected OAs decided vide judgment dated 09.01.2012 wherein following observations were made by this Tribunal:-

“8. After detailed hearing, the only issue which has emerged is whether the certificates in respect of Computer application

filed by or, two years experience in Library/Computerization of Library as set forth under essential qualification in the advertisement has to be issued by a recognized Institute; if so, what is a recognized Institute in this behalf. The matter was referred by the respondent to All India Council for Technical Education. The Council replied on 28.06.2010 (page-98) that the verification of certificates issued by different Institutes does not come under the purview of their responsibility. They have suggested that this matter may be enquired from the Institute concerned which had issued the certificate. Further, the authenticity of the Institute may be verified by the State Government itself. Admittedly, no steps have been taken by the respondent government thereafter. In the background of the aforesaid factual matrix , the following aspects need to be highlighted:-

- (i) The applicant was sponsored by an agency of the respondent government to under-go computer application training from an Institute where the applicant successfully completed the course and obtained the certificate. This is applicable to the applicant in OA-2638/2011.
- (ii) The applicants in OA-2641/2011, OA-2645/2011, OA-2650/2011 had obtained Masters Degree in Library and Information Science and the applicant in OA-2638/2011 had not only obtained Masters Degree in Library and Information Science but also in Arts and the applicant in OA-2958/2011 had also obtained Master's Degree in Arts. This issue of equivalence was taken into consideration by the Committee set up to consider the cases of the applicant and the others and the Committee after comparing the syllabus of BA and MA degrees in Library and Information Science specifically recommended that the education requirement could be relaxed in terms of Notes-1 & 2 of the relevant RRs.
- (iii) There is no system of according recognition to Institutes which are giving certificates relating to computer application; neither the State Government

has so far come out with such a list of recognized Institutes.

- (iv) In this context, the observations of the Hon'ble High Court as well as this Tribunal on the subject of obtaining certificates from non-recognized Institutes acquire significance.
- (v) The RRs themselves provide for grant of such relaxation in case of candidates who are otherwise well qualified, more so in respect of candidates who belong to reserved category of SC/ST.
- (vi) All the candidates had fairly high position in the merit list.
- (vii) Although the respondent Commission had rejected the recommendation of the Committee for according relaxation in favour of the applicants, earlier they had recommended the cases of the applicants to the respondent Government for appointment subject to scrutiny of their eligibility in terms of RRs. Since the Rules provide for grant of such relaxation and the Committee set up by the respondent Government had after taking into consideration all facts including the curriculum studied by the applicants either at the Bachelor or Master's degree level in the subject to Library and Information Science made a specific recommendation, the final call in the matter should be taken by the respondent Government.
- (viii) The applicants in OA No. 2641/2011 and OA No. 2645/2011 had submitted their experience for 2 years 8 months and 2 years 7 months respectively as Library Area Coordinator from Meri Saheli Society. As such, their cases, it is claimed, are covered by the decision of this Tribunal in Barkhas case (*supra*).

9. Taking these facts into consideration the order dated 28.07.2011 of the respondents is set aside and the matter is

remitted to the respondent government to take a final view about the eligibility of the applicants in respect of the post for which they had applied and otherwise selected.

10. The respondent authorities are, therefore, directed to re-examine the issue in the light of the observations made in the preceding paragraph and take a final decision on the eligibility of the candidates keeping in view the provisions of the RRs, the observations made by the Hon'ble High Court in WP(C) No. 1996/2004 and this Tribunal in OA-1388/2010 and the factors highlighted in the preceding paragraph.

9. OA No.1131/2016 titled Ms. Baby vs. GNCTD & Ors. and other connected OAs were also decided by this Tribunal vide order dated 23.12.2016. Judgment in the said OA came to be challenged by DSSSB before the Hon'ble High Court of Delhi in W.P.(C) No.6131/2017. This writ petition was dismissed vide judgment dated 25.09.2017. It is relevant to notice that the validity of qualification, particularly, one year certificate in computer application from a recognized institute in respect to the same selection of Librarian under Post Code 02/13 was subject matter of consideration in the said writ petition. The Hon'ble High Court considering the observations of the Tribunal held as under:-

“....The petitioner, despite repeatedly being questioned as to what it meant by “recognized Institute” in respect of one year certificate in computer application, is not able to give any satisfactory answer to the Court. Since the petitioner is the author of the said advertisement and the stipulation contained therein, it was for the petitioner to be clear in its mind as to what is meant by said expression. Only the petitioner could

have thrown light on the requirement that it expected the candidates to satisfy.

The submission of the petitioner is that since the petitioner DSSSB is only the recruiting agency, whereas the employer/user department is the Directorate of Education, a query was raised upon the said user department. The user department has responded by the letter dated 19.01.2016 placed on record along with the additional affidavit wherein it is stated that "as per RRs, one year certificate in computer application is required from a Recgonized Institute which can be recognized by Govt. of India/State Govt./UT Govt. No Registered Institute is equivalent to recognized Institute."

No statute, rule or instruction or even direction has been placed on record wherein any institution running the one year certificate in computer application course is obligated to obtain recognition from the Government of India/Government of NCT of Delhi. The petitioner has not even placed on record, any such scheme wherein such recognition may be granted. It is, therefore, clear to us that the aforesaid stipulation of certificate from "recognized institute" is completely vague. Pertinently, despite the decision of the Tribunal on 09.01.2012 *inter alia* in OA No.2368/2011 bringing the same position to the notice of the petitioner and the user department, the petitioner continued to prescribe the same stipulation in the advertisement in question. It appears to us that while issuing the advertisement in question, there was a complete lack of application of mind on the part of the petitioner as well as the user department. Consequently, the stand taken by the petitioner as well as the user department that the respondent did not meet the requirement of the Recruitment Rules in respect of her certificate of one year course in computer application is unsustainable.

For the aforesaid reasons, we find absolutely no merit in this petition. The same is accordingly, disposed."

The controversy in the present case is squarely covered by the judgment passed by this Tribunal in OA No.1131/2016 and the order passed by Hon'ble High Court of Delhi, referred to herein above.

10. This OA is accordingly allowed. Respondents are directed to consider the candidature of the applicant for the post of Librarian under Post Code 02/13 on the basis of her merit secured in the written examination, and if, she is otherwise eligible, she may be considered for appointment within a period of two months from the date of receipt of copy of this order.

(K.N Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/pj/