

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.1131/2016
with
O.A.No.1132/2016
O.A.No.1145/2016

Order Reserved on: 06.12.2016
Order pronounced on 23.12.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

O.A.No.1131/2016

1. Ms. BABY (Roll No.69000955), Age 31 years
D/o Satbir Singh
R/o H.No.164 (New) Near Badi Chupal
Banker, Narela, Delhi – 110 040. Applicant

(By Advocate: Sh. Ajesh Luthra)

Versus

1. The Govt. of NCT of Delhi
Through the Chief Secretary
Delhi Secretariat, Players Building
New Delhi. Respondent No.1

2. The Secretary
Delhi Subordinate Service Selection Board
Govt. of NCT of Delhi
FC-18, Institutional Area, Karkardoma
Delhi – 110 092. Respondent No.2

3. The Secretary
Directorate of Education, Old Sectt.
Govt. of NCT of Delhi
Delhi – 110 054. Respondent No.3

(By Advocate: Shri N.K.Singh for Mrs. Avnish Ahlawat)

with

O.A.No.1132/2016

1. Vijeta Kundu (Roll No.69003929), age 26 years
 D/o Kuldeep Kundu
 R/o H.No.196, Village-Akbarpur Majra,
 Post Office-Palla
 Delhi – 110 036. Applicant

(By Advocate: Sh. Ajesh Luthra)

Versus

The Govt. of NCT of Delhi
 Through the Chief Secretary
 Delhi Secretariat, Players Building
 New Delhi. Respondent No.1

The Secretary
 Delhi Subordinate Service Selection Board
 Govt. of NCT of Delhi
 FC-18, Institutional Area, Karkardoma
 Delhi – 110 092. Respondent No.2

The Secretary
 Directorate of Education, Old Sectt.
 Govt. of NCT of Delhi
 Delhi – 110 054. Respondent No.3

(By Advocate: Shri N.K.Singh for Mrs. Avnish Ahlawat)

O.A.No.1145/2016

1 Ms. KUSUM AHLAWAT (Roll No.69005368) aged 32 years
 W/o Satish Kumar
 R/o RZ 6A/3 Puran Nagar,
 Street No 11, Palam Colony
 Delhi – 110 045. Applicant

(By Advocate: Sh. Ajesh Luthra)

Versus

The Govt. of NCT of Delhi
 Through the Chief Secretary
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 FC-18, Institutional Area, Karkardoma
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 Directorate of Education, Old Sectt.
 Govt. of NCT of Delhi
 DSelhi – 110 054. Respondent No.3

(By Advocate: Shri N.K.Singh for Mrs. Avnish Ahlawat)

O R D E R

By V. Ajay Kumar, Member (J):

Since the facts and question of law involved in the aforesaid OAs are identical, they are being disposed of by this common order.

2. For the sake of convenience, we have taken the facts from OA 1131/2016.
3. The question fell for our consideration in this batch of OAs is whether the certificates in respect of Computer Application possessed by the applicants or the two years experience in Library/Computerization of a Library, as set forth under the essential qualification for the post of Librarian in the Directorate of Education,

has to be issued by a recognized Institute, if so, what is a recognized Institute in that behalf?

4. The respondent-Delhi Subordinate Services Selection Board (in short, DSSSB), vide Advertisement No.2/2010 called for applications for selection to the post of Librarian in Directorate of Education of the Government of NCTD vide Post Code No.69/2010, among other posts.

The relevant part of the said advertisement reads as under:

"COMBINED EXAMINATION OF THE VARIOUS POSTS OF LIBRARIAN UNDER POST CODE 69/10 TO 72/10	
Post Code 69/10	LIBRARIAN IN Directorate of Education
Number of Vacancies: 15(UR 08, OBC 05, SC 02 including PH(OH) 01)	
Essential Qualifications: (i) Degree from a recognized University or equivalent. (ii) Bachelor's degree or equivalent Diploma in Library Science from a recognized University/Institute or equivalent. (iii) Experience of two years in Library/ Computerization of a library or one year certificate in Computer application from a recognized institute or equivalent.	
Pay Scale: Rs.5500-9000/-(Pre-revised) Group: B, Non Gazetted/Non Ministerial, Probation Period: 2 years, Age Limit: Not exceeding 32 years relaxable for SC 5 years, OBC 3 years, PH 10 years, PH & SC 15 years, PH & OBC 13 years, Departmental Candidates/Government Servant 05 years. (DE.4(9)(73)(LIB)/E IV/17729 dated 29-07-2009)"	

5. Similarly, the DSSSB, vide Advertisement No.1/13, vide Post Code No.02/13 called for applications for selection to the post of Librarian in the Directorate of Education, Government of NCTD among other posts and the relevant part of the said Advertisement reads, as under:

"Post Code 02/13	LIBRARIAN In Directorate of Education
Number of Vacancies: 382(UR-193, OBC-113, SC-41, ST-35 including OH-14, HH-13)	
Essential Qualification: (i) Degree from a recognized University or equivalent. (ii) Bachelor's degree or equivalent Diploma in Library Science from a recognized University/Institute or equivalent. (iii) Experience of two years in a Library/ Computerization of a library or one year certificate in Computer application from a recognized institute or equivalent.	
Pay Scale: Rs.9300-34800 + GP Rs.4600/-	

Age Limit: 30 years (Age relaxation will be given as per note regarding age relaxation)

This post is identified suitable for OH and HH persons only as per the requisition of the User Department.

R.No.D.DE.4(9)(72)/Vol.IV/06/6811 dt.25/09/2012 and 7313 dated 12/10/2012."

6. The respondent-DSSSB conducted a common examination in respect of both the aforesaid Advertisements, for the post of Librarian in the Directorate of Education. The applicant, who belongs to OBC category, and possessing the qualifications of Bachelor of Arts (2005-University of Delhi), Bachelor of Library and Information Science (2006-Kurukshetra University), Master of Library and Information Science (2008-Kurukshetra University) and one year Diploma in Web and Software Engineering (June, 2006-Foresight Technical Education Centre, New Delhi), applied against both the Advertisements for the post of Librarian, and accordingly participated in the common test conducted on 31.08.2014, vide Roll No.69000955. As per the result notice, dated 03.12.2015, the applicant was called for checking of documents as she secured 123.50 marks and was selected under Unreserved category, as the cut off marks for Unreserved category was 113, though the applicant belongs to OBC category.

7. However, the respondents vide the impugned rejection Notice No.448 dated 15.03.2016, declared the applicant as not eligible for the post of Librarian (Post Code No.69/2010) by stating that "qualification/computer course not as per RR".

8. Heard Shri Ajesh Luthra, the learned counsel for the applicants and Shri N.K.Singh, proxy of Mrs. Avnish Ahlawat, the learned counsel for the respondents, and perused the pleadings on record.

9. The learned counsel for the applicant, while placing heavy reliance on a Judgement of a Coordinate Bench of this Tribunal, in OA No.2638/2011 and batch, dated 09.01.2012, submits that the facts in these OAs are exactly same to that of the facts in the said Judgement, and hence, the applicants are also entitled for granting the identical relief as was granted in the said batch of OAs.

10. It is further submitted that the respondents in pursuance of the orders in the said OAs have considered the candidature of the applicants therein who were also similarly placed like the applicants herein and appointed them as Librarians in the Directorate of Education, Government of NCTD.

11. On the other hand, the learned counsel for the respondents while not disputing the existence of the aforesaid decision, however, submits that this Tribunal while exercising the power of judicial review, cannot give any finding about the equivalence or recognition of any degree or qualification as the said matter should be left to the expert bodies, such as AICTE, etc., and accordingly prays for dismissal of the OAs.

12. The learned counsel for the respondents also placed reliance on a Judgment of the Hon'ble High Court of Delhi in WP(C) No.4486/2002, dated 01.02.2008 (**Raj Kumar v. Govt. of NCTD**) and a Judgement

of the Hon'ble High Court of Punjab and Haryana in CWP No.18413/2012 dated 17.09.2012 (**Ajayaver Dubey v. State of Punjab).**

13. In view of the above submissions, and in view of the similarity of the facts, it is necessary to quote the various observations made in OA No.2638/2011 and batch, which are as under:

"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 Masters 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 Honble 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 Masters 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 Honble High Court in WP(C) No. 1996/2004 and this Tribunal in OA-1388/2010 and the factors highlighted in the preceding paragraph.

11. All the five O.As are disposed of in terms of the aforesaid direction. No costs."

14. A careful reading of the above clearly indicate that the post in question and the facts involved in OA No.2638/2011 and batch are same to that of the facts in the present OAs.

15. In **Raj Kumar** (supra), the issue was whether the Senior Secondary School qualification obtained by the Petitioner from BAET, New Delhi can be treated as recognized as the said Institute is not listed among the accredited Boards and Institutions in the country,

and the Hon'ble High Court, in the facts of the said case, held that qualification obtained by any person from an Institute which is not recognized would not be treated as valid qualification for the purpose of employment.

16. In OA 2638/2011 and batch, and also in the present OAs the issue is in the absence of any system for according recognition to Institutes which are giving Certificates relating to Computer Application, can the respondents refuse to accept the Certificate issued by a particular Institute, for selection of a candidate. Since in **Raj Kumar** (supra), there was a mechanism to recognize an Institution for imparting education and issuing certificates, which is not the case in the present OAs, the decision in **Raj Kumar** (supra) has no application to the present OAs.

17. In **Ajayaver Dubey** (supra), in the Advertisement itself it was provided that the Computer Course should be approved by an All India Council of Technical Education (AICTE), State Technical Board of Education or National Council for Vocational Training, etc., and since the Petitioner therein was possessing a Certificate issued by an Institute which was not recognized by any of the aforesaid Authorities, the Hon'ble High Court dismissed the WP. In the said facts, the said decision also has no application to the present OAs.

18. The respondents, vide their Memo dated 23.11.2016, furnished the vacancy position for the recruitment in respect of the Post Code No.2/13 (Librarian), as on 04.08.2016 as under:

"Further, the vacancy position for the recruitment for the **Post Code 02/13 (Librarian)** after this result is now as under:-

Category	No. of vacancies	Filled vide Result Notice 445 dt.14/3/16	Filled vide Result Notice 516 dt. 27/7/2016	Total	Pending
UR	193	89+04 (OH) + 01 (HH)* 1* OH shifted to UR	35+04(OH) + 01(HH) (+07 OBC.SC comes in UR)	141	52
OBC	113	60 (-2* shifted to UR) - 1# rejected due to inadvertently selected contract emp.)	33	90	23
SC	41	25+1 (OH)(-5* shifted to UR)	15	36	05
ST	35	20	04	24	11
Total	382 (incl. OH-14, HH-13)	192 (200-8)(Incl. OH-4, HH-1)	99(92+7*) (Incl. OH-4, HH-01)	291 (Incl. OH-8, HH-2)	91

(* 1 UR(OH) shifted in UR category, **2 OBC candidate shifted in UR and 1 OBC candidate dossier of contract employee returned by P&P rejected due to inadvertently selected, ***5 SC candidates shifted in UR category in subsequent result due to merit comes down)."

19. The aforesaid Table indicates that 91 posts, out of the total of 382 posts of Librarian, are still vacant. This Tribunal while issuing notices in the OA, made any appointment is subject to the result of the OA.

20. In the circumstances and for parity of reasons, the impugned Orders are set aside, and the OAs are accordingly allowed in terms of the directions issued in OA No.2638/2011 and batch dated 09.01.2012, and the respondents shall consider the cases of the applicants for appointment as Librarians, if they are otherwise eligible. This exercise shall be completed within 90 days from the date of receipt of a copy of this order. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)