

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.3605/2017

With

O.A.No.3725/2017

Wednesday, this the 1st day of November 2017

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

O.A.No.3605/2017

Priyanka d/o Sh. Dharma Pal Singh
r/o H.No.A-29, Gokal Pur Village
Loni Road, Delhi – 110 094

Aged about 30 years

(Candidate to the post of Librarian)

O.A.No.3725/2017

Najish d/o Sh. Rahumuddin Saifi
r/o C-84, Radhey Shyam Park Extension
Delhi – 110 051

Aged about 32 years

(Candidate to the post of Librarian)

(Mr. Ajesh Luthra, Advocate)

..Applicants

Versus

1. Govt. of NCT of Delhi
Through Chief Secretary
5th Floor, Delhi Sachivalaya, New Delhi
2. Delhi Subordinate Services Selection Board
Through its Chairman
Govt. of NCT of Delhi
FC-18, Institutional Area, Karkardooma
Delhi – 110 092
3. Directorate of Education
Through its Director
(GNCT of Delhi)
Old Secretariat, Delhi – 54

..Respondents

(Mr. N K Singh, Advocate for Mrs. Avnish Ahlawat, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

Both these O.As. having been filed assailing the same order and seeking similar reliefs are being disposed of by this common order.

2. The applicants applied for the post of Librarian in the Directorate of Education represented by Post Code No.02/13 in response to the Advertisement No.01/13 (Annexure A/2). As many as 382 vacancies were advertised for the said post, out of which 113 posts advertised were reserved for OBC category. The applicants belong to OBC category. On declaration of the result, the candidatures of the applicants were included in the list of the rejected candidates as notified vide Rejection Notice No.517 dated 27.07.2016 (Annexure A/1). Applicants' roll numbers mentioned in the said Rejection Notice are 69002723 and 69004966 respectively. It is this Notice, which is under challenge in the instant O.As.

3. The applicants claim to be duly qualified as per the qualifications prescribed under the Advertisement / Rules. Apart from the educational qualifications, the other essential qualifications are 'Experience of two years in a Library/Computerization of a library or one year certificate in Computer application from a recognized institute or equivalent'. The applicant in O.A. No.3605/2017 has qualified in computers vide Basic Programming Application Examination from Rashtriya Saksharta Mission IT Programme, whereas the applicant in O.A.No.3725/2017 has qualified in basic course in Computer Application and has acquired Diploma of One-

Year Course of training prescribed by Shankar Computer Academy (Regd. By Govt. of NCT of Delhi) (page 35 of the paper book). They claim to have two years' experience, as prescribed under the Advertisement / Rules.

The applicants, aggrieved of rejection of their candidatures, have filed these O.As. For ready reference, reliefs claimed in O.A. No.3605/2017 are reproduced hereinbelow:-

- “a) Quash and set aside the impugned rejection notice dated 27/07/2016 placed at Annexure A/1 to the extent it relates to the applicant and
- b) Direct the respondents to further consider and appoint the applicant to the post of Librarian (Post Code 02/13)
- c) Accord all consequential benefits including batch seniority and monetary benefits.
- d) Award costs of the proceedings, and
- e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicant.”

4. Similarly situated candidates had earlier approached this Tribunal by filing O.A. No.1131/2016 (with connected cases), which was allowed by this Tribunal vide judgment dated 23.12.2016 with the following directions:-

“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.”

5. It is pertinent to mention here that the order challenged in the aforesaid O.A. and the order impugned in these O.As. is same. The judgment of the Tribunal was assailed by the respondents before the Hon'ble High Court of Delhi in W.P. (C) No.6131/2017, which came to be decided vide order dated 25.09.2017 affirming the judgment of this Tribunal. The relevant observations of the High Court read thus:-

“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 “recognised 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.”

Both the parties are *ad idem* that the controversy in these O.As. is squarely covered by the aforesaid judgment of this Tribunal as affirmed by the High Court.

6. In this view of the matter, these O.As. are allowed. Impugned order / Rejection Notice dated 27.07.2016 is hereby quashed, *qua* these applicants. The respondents are directed to consider the candidatures of the applicants for appointment to the post of Librarian on the basis of their merit in the selection process in accordance with the aforesaid directions of this Tribunal as affirmed by Hon'ble Delhi High Court. Let the process for

consideration be completed within a period of one month from the date of receipt of a copy of this order. It is further clarified that in the event all the advertised vacancies have been filled up and no vacancy is available, the respondents will grant hearing to the last selectee with a view to accommodate the applicants unless otherwise the respondents choose to adjust the applicants as well. They shall be entitled to the seniority on the basis of their merit in the selection. However, the applicants shall not be entitled to any financial benefits, except notional pay fixation.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

November 1, 2017
/sunil/