

Director of Higher Education U.P., Allahabad Vs. Dinesh Chandra Tripathi and Another

Director of Higher Education U.P., Allahabad Vs. Dinesh Chandra Tripathi and Another

SooperKanoon Citation : sooperkanoon.com/475832

Court : Allahabad

Decided On : Apr-08-1999

Reported in : 1999(2)AWC1510

Judge : N.K. Mitra, C.J. and ;S.R. Singh, J.

Appeal No. : Special Appeal No. 204 of 1999

Appellant : Director of Higher Education U.P., Allahabad

Respondent : Dinesh Chandra Tripathi and Another

Advocate for Def. : Ashok Bhusan, Adv.

Advocate for Pet/Ap. : Ravi Vijai Singh, S.C.

Judgement :

N. K. Mitra, C.J., and S. R. Singh,. J.

1. The bottom-line question that crops up for consideration in this Special Appeal is as to whether the qualification as to 'two years' experience' referred to in the Statue 18.06 of the Oudh University. First Statute, 1988 as amended by Oudh University (23rd Amendment) Pratham Pari-Niyamawali. 1988 comprehends experience of having worked as Librarian, etc, as against a sanctioned post or it

would meet the requirements of law if a candidate had actually worked as Librarian, etc, though against a non-sanctioned post

2. The matter bears upon the appointment on the post of Librarian in Hemwati Nandan Bahuguna Post Graduate College, Lalganj, Pratapgarh which is a college affiliated to Oudh University. (It shall hereinafter be referred to as 'H. N. B. College.')

The vacancy in the post of Librarian in the scale of Rs. 690-1,420 (Un-revised) was publicized by the Management in October. 1988. The petitioner put forth his candidature and was selected by the Selection Committee on 2.1.89 for appointment on the post of Librarian., The Committee of Management issued appointment order in favour of the petitioner-respondent and transmitted the papers to the Director of Education for his approbation. The latter declined his approbation vide order dated 25.1.1989, the learned single Judge, receiving reinforcement of his own decision in Writ Petition No. 31576 of 1990 Sri Ram Singh v, Director of Education and another, decided on 21.4.1992, disposed of the writ petition in terms of the direction issued in Writ Petition Wo. 31576 of 1990. Sri Ram Singh v. Director of Education and another. The order refusing approval to the appointment of the respondent met the fate of being quashed in terms of the directions encapsulated in the Judgment and order dated 21.4.1992 rendered in the case of Ram Singh (supra) read with the judgment and order dated 24.10.1998 delivered in writ petition giving rise to this Special Appeal.

3. We have heard Sri Ran Vijai Singh, standing counsel representing the appellants and Sri Ashok Bhusan for the respondent No. 1.

4. The minimum qualification for appointment to the post of Librarian or the Dy. Librarian as provided in Statute 18.06 (1) (iii) as it stood before its amendment by Oudh University (23rd Amendment) First Statute 1988 was as under :

'(iii) Librarian/Deputy Librarian First or a Second Class Bachelor Degree in Arts, Science or Commerce and First or Second Class M, Lib. (2 year's Course), or First or Second Class Master's Degree in Arts, Science or Commerce and First or Second Class B. Lib. (1 year Course) :

Provided that in the case of a college where the number of scholars does not exceed five hundred the requirement of M. Lib. or B. Lib, may be relaxed do and a candidate holding a certificate or diploma in library science may be appointed.'

5. It appears that subsequently, the post of Librarian came to be classified into Librarian Shreni 'A', 'B' and 'C' and consequent upon the amendment of Statute 18.06 vide Oudh University (23rd Amendment) First Statute. 1988, the qualifications for the post of Librarian Shreni 'A'. 'B' and 'C' are as under.

^rhud iqLrdk/;{k Js.kh ^d** vkSj^[k**&&vf;/kLukrd dh mikf/k vkSj iqLrdky; foKku esa mikf/k vkSj rho'o'kZ dk vuqHko A

[kiqLrdk/;{k Js.kh ^x**&Lukrd; dh mikf/k vkSj iqLrdky; foKku esa mikf/k vkSj nks o'kZ dk vuqHko A

x miiqLrdk/;{k Js.kh ^d** vkSj ^[k**&Lukrd; dh mikf/k vkSj iqLrdky; foKku esamikf/k vkSj nks o'kZ dk vuqHko A

?k miiqLrdk/;{k Js.kh ^x** Lukrd dh mikf/k vkSj iqLrdky; foKku esa mikf/k A

Li'Vhdj.k&&buifjfu;eksa ds iz;kstu ds fy,&iqLrdk/;{k&mi; iqLrdk/;{k Js.kh&d; vkSj[k dk rkRi;Z ,sls fdlh mikf/k egkfo|ky; ds iqLrdk/;{k&&mi; iqLrdk/;{k lsgS tdk nks gtkj ;k vf/kd Nk+ v/;;u dj jgs gksa vkSj iqLrdk/;{k@mi&iqLrdk/;{k Js.kh&x; dk rkRi;Z fdlh ,sls mikf/k egkfo|ky; ds iqLrdk/;{k mi iqLrdk/;{k lsgS tdk nks gtkj ls de Nk= v/;;u dj jgs gksa A mi [k.M ikp ds LFkku ijfuEufyf[kr [k.M j[k fn;k tk,xk] vFkkZr&&

ikplgk;d Isokdkj&&fof;/k }kjk LFkknfir fdlh ekU;rk izklr fo'ofok|ky; dhys[kk'kL= ys[kk ijh{kk ds lFk okf.kT; esa Lukrd dh mikf/k A

6. It transpires that the post of Librarian in H.N.B. College falls in Shreni 'C' within the meaning of the term as explained in Statute 18.06 as it stands amended by Oudh University (23rd amendment) First Statute, 1988. The term 'experience' used in Statue 18.06 (iii) (b) of the amended statute has not been nailed down in the Statute. However, learned standing counsel, placing credence upon the Government Order dated 18.10.1986, propounded that the term 'experience' refers to an experience of having worked on a 'professional post'. The term 'professional

post' according to the said Government order signifies the post of Cataloguer. Classificationist, Asstt. Librarian, Document list or the Dy. Librarian. The Government Order, reliance on which was placed by the learned standing counsel reads as under :

1- ifjfu;ekoyh esa fu/kkZfjr]vgZrkvksa esa vuqHko ml frfFk ls ekU; gksuk pkfg, fti frfFk ls vH;FkhZ usiqLrdky; foKku dh fu/kkZfjr ;skX;rk izklr dh gS A vr,o ch- fyc- dh mikf/k izklrdjus ls iwoZ esa dh xbZ lsok dk vuqHko ds fy, ekU; ugha fd;k tkuk pkfg, A

2- ifjfu;ekoyh esa fu/kkZfjrvvgZrk;sa izklr djus ds ckn ;fn vH;FkhZ us fdlh izksQs'kuy in ij dk;Z fd;k gS rksog vuqHko ekU; gksxk A izksQs'kuy in dk rkRi;Z ds Vkykxkj] DyflfQds'kfu'V]lgk;d iqLrdky;k/;{k] Mkd& esUVfy LV rFkk mi iqqLrdk/;{k in ls gS A ;fn fdlhvH;FkhZ us b.Vj dkyst esa iqLrdk/;{k ds in ij dk;Z fd;k gS rks og Hkh izksQs'kuyin gksus ds dkj.k vuqHko ekU; gksxk A**

7. Regard being had to the object and purpose of the experience qualification, we converge to the considered view that the experience within the meaning of Statute 18.06 (iii) must be the experience acquired by having worked against a 'professional post' permanent or temporary for it would be preposterous to place any credence on certificate of experience of having worked against no post. Existence of post is a guarantee of existence of books and library. The contrary view taken by the learned single Judge, therefore, cannot be countenanced.

8. Sri Ashok Bhushan, however, reasoned that although the two years experience acquired by the first respondent was not referable to his work against the post sanctioned by the State Government but he had in fact worked as a cataloguer in the college on the basis of temporary appointment made according to the norms laid down by the University Grants Commission. The norms envisaged for appointment of the temporary 'professional staff needed for accession, processing and cataloguing of books and the norms laid down by the University Grants Commission further visualised, inter alia, that the college should ensure that the books purchased for the library are accessioned and catalogued as soon as they are purchased but not later than one month of their acquisition, and that an amount upto 10% of the grant approved for books and journals could be used by

the college on meeting expenditure on the appointment of temporary professional staff needed for accession, processing and cataloguing of books and/or stacking purposes. Correspondence between the Director of Education, U.P. Allahabad and the Principal of H.N.B. College which has been brought on record vouch for the fact that the first respondent was appointed by the College Management as Cataloguer out of the funds sanctioned by the University Grants Commission for purchasing books under the 7th Five Years Plan. The material on record further evinces that the appointment of the first respondent as cataloguer was made under the scheme formulated by the University Grants Commission and he was paid the salary out of the funds received from the University Grants Commission for purchasing books etc. The Director of Education in his order dated 25.1.1989 impugned in the writ petition, declining to accord imprimatur to the appointment of the first respondent, articulated no cogent and convincing reasons for not accepting the experience certificate. All that has been spelt out in the impugned order is that the certificate is 'not acceptable according to the Rules'. Such order, in our opinion, has rightly been quashed and for the reasons afore stated, no interference is called for in this appeal.

9. As a result of foregoing discussion, the appeal fails and is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com