
(2002) 06 AP CK 0138
In the Andhra Pradesh High Court
Case No : WA No. 1146 of 1997

C. Muralikrishna and Others	Vs	APPELLANT
Telugu University, Hyderabad and Others		RESPONDENT

Date of Decision : 04-06-2002

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2002) 4 ALD 1

Hon'ble Judges : S.R.K. Prasad, J;S.R. Nayak, J

Bench : Division Bench

Advocate : J. Sudheer, for the Appellant; D.V. Sitarama Murhy, for the Respondent

Final Decision : Allowed

Judgement

S.R Nayak, J.—The unsuccessful writ petitioners in WP No.11252 of 1996 have filed this writ appeal assailing the validity of the order of the learned single Judge dated 13-4-1997 made in the said writ petition. The petitioners filed the above writ petition questioning the action of the 1st respondent-Telugu University, in issuing the proceedings No.TU/Admn./II/96, dated 22-3-1996 appointing the 3rd respondent as Deputy Librarian. The dispute relates to the appointment of the 3rd respondent to the post of Deputy Librarian in the 1st respondent-University. The background facts leading to the filing of this writ appeal be noted briefly as under.

2. The 1st respondent-University issued notifications on 11-9-1993 and 2-4-1994 calling for applications from eligible candidates for appointment to the posts of Deputy Librarian and Assistant Librarian. The petitioners and Mr. M. Ramchander, the 3rd respondent herein applied for the post of Deputy Librarian. The 3rd respondent was appointed as Deputy Librarian on 22-3-1996. Assailing his appointment, the petitioners filed WP No.11252 of 1996 in the month of May, 1996. In the affidavit filed in support of the writ petition, the petitioners have contended that the 3rd respondent is not eligible for appointment even to the

post of Assistant Librarian as he does not possess National Eligibility Test (NET) Certificate, which is a pre-requisite for appointment to the post of Assistant University Librarian/ College Librarian, and that the 3rd respondent also lacks 8 years experience as Assistant University Librarian/College Librarian. The writ petition was opposed by the 1st respondent-University by filing counter-affidavit. In the counter filed by it, the respondent-University has contended that the 3rd respondent is eligible to be appointed for the post of Deputy Librarian and he was selected by a Selection Committee, which consisted of experts and that the 25 years of service of the 3rd respondent as Librarian in NISIET is higher than the experience of Assistant University Librarian/College Librarian. It is also contended that the 1st petitioner was neither qualified for the post of Deputy Librarian nor was a candidate for that post. It was claimed that the 1st petitioner had applied for the post of Lecturer in Library Science only and therefore, he did not have any locus standi to question the appointment of 3rd respondent. As regards petitioners 2 and 3, it is contended that they did not come upto the mark in the selection for the post of Deputy Librarian and, therefore, their candidature were rejected. It is also contended that the Selection Committee consisted of experts and pioneers in the field of Library Science and, therefore, the selection made by them cannot be interfered with by the Court lightly since no mala fide is attributed to the members of the Selection Committee by the petitioners. The learned single Judge, on consideration of the rival contentions of the parties, dismissed the writ petition by the order under appeal. What weighed with the learned single Judge in dismissing the writ petition as reflected in the judgment itself is the following:

"... If the members of the committee have had expert qualifications, had wide experience and were holding important responsible posts in the academic field, it would not be in order for this Court to interfere, on the ground of eligibility vis-a-vis the qualifications, with the selection made by such committee. The ground taken before this Court, with regard to qualifications is, therefore, not sustainable. If mala fide exercise of power or any unjust discrimination was alleged, the Court would have ventured to examine the legitimacy of the selection, but in the absence of any such allegation, interference certainly is not warranted."

3. Sri J. Sudheer, learned Counsel appearing for the appellants/petitioners, assailing the validity of the order of the learned single Judge impugned in this writ appeal, would, at the threshold, contend that the learned single Judge has failed to see that in appointing the 3rd respondent as the Deputy Librarian, the 1st respondent-University has committed infraction of the statute inasmuch as it appointed him as Deputy Librarian despite the fact that he lacked essential prescribed qualifications. The learned Counsel would point out that the 3rd respondent is not even eligible for the post of Assistant Librarian which is the feeder cadre to the cadre of Deputy Librarian, because, he does not possess NET Certificate, which is a pre-requisite for appointment to the post of Assistant University Librarian/College Librarian. The learned Counsel would also contend

that the 3rd respondent does not possess one year specialized diploma in the area of Information Technology/Archives and manuscript keeping or Master's Degree in area of thrust in the institution and eight years experience as Assistant University Librarian/College Librarian which are also essential qualifications one should possess for appointment to the post of Deputy Librarian. Since, admittedly, the 3rd respondent does not possess the prescribed qualifications, whatever be the subjective satisfaction or opinion of the Selection Committee about the assumed expertise and competency of the 3rd respondent, the learned Counsel would contend, that could not be a valid ground for appointing the 3rd respondent as Deputy Librarian in breach of the statutory rules. The learned Counsel would further contend that it is not necessary that the selection of a candidate for public appointment could be assailed successfully only on the ground of mala fide and not on other grounds. The learned Counsel would further contend that it is not the case of the petitioners that the selection of the 3rd respondent was vitiated on account of mala fides attributable to any of the members of the Selection Committee and the basis of the writ petition is that the 3rd respondent does not possess the prescribed qualifications and therefore, he is not eligible to be considered and appointed to the post of Deputy Librarian and this precise case put forth by the petitioners in the affidavit and highlighted at the time of argument is completely lost sight of by the learned single Judge. The learned Counsel would also contend that the learned single Judge has not considered at all several other contentions raised in the writ petition and dismissed the writ petition solely on the ground that the expert opinion of the Selection Committee cannot be interfered with by the Court in the absence of any mala fide attributed to the members of the Selection Committee.

4. Sri D. V. Silharama Muthy, learned Counsel appearing for respondents I and 2 as well as respondent No.3 would, at the threshold, contend that though the diploma certificate produced by the 3rd respondent in Omega Diploma in PC Applications and Programming shows that the course is of eight months duration, actually the course is of one year duration and therefore, the 3rd respondent cannot be disqualified on that ground. The learned Counsel would alternatively maintain that even assuming that the diploma course underwent by the 3rd respondent is only of eight months duration, even then, on that count itself, the selection and appointment of the 3rd respondent cannot be set at naught, because, an expert body like the Selection Committee consisting of experts in the field, despite such a situation/shortfall in duration thought it fit to appoint the 3rd respondent to the post of Deputy Librarian, and such a decision of the expert body cannot lightly be interfered with by the Court in exercise of its jurisdiction under Article 226 of the Constitution. The learned Counsel, dealing with the requirement of eight years experience as Assistant University Librarian/ College Librarian, would maintain that that prescription is only illustrative in nature and not exhaustive and therefore, it was open for the Selection Committee to consider the experience gained by the 3rd respondent in NISIET for a period of 25 years as equivalent to the experience prescribed as an illustration. The

learned Counsel would contend -NISIET is one of the largest Research, Training, Information Services and Consultancy Centres in the country. One of its wing, small enterprises National Documentation Centre (SENDOC) is the largest Documentation Centre in Asia. 14 specialists competencies ranging over wide spectrum of subjects from electronics, manufacturing process to marketing and management skills form the professional pool of SENDOC. The library is a store-house of information in areas of Small Industry and Self-Employment. The wealth of information include about 30,000 books and monographs and assortment of about 10,000 books. They contain technical and annual reports from Development and Promotional Organizations, Trade Catalogues, Area Literature, Technical Notes from Research and Development Organisations etc. In addition, it receives 250 current periodicals and newspapers and has more than 3,000 Project and Product profile. It conducts regularly the training programmes in Library and Information Science fields. The learned Counsel thus would maintain that NISIET is a well known institute not only in this country but also in Asia and the experience gained by the 3rd respondent in such a premier institute is undoubtedly superior to any experience that may be gained by a person as an Assistant University Librarian/ College Librarian. Here again, the learned Counsel would urge that this Court cannot undertake evaluation of the relative merits of the experience gained by the writ petitioners and the 3rd respondent in the post of Assistant University Librarian/ College Librarian or as a Librarian in NISIET, as the case may be, as an appellate authority, and it is for the expert Selection Committee to evaluate such experience of the candidates in the premise of their expertise and wisdom and select appropriate candidate for the post. The learned Counsel would also contend that in the absence of any mala fides attributed to the members of the Selection Committee, the selection made by them cannot lightly be interfered with. Sri D. V. Sitarama Murthy, lastly but meekly contended that the appellants 1 and 3 themselves do not possess the prescribed qualifications for appointment to the post of Deputy Librarian and, therefore, at the behest of the appellants-petitioners, the Court cannot examine the legality or otherwise of the selection and appointment of the 3rd respondent to the post of Deputy Librarian. In support of this contention, the learned Counsel would place reliance on the judgment in Rameshwar Dass Mehla Vs. Om Prakash Saini and Others, . The learned Counsel would conclude by submitting that the reviewing Courts have shown discernible restraint in interfering with the appointments made by the Universities on the basis of the recommendations made by the expert bodies in the Universities on technical grounds and, therefore, the learned single Judge is absolutely justified in not interfering with the selection and appointment of the 3rd respondent to the post of Deputy Librarian, and that no case is made out for the Division Bench to interfere with the discretionary order made by the learned single Judge.

5. In reply, Sri J. Sudheer would maintain that though it is true that the reviewing Courts under Article 226 of the Constitution cannot lightly interfere with the evaluation or the assessment made by the expert bodies in the

Universities in selecting the personnel, in the absence of attribution of mala fides to the members constituting the expert body, that restraint or principle would be totally irrelevant where the Court finds that a person, who does not possess the prescribed qualifications, has been appointed to the post. In other words, what the learned Counsel would contend is that if the Court finds that a person, lacking in prescribed qualifications, education-wise, skill-wise or experience-wise, is appointed to a public post, then, it is not only the power of the Court to interfere with such appointment, but it becomes a duty of the constitutional Court to step in and interfere with such appointment to uphold the purity and competency and enforce the rule of law in the domain of public employment. The learned Counsel would submit that even according to the respondents, the 2nd petitioner is fully qualified to be considered and appointed to the post, though a controversy is raised at this belated stage about petitioners 1 and 3 not possessing the prescribed qualifications. The learned Counsel would submit that such a plea was not at all taken by the respondents in the writ petition. On the other hand, in the counter filed by the University regarding petitioner No. 1, though it is contended that the 1st petitioner was an applicant to the post of Lecturer in Library Sciences and not to the post of Deputy Librarian, that stand was given up by the University as could be seen from the counter-affidavit filed by respondents 1 and 2 in this writ appeal, wherein they have admitted the mistake committed by them in their counter-affidavit filed in the writ petition and stated that the 1st petitioner was also an applicant for the post of Deputy Librarian. As regards petitioners 2 and 3, the only contention taken in the counter-affidavit filed by respondents 1 and 2 in the writ petition is that they "did not come upto the mark for the post of Deputy Librarian". The learned Counsel for the petitioners would, therefore, maintain that such a new plea which is a factual plea, which was not pleaded nor proved at the earliest point of time, cannot be permitted to be raised at this belated stage. Alternatively, the learned Counsel would maintain that this actual allegation is also incorrect and all the three petitioners do possess the prescribed eligibilities.

6. Let us first dispose of the last contention raised by Sri. D. V. Sitarama Murthy that the appellants-petitioners have no locus standi to question the selection and appointment of the 3rd respondent to the post of Deputy Librarian. It is true that by virtue of the judgments of the Supreme Court in *S.C. Bajaj v. Kamal Singh Singhmar* 1998 (6) Sca 31, *A.P. Public Service Commission v. G.Shankar* 1999 SCC 993, *Jit Singh and others v. State of Punjab and others* 1979 (1) SLR 604 and *Rameshwar Doss Mehla's case* (supra), the Court could examine the legality or otherwise of a matter only at the instance of a person who is qualified and eligible and has a locus standi and not at the instance of the one who has no eligibility and locus standi. In the first place, the above contention raised for the first time in the writ appeal at the time of argument, cannot be permitted to be raised. In the counter filed by the University in the writ petition, it is not stated that the petitioners 2 and 3 are ineligible for appointment to the post of Deputy Librarian. The only thing said about the petitioners 2 and 3 in the counter-

affidavit is that they "did not come upto the mark in the selection of the post of Deputy Librarian". The only contention raised by the 1st respondent University as could be seen from para (7) of the counter was that the 1st petitioner was not an applicant for the post of Deputy Librarian and he had applied for the post of Lecturer in Library Science only and, therefore, he did not have any locus standi to question the appointment of the 3rd respondent as Deputy Librarian. This plea taken by the University is noticed by the learned single Judge in the impugned order. However, it was found that the above factual plea taken by the University is factually incorrect. The 1st petitioner too had applied for the post of Deputy Librarian and interview card dated 10-6-1994 was sent to him by the Registrar of the University directing him to appear before the Selection Committee on 15-6-1994 at 9-00 a.m., at the Vice-Chancellor's Chamber with the documents mentioned in the said call letter. A copy of the interview call letter dated 10-6-1994 is produced by the appellants at page No.51 of the paper book. When the University was confronted with the above document, the respondent University filed counter-affidavit in the writ appeal admitting their mistake committed in para (7) of the counter-affidavit filed in the writ petition and admitting that the 1st petitioner was also an applicant for the post of Deputy Librarian. Thus, it is clear that the University did not raise any plea about any of the petitioners not possessing the prescribed educational experience and other qualifications. The plea, being a factual plea, cannot be permitted to be raised in the writ appeal. Be that as it may, the said plea now taken is required to be noticed only to be rejected. The applications were called for appointment to one post of Deputy Librarian in the University. It is not the case of the respondents, that the 2nd petitioner-appellant is not qualified to be considered for appointment to the post of Deputy Librarian. In that view of the matter, if the Court finds that the 3rd respondent is not qualified to be considered and appointed to the post of Deputy Librarian in the 1st respondent University, his appointment can be set-at-naught only at the behest of the 2nd petitioner-appellant and there will not be any need at all to go into the question whether the petitioners 1 and 3 are qualified to be considered for appointment to the post of Deputy Librarian. Therefore, we do not agree with Sri D. V. Sitarama Murthy to dismiss the writ petition in limine on the ground that the petitioners-appellants have no locus standi to file the writ petition and accordingly, the learned Counsel's contention is rejected.

7. This takes us to the main question whether the 3rd respondent did possess the prescribed qualifications for appointment to the post of Deputy Librarian when he was considered and appointed to that post. It is the case of the petitioners-appellants that the 3rd respondent is not even eligible for the post of Assistant University Librarian as he lacks National Eligibility Test (NET) Certificate which is a pre-requisite for appointment to the post of Assistant University Librarian/College Librarian. This plea is specifically taken by the petitioners in para (7) of the affidavit filed in support of the WP No. 11252 of 1996. It is also the specific plea of the petitioner-appellants that the 3rd respondent does not

possess one year diploma in computers and eight years experience as Assistant University Librarian/ College Librarian as could be seen from para 8(vi) of the affidavit filed in support of the writ petition. The following are the qualifications prescribed for the post of Deputy Librarian and for the post of Assistant Librarian.

Deputy Librarian:

1. Master's Degree in Library Science/ Information Science/Documentation with at least 55% Marks or its equivalent grade and a consistently good academic record.
2. One year specialization in an area of information technology/Archives and Manuscript Keeping or Master's Degree in an area of thrust in the institution.
3. Eight years experience as an Assistant University Librarian/College Librarian and
4. Evidence of innovative library services. Published Work and Professional Commitment.

Desirable:

M.Phil/Ph.D., Degree in Library Science/ Information Science/Documentation/Archives and Manuscript Keeping.

Assistant Librarian:

1. Qualified in the National Level Test conducted for the purpose by the UGC or any other agency approved by the UGC.
2. Master's Degree in Library Science/ Information Science (Documentation or an equivalent professional degree) with at least 55% marks or its equivalent grade plus a consistently good academic record.

OR

Master's Degree in Arts/Science/Commerce or equivalent degree with at least 55% marks or its equivalent grade with Bachelor's degree in Library Science/ Information Science/ Documentation or an equivalent professional degree with at least 55% marks or its equivalent grade plus a consistently good academic record.

These qualifications have been prescribed by the 1st respondent University in accordance with the instructions issued by the University Grants Commission itself. A copy of the proceedings of the University Grants Commission dated 20-2-1990 issued in super session of the earlier Circular No.FI-96/81 (CP/MP) dated 31-8-1984 on the subject of minimum qualifications for the recruitment to the posts of Librarian, Deputy Librarian, Assistant Librarian, College Librarian and Documentation Officer in the Universities and Colleges and prescribing the revised qualification for recruitment to those posts is produced at pages 52 to 54

of the paper book filed by the appellants. We have perused the same. The 1st respondent University has prescribed the same qualifications as directed by the University Grants Commission for appointment to the post of Assistant Librarian as well as Deputy Librarian in its Employment Notice No.TU/II/Admn./Advt-11/93-94 styled as General Instructions to candidates -Employment Notice No.TU/II/Admn./Advt-11/93-94.

8. Although the petitioners specifically raised contentions contending that the 3rd respondent does not possess the prescribed qualifications not only for appointment to the post of Deputy Librarian, but also for the post of Assistant University Librarian, quite curiously, the 1st respondent University, in its counter, does not meet those contentions specifically. On the other hand, in para (12) of the counter-affidavit filed by the University in the writ petition, it is stated that the 3rd respondent "is eligible in all fulfilling requisite qualifications and experience". In para (16) of the counter, it is stated that the 3rd respondent, in addition to the prescribed qualifications, is having higher qualifications and also possesses a Diploma in "Computer Applications and that he has produced all required relevant documents in proof of the qualifications. Further in para (17) of the counter, it is stated that having regard to 16 years of rich professional experience in NISIET possessed by the 3rd respondent, having worked in responsible posts, the Selection Committee consisting of experts opined that his experience as Librarian in NISIET was considered to be higher than the experience of an Assistant University Librarian/College Librarian. The University did not place any materials before the Court to show that the 3rd respondent did possess the prescribed qualifications for appointment to the post of Deputy Librarian when he was selected and appointed to the said post. Therefore, it becomes the burden of the 3rd respondent to show that he did possess all the prescribed qualifications and he was eligible to be considered and appointed to the post of Deputy Librarian. The question is whether the 3rd respondent or the 1st respondent University has discharged this burden. Adverting to the contention of the petitioners that the 3rd respondent does not possess one year Computer Diploma, in the counter, the 3rd respondent has stated that he obtained Diploma in Computer Applications from Computer Point, Hyderabad, quite curiously, without mentioning the duration of the course. However, the appellants have produced a Xerox copy of the Certificate issued by the Computer Point, Education and Consultancy Division. It reads as follows:

"CERTIFICATE

This certificate is awarded to M. Ramchander for having successfully completed the course in OMEGA - Diploma in PC Applications and Programming for eight months. His performance has been excellent.

COMPUTER POINT

Examiner Registrar Dean of Students"

From this certificate, it is quite clear that the course underwent by the 3rd

respondent is of eight months duration only, and not one year. In that view of the matter, the petitioners are justified in contending that the 3rd respondent does not possess the prescribed qualifications even for appointment to the post of Assistant University Librarian/College Librarian.

9. With regard to eight years experience as Assistant University Librarian/College Librarian, it is admitted that the 3rd respondent lacks that experience. In his Bio-Data extracted in the counter-affidavit filed in WP No.18031 of 1996, the 3rd respondent has stated that he had worked as Librarian in NISIET, and the 1st respondent University and the Selection Committee have taken that into consideration, treating that experience as superior and higher than the experience of an Assistant University Librarian/College Librarian. It is trite that the Library Science in recent times has emerged as one of the premier disciplines of human knowledge to cater to the intellectual needs of students, teachers, scientists, professionals etc., in diversified fields of expertise and pursuits. In the process of growth and development of that science, we find that different types of exclusive libraries have come into existence. In the "Librarians Glossary", a Reference Book (Fourth Revised Edition) Edited by Leonard Montague Harrod - Fellow of the Library Association, different libraries such as Academic Libraries, Public Libraries, and Special Library etc., are classified and described. Academic Libraries, Public Libraries and Special Library are described as follows:

Academic Libraries. Those of Universities, University colleges, and all other institutions forming part of, or associated with, institutions of higher education.

Public Library. A library provided wholly or partly from public funds, and the use of which is not restricted to any class of persons in the community but is freely available to all. A major agency of enlightenment for adults, providing also for children the recorded experiences of others which will help them to grow into adulthood.

Special Library, 1(a) A library of information center, maintained by an individual, corporation, association, Government agency or any other group; or (b) a specialized or departmental collection within in a library (Special Libraries Association by laws revision of 1974). 2. A collection of books and other printed, graphic or record material dealing with a limited field of knowledge, and provided by a learned society, research organization, Industrial or commercial undertaking, Government Department or educational Institution. It may also be a special branch of a public library serving certain interests or occupational groups, such as a technical library; or a subject library meeting the needs of all enquirers on a given subject, such as a music library. A special library is broadly one which is neither academic, commercial, national nor public. It is intended to serve the needs of a portion of the community requiring detailed information respecting a limited subject field. Users of such libraries often require up-to-date information promptly and their requests may be for information rather than for a book or periodical known by the enquirer to contain the information required.

Management of the Library in different institutions and organizations is not and cannot be the same. The kind of expertise and knowledge required in managing and operating the library in different kinds of institutions or organizations cannot be the same. Different skills and experience are required to manage-and operate different kinds of libraries. That is why the University Grants Commission, a Premier Central Statutory Body, which is also undoubtedly an expert body, in its wisdom, has fixed the qualifications of "eight years experience as Assistant University Librarian/College Librarian" as an essential qualification for appointment to the post of Deputy Librarian. In that view of the matter, it is not permissible for the Selection Committee or for the University, or for that matter to the Court to sit in judgment over the wisdom and decision of the body like University Grants Commission and to hold that 16 years of experience possessed by the 3rd respondent in NISIET as Librarian is equal or superior to 8 years experience as Assistant University Librarian/College Librarian, which is prescribed as the minimum experience qualification for the post of Deputy Librarian. The experience gained by the 3rd respondent in the Library at NISIET, which is undoubtedly, a Special Library, cannot be equated to experience one may gain having worked as Librarian in Academic Libraries such as University Libraries or Libraries in the affiliated colleges. Sri D. V. Sitharama Murthy would, however, contend that when the Courts are called upon to decide whether a candidate for appointment to a public post fulfils the requisite qualifications for being considered for such post, the Courts cannot embark upon an enquiry into consideration or interpretation of the specific requirements provided by the rules or the administrative instructions in a technical way. The learned Counsel would contend that the Courts have avoided too technical approach in construing the requirements and have consistently held that such technical view of the matter is wholly unjustified. According to Sri D.V. Sitharama Murthy, what is important is the intent behind the condition of eligibility and that the terms and conditions of service are to be construed reasonably as too technical view can defeat the essential spirit and intent embodied in them. In support of his submission, the learned Counsel, would draw our attention to the judgment of the Apex Court in G.N. Nayak Vs. Goa University and Others, . In that case, the Apex Court dealing with the question whether respondent No.5 therein did have 10 years cumulative experience of teaching and Post Doctoral research for the post of Professor of Marine Science in University of Goa when he applied for the said post in pursuance of an advertisement issued in 1994 held-

"28. However, the Court would not be justified in adopting a legalistic approach and proceed on a technical view of the matter without considering the intention of the University in laying down the condition of eligibility, since it is for the University to decide what kind of research would be adequate to qualify for professorship. The University had intended, understood and consistently proceeded on the basis that the pre-doctoral research could be counted towards the 10 years" experience clause. So did respondent No.5. When respondent 5 applied for the post when it was advertised in 1994 he did not have 10 years"

cumulative experience of teaching and postdoctoral research. Since he had obtained a Doctorate degree in November, 1985, the University also considered his application and called him for an interview in September, 1985, though according to a strict interpretation of the eligibility criteria respondent No.5 was not qualified. Finally in *Dr. Kumar Bar Das Vs. Utkal University and Others*, this Court in construing similar eligibility criteria has held (at p. 458) that the research required could include predoctoral research experience."

Sri D. V. Sitharama Murthy also contended that evaluation of relevant prescribed experience for the post is very much within the purview of the Selection Committee, which consisted of experts and the assessment made such committee cannot lightly be interfered by the Court in exercise of the power of judicial review when there are no allegations of mala fide against the members constituting the Selection Committee. In support of this submission, the learned Counsel placed reliance on *Jagat Bandhu Chakraborti v. G.C.Roy* (2000) 9 SCC 739, *Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others*, In *Jagat Bandhu Chakraborti's* case (supra), the prescribed qualifications among other things for the post of Chief Technical Officer included five years experience in analysis of organic materials, particularly food product. In that case, it was the consistent case of the appellant therein that throughout his career he had been involved in the research and standardization work relating to food and has numerous publications to his credit which were listed at Annexure 8 in his affidavit. The Supreme Court also found that the appellant was directly involved in the analysis of pesticides residual in food products and has also dealt with other aspects of food analysis and that from 1994 onwards, the appellant had worked in the Central Food Laboratory in Calcutta, and in that view of the matter, the Supreme Court opined that evaluation made by the Expert Committee should not have been ignored by the Tribunal, So opining the Apex Court set aside the impugned judgment and order of the Central Administrative Tribunal, Principal Bench, New Delhi and while doing so, the Apex Court was pleased to hold-

"... The appellant has throughout worked in the Central Food Laboratory and his direct interest has been in analyzing food particles any pesticides residue. It was basically for the experts to determine whether the requisite experience was possessed by the appellant or not. The finding, therefore, of the Tribunal that the appellant did not possess such experience does not appear to be sustainable. In fact from the list of research publications of the appellant it can be seen that these involve analysis of organic matter."

The above observations of the Apex Court in no way support the case of the third respondent. In that case, the Expert Committee had to decide whether the appellant had possessed the five years experience of analysis of organic material, particularly" food product and the statutory rules were of no aid to decide that question. Therefore, the evaluation made by the Expert Committee of the experience possessed by the appellants therein, as rightly held by the Apex Court, should not have been interfered with by the Tribunal. The facts of this

case are altogether different. The rules specifically require that the applicant for the post of Deputy Librarian should possess one year specialization in an area of Information technology/Archives and Manuscript Keeping or Master's Degree in an area of thrust in the institution and that he should also possess eight years experience as an Assistant University Librarian/College Librarian. Therefore, the only question to be considered by the Selection Committee or the Court is whether the prescribed qualification and experience which do not admit any ambiguity or vagueness, are possessed by the 3rd respondent for the post or not.

10. In *Dalpat Abasaheb Solunke* (supra), the Apex Court in para 9 held:

"... It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject the Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so-called comparative merits of the candidates as assessed by the Court, the High Court went wrong and exceeded its jurisdiction."

11. It is true, it is not the function of the Court to sit in judgment over the decisions of the Selection Committees as an appellate authority and to scrutinize the relative merits of the candidates. It is because, the Selection Committees consist of experts in the field whereas the Courts are not experts. In that view of the matter, the questions such as whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court, in fact, has no such expertise and it cannot afford to assume such expertise also. But, undoubtedly, even the selection made by the expert Selection Committee can be interfered with by the Courts and the Tribunals if the Courts or the Tribunals find that the selection and appointment of a candidate is in infraction of mandatory statutory provisions or on other permissible grounds of illegality or patent material irregularity in the constitution of the Selection Committee, or its procedure vitiating the selection or proved mala fides affecting the selection etc. It is because, we, the People of India are governed by the Constitution of India and Rule of Law which is held to be a basic feature of the Indian Constitution and not by the opinions of the experts. It is not to suggest that the Courts should ignore the opinions of the experts in the decision-making. Undoubtedly, experts' opinions are given due weightage by the Courts so long as such opinions are tendered within the frame-

work of the law and without violating the law. In other words, if the experts' opinion is found to be in breach of the law, statute or otherwise, the Courts have not only the power but also bound by duty to step in and correct the illegal act grounded on the so-called experts' opinion. The other aspect which needs to be emphasized is that when the law maker in its wisdom prescribes a particular qualification for a particular post, educational qualification-wise, skill-wise or experience-wise, the recruiting agency should resort to the recruitment strictly in accordance with those prescriptions and it cannot amend or modify those prescriptions to select a candidate who is otherwise disqualified for being considered and appointment to a post on the basis of subjective satisfaction of the experts constituting committee of the perceived superior quality or qualities in such candidate. If such a discretion is permitted to the experts constituting the Selection Committee, then, the whole law of recruitment would be in disarray and total confusion and essential qualifications prescribed under the rules will be rendered as optional. Such an interpretation can never be placed on rules, whether statutory or administrative, governing recruitment. Therefore, where the rule requires that an applicant for the post of Deputy Librarian should possess one year specialization in an area of Information technology/Archives and Manuscript Keeping or Master's Degree in an area of thrust in the institution, the Selection Committee or the Court cannot say that the Certificate possessed by the 3rd respondent having completed the course in Omega - Diploma in PC Applications and Programming for eight months duration is equivalent to one year course specified under the rule. Similarly, where the rule mandates that an applicant for the post of Deputy Librarian should possess eight years experience as an Assistant University Librarian/College Librarian, neither the Selection Committee nor the University nor the Court can say that the experience possessed by the 3rd respondent, may be for sixteen years, in NISIET, a Special Library, fulfils the prescribed qualification. If the opinion of the Expert Committee is allowed to stand, it tantamount to amending the rules governing recruitment to the post of Deputy Librarian and such power or discretion is not available to the Selection Committee or to the University or to the Court, in law.

12. In *Union of India v. Deoki Nandan Aggarwal* 1991 (5) SLR 16, the Supreme Court opined that the High Court while interpreting the provisions of statute cannot usurp the legislative power. In *Ajeet Singh Singhvi v. State of Rajasthan* (SC) 1991 (2) SLR 49, the Supreme Court speaking about the harmonious construction in interpretation of statutes held that Courts should always presume that the Legislature inserted every part of the statute for a purpose and the legislative intention is that every part of the statute should have effect. The Apex Court proceeded to say that these presumptions will have to be made in the case of rule making authority also. If this dictum is applied to the essential qualifications and experience prescribed for the post of Deputy Librarian, it is not permissible for the Expert Committee or for the Court to say that the 16 years of experience in NISIET is equivalent to eight years experience as an Assistant University Librarian/College Librarian or the Certificate possessed by the 3rd

respondent for having completed the course in Omega - Diploma in PC Applications and Programming for eight months is equivalent to one year specialization in the area of Information Technology. The qualification prescribed for the post of Deputy Librarian in our considered opinion are absolutely clear and do not permit any artificial rule of interpretation to be applied. It is well established that if the words of a statute are clear and free from any vagueness and are, therefore, reasonably susceptible to only one meaning, it must be construed by giving effect to that meaning, irrespective of consequences. In prescribing one year specialization in an area of Information Technology and eight years experience as an Assistant University Librarian/College Librarian, the language used in the rule is precise and unambiguous, and, therefore has to be understood in the natural and ordinary sense. It is, well accepted proposition both in India and in England, that the expression used in the statute alone declares the intent of the Legislature. For example, in *State of U.P. v. Dr. Vijay Anand Maharaj* 1963 (1) SLR 395, the Court held that when the language is plain and unambiguous and admits of only one meaning, no question of construction of a statute arises, for the act speaks for itself, Maxwell, states:

"The construction must not, of course, be strained to include cases plainly omitted from the natural meaning of the words".

13. In *J. Ranga Swamy Vs. Government of Andhra Pradesh and Others*, the petitioner contended that for the post of Professor in Radiological Physics, the Diploma in Radiological Physics (as applied in Medicine) from the Bhabha Atomic Research Centre (BARC) held by him was more relevant than a doctorate in nuclear physics. Rejecting his contention, the Supreme Court held:

"(6) So far as the second plea is concerned, admittedly, the petitioner does not have, while the respondent has, doctorate in nuclear physics. The plea of the petitioner is that, for efficient discharge of the duties of the post in question, the diploma in radiological physics (as applied in Medicine) from the Bhabha Atomic Research Centre (BARC) held by him is more relevant than a doctorate in nuclear physics. It is submitted that in all corresponding posts elsewhere, a diploma in radiological physics is insisted upon and that, even in the State of Andhra Pradesh, all other physicists working in the line, except the respondent, have the diploma of the BARC. It is not for the Court to consider the relevance of qualifications prescribed for various posts. The post in question is that of a Professor and the prescription of a doctorate as a necessary qualification therefore is nothing unusual. Petitioner also stated before us that, to the best of his knowledge, there is no doctorate course anywhere in India in radiological physics. That is perhaps why a doctorate in nuclear physics has been prescribed. There is nothing prima facie preposterous about this requirement it is not for us to assess the comparative merits of such a doctorate and the BARC diploma held by the petitioner and decide or direct what should be the qualifications to be prescribed for the post in question. It will be open to the petitioner, if so advised, to move the college, University, Government, Indian Medical Council or other

appropriate authorities for a review of the prescribed qualifications and we hope that, if a doctorate in nuclear physics is so absolutely irrelevant to the post in question as is sought to be made out by the petitioner, the authorities concerned will take expeditious steps to revise the necessary qualifications needed for the post appropriately. But, on the qualifications as they stand today, the petitioner is not eligible to the post and cannot legitimately complain against his non-selection."

The above dictum of the Supreme Court completely answers the contention of Sri D. V.Sitharama Murthy. The Supreme Court in *The District Collector and Chairman, Vizianagaram (Social Welfare Residential School Society), Vizianagaram and another v. M.Tripura Sundari Devi Civil Appeal No.2559 of 1998*, decided on 20-4-1990 by SCI, held:

"6. It must further be realized by all concerned that when an advertisement mentions a particular qualification and an appointment is made is disregard the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint person with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No Court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact."

Further, the Supreme Court in *Subhash Chand Jain v. Delhi Electric Supply Undertaking 1979 (1) SLR 306*, held:

"7. It is well established law that qualification for a particular post can be a rational differentia within the meaning of Article 16. It is equally clear that when a qualification has been prescribed for a post, that cannot be obliterated by posting those who do not have that qualification as against those who have that qualification...."

In *P.K. Ramachandra Iyer and Others Vs. Union of India (UOI) and Others*, , whereas the relevant rules being Rules 13 and 14 framed by the Indian Council of Agricultural Research (ICAR) in 1977 for recruiting scientists in agricultural research service provided that the candidates who obtained such minimum marks in the "written examination as may be fixed by the Board in their discretion shall be summoned by them for viva voce and after the examination, the candidates will be arranged by the Board in the order of merit in each category (professional-subject-wise) as disclosed by the aggregate marks finally awarded to each candidate and such candidates as are found by the Board to be qualified by the examination shall be recommended for appointment upto the number of unreserved vacancies decided to be filled on the result of the examination, the Board on its own prescribed an additional qualification, viz., that the candidate must have a further qualification of obtaining minimum marks

in the viva voce test. The Supreme Court dealing with the question whether the Board could prescribe to itself such additional qualification held that, it was impermissible for the Board to prescribe additional qualification and the additional qualification so prescribed is quite contrary to Rules 13 and 14 of the 1977 Rules and such prescription cannot be sustained.

14. The relaxation made by the Selection Committee in the case of the 3rd respondent is ex facie contrary to the recruitment rules governing recruitment to the post of Deputy Librarian and also quite contrary to the binding precedents as noticed above. In that view of the matter, we are constrained to hold that the 3rd respondent did not possess the prescribed qualifications for appointment to the post of Deputy Librarian when he was selected and appointed to that post and in that view of the matter his appointment is liable to be quashed.

15. However, Sri D. V. Sitarama Murthy, with his usual persuasiveness, with a touch of emotional feed would request the Court not to interfere with the appointment of the 3rd respondent pointing out that the 3rd respondent was appointed as far back as on 22-3-1996 and since then he has been working as Deputy Librarian in the 1st respondent University and at this distance of time, if his appointment is quashed, he will be exposed to unbearable hardship and, therefore, the Court should have a "human approach" and should not disturb the person who has already been working on a post for more than six years.

16. If in law, a relief is to be given, consequences of such a relief should not be the concern of the Court. The plea that the Court should have a "human approach" and should not disturb a person who has already been working on a post for more than six years cannot be accepted, as the Courts are hardly swayed by emotional appeals. In dispensing justice to the litigating parties, the Courts not only go into the merits of the respective cases, they also try to balance the equities so as to do complete justice between them. Therefore, it is very much within the nature of the power vested in this Court under Article 226 to maintain a "human approach" always, but at the same time, there should be scope for applying equities. In the instant case, we found that the 3rd respondent does not possess prescribed qualifications for the post. Therefore, there is no question of such a person being continued in public employment particularly because the qualified candidates for the post are available. If the illegal action of the 1st respondent University in appointing the 3rd respondent as Deputy Librarian is sustained, it would immediately hurt the rights of the appellants-petitioners guaranteed under Articles 14 and 16 of the Constitution of India. The petitioners-appellants are not merely interested or satisfied with the declaration of the law. What actually they seek is equal treatment before the law. The Courts have no power to override the mandatory provisions of the recruitment rules on sympathetic consideration or on the basis of nebulous subjective "human approach". A person, though not possessing essential qualifications, should be allowed to continue in the post merely on the basis that he has been working in the post for more than six years, such an order would

amount to altering or amending the recruitment rules made by the University Grants Commission and adopted by the 1st respondent University and such an order would also be in blatant violation of Article 14 postulates and Article 16 commandments.

17. In the result and for the foregoing reasons we allow the writ appeal and set aside the order of the learned single Judge dated 11-4-1997 and allow WP No. 11252 of 1996 and quash the impugned proceedings No.TU/Admn/T-11/96, dated 22-3-1996 and also proceedings No.TU/Admn./T.17/96, dated 22-3-1996 issued by the 1st respondent University appointing the 3rd respondent insofar as it relates to the appointment of the 3rd respondent to the post of Deputy Librarian. A direction shall issue to the 1st respondent University to consider the candidature of the petitioners-appellants for the post of Deputy Librarian strictly in accordance with law and appoint one of them who is the most meritorious to the post of Deputy Librarian. The parties shall bear their own costs.