

(1996) 08 AHC CK 0050
In the Allahabad High Court
Case No : Writ Petition No. 6988 (S/B) of 1986

Dayashanker Shukla

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 13-08-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 08 AHC CK 0050

Hon'ble Judges : S.H.A.Raza, J and Jagdish Bhalla, J

Final Decision : Allowed

Judgement

1. The factual matrix in short compass as setout in the writ petition is that after the Institution i.e. Indira Gandhi Degree College, Gauriganj, district Sultanpur was recognised by the State Government and the petitioner was appointed as untrained librarian on 181982, the institution in which the petitioner was so appointed, was brought on the Government grantinaid list in the year 1985. No doubt at the time when the petitioner was appointed, he was not having any diploma or degree in library science. The basic qualification for such a librarian was two years" experience of doing library work and a Bachelor"s Degree in any speciality and a Bachelor"s Degree in Library Science. The petitioner who was a graduate initially, but was not having a Degree in Library Science, made a genuine effort to remove the defect by obtaining a degree in Library Science in the year 1985. The Management of the College was gracious enough to grant him 10 months" study leave in that regard. Thereafter he joined again on 1671985. On 17121985 advertisement for fillingup said post on regular basis was published. The petitioner along with other candidates applied for said post and he was selected by a Committee constituted for that purpose. Selection of the petitioner was approved by the Management committee of the College and the petitioner joined the post and since then he has been continuing.

2. The petitioner raised a grievance before this Court that his salary bill sent by the Management is not being accepted by the Educational authorities and he

prayed for issuance of a writ in the nature of mandamus commanding the opposite parties to approve petitioner's selection held on 1621986 and for payment of his salary with effect from November 1985.

3. It has been averred in the counter affidavit that even after completing the course of Bachelor in Library Science, the petitioner was not entitled to get the scale of librarian as he did not have the requisite experience of two years' service with effect from 2871982 onwards including the period of his leave for studying the Bachelor of Library Science course.

4. If the petitioner lacked the basic qualification at the initial stage and continued to perform his duties whereby he gained sufficient experience, he cannot be dislodged for the reason that he lacked certain qualifications which at the time of recruitment was not considered fatal for the appointment. Initially the Selection Committee would have been within its right not to select the petitioner if he lacked certain qualifications, but he was selected and the Management Committee approved his appointment and even the Management Committee of the College granted him leave to complete the course of Library Science. By now he must have gained sufficient experience as a Librarian. Any lack of qualification at the time of recruitment, coupled with the experience and academic attainments cannot be a ground for nonpayment of salary.

5. In view of the aforesaid reasons, we are of the view that the writ petition deserves to be allowed. A writ in the nature of mandamus is issued to command the opposite parties to approve the petitioner's selection held on 1621986 and 10 make payment of petitioner's salary from November, 1985 onwards.

6. In the circumstances of the case, there shall be no orders as to costs.