

(1996) 05 DEL CK 0090

In the Delhi High Court

Case No : Civil Writ Petition No. 1348 of 1996

Neeta Kohli

APPELLANT

Vs

Director of Education

RESPONDENT

Date of Decision : 13-05-1996

Acts Referred:

Citation : (1996) 63 DLT 144 : (1996) 38 DRJ 175 : (1996) 2 LLJ 1237

Hon'ble Judges : Dr. M.K. Sharma, J

Bench : Single Bench

Advocate : S.K. Shukla and M.L. Chhibbar, for the Appellant;

Judgement

M.K. Sharma, J.

(1) In this writ petition the petitioner has sought for a writ in the nature of mandamus directing the respondents to treat the petitioner as a regular confirmed employee of respondent No.2 and to be in continuous employment since 6.7.1993. The petitioner was appointed as a Librarian by respondents 2 & 3 in the pay scale of Rs.1200- 2040. The said appointment of the petitioner was purely on a temporary basis and was for a fixed period which came to be extended from time to time. The last appointment of the petitioner was issued on 6.7.1995. The said appointment letter stated that the petitioner was offered an appointment as Librarian on temporary basis for a period up to 14.5.1996 in the pay scale of Rs.1200-2040. The petitioner submitted representations to respondents No. 1 & 2 on various occasions requesting them to regularise her services as Librarian in the school, since she was working as Librarian in the said school continuously from 6.7.1993. However since the respondents No.2 and 3 not only took no steps to regularise the services of the petitioners but also they were getting an advertisement issued for the appointment of a Librarian in the school, this writ petition has been preferred.

(2) Learned counsel appearing for the petitioner states before me that in view of the continuous uninterrupted service of the petitioner as a Librarian in the school

w.e.f, 6.7.1993 the petitioner is required to be regularised in the said post in view of several decisions of the Supreme Court in that respect.

(3) I have heard the learned counsel appearing for the respondents also who submits before me that the qualification required for appointment to the post of Librarian is a graduate with a diploma in Library Science and that the petitioner does not possess the said qualification. In this connection the learned counsel for the respondent has drawn my attention to an advertisement of the School for filling up the post of Librarian in the School in the pay scale of Rs.1200-2040 wherein the qualification laid down was diploma in Library Science. It is further stated that while according permission in the school to have classes up to 8th the Directorate of Education has obtained an undertaking from the school authority to appoint a fully qualified Librarian on permanent basis w.e.f. 1.7.1996 and that in view of the aforesaid position it has become necessary for the school authorities to advertise for the post of Librarian once again, for which the minimum qualification is a graduate with diploma in Library Science. Learned counsel also states that since earlier no qualified Librarian was available the petitioner was appointed purely on temporary basis and the said appointment was extended from time to time for a stipulated period.

(4) The counsel for the petitioner relies upon a decision of the Supreme Court in R.Mohapatra Vs. State of Orissa; 1991 Scr 990. However, the said case is distinguishable on facts and is not applicable to the facts of the present case. That was not a case where the petitioner did not have the requisite qualification for appointment to the post. Besides in that case there was a statutory provision applicable in the said case under which the State Government was required to regularise the service of the petitioner. The said case, Therefore, is of no help to the petitioner,

(5) From the records placed before me it appears that the qualification prescribed for the post of Librarian in the School is a Graduate with diploma in Library Science. Since the aforesaid qualification has been laid down for being qualified to be appointed as a Librarian, this court can issue no direction to regularise a person who does not possess such qualification necessary to be possessed for being appointed to the said post. Besides the appointment of the petitioner to the post of Librarian apparently was on temporary basis and for a stipulated period, which came to be extended from time to time. In Director, Institute of Management Development, U.P. Vs. Smt. Pushpa Srivastava, , it has been held by the Supreme Court that when the appointment was purely adhoc and on a contractual basis for a limited period the right to remain in the post comes to an end with the expiry of the limited period. In my opinion the ratio of the aforesaid decision is squarely applicable to the facts of the present case and, Therefore, it is not a fit case where any direction could be given to the respondents to regularise the services of the petitioner without going through the proper mode of selection and without possessing the minimum qualification laid down for appointment to the said post. Since it is the admitted case of the

parties that the school authority is issuing an advertisement for filling up the post of a Librarian on regular basis, the petitioner may make an application provided she attains and fulfills the requirements necessary for such appointment in the meantime and in that event her case shall be considered Along with other similarly situate persons in accordance with law. With the aforesaid observations and directions, this writ petition stands dismissed. No costs.