
(2013) 08 DEL CK 0120

In the Delhi High Court

Case No : Writ Petition (C) No. 4464 of 2012

Pratigya

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 08-08-2013

Acts Referred:

Citation : (2013) 08 DEL CK 0120

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Manish Verma, for the Appellant; Puran Chand, for Mr. S. Rajappa, for R-2, for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—This writ petition is filed by one Ms. Pratigya seeking appointment by promotion to the post of Senior Librarian-cum-Instructor. Petitioner was appointed as a Junior Librarian-cum-Instructor with the respondent no. 2 vide letter dated 4.2.2004. The petitioner successfully completed her probation period and was accordingly vide letter dated 30.8.2006 of the respondent no. 2 held to have successfully completed the probation period.

2. On 30.9.2008, one Sh. Y.N. Gaur who was a Senior Librarian-cum-Instructor was retired. Petitioner claims that petitioner should be appointed to that post and there should not be recruitment by means of deputation or direct recruitment to the post.

3. On behalf of the petitioner, it is not disputed that the relevant promotion and recruitment rule for appointment to the post of Senior Librarian-cum-Instructor of the respondent no. 2 is as under:-

11.

Method of recruitment.

By promotion failing which by deputation on usual terms from a Deptt. of Govt.

of India or Central Autonomous Organization failing which direct recruitment.

12.

In case of recruitment by promotion, grade from which promotion to be made Jr. Librarian after 8 years service in the Scale of Rs. 1200-2040.

4. In view of the aforesaid recruitment rule, for the post of Senior Librarian-cum-Instructor, a Junior Librarian such as the petitioner can only claim appointment if the Junior Librarian has completed 8 years of service. Petitioner was admittedly employed as Junior Librarian -cum-Instructor only on 4.2.2004 and therefore, as on date when vacancy arose on 13.9.2008, petitioner did not have the requisite qualifications of 8 years in service. Petitioner was woefully short by around 3 1/2 years of service.

5. It is settled law that the qualifications which have to be considered for appointment to a post of the person who seeks appointment to the post is when the vacancy to the post arises. Putting it differently, the eligibility criteria have to be met by the aspirants to the post on the date when vacancy arises in the post which is to be filled in by promotion. This is settled law, inasmuch as, it has been observed on many occasions that if this principle is not applied by the department, department can conveniently keep on postponing the filling of posts unless more and more persons become eligible and some of who find favour for appointment to the post. Accordingly in law only those persons who satisfy the eligibility requirements when vacancies arose in the posts are to be considered for appointment to the posts.

6. In the present case, petitioner did not meet the selection/qualifying criteria of 8 years service as a Junior Librarian-cum-Instructor for being appointed as a Senior Librarian-cum-Instructor as on 13.9.2008. Petitioner therefore cannot seek promotion to the post of Senior Librarian-cum-Instructor when the post fell vacant on 13.9.2008. In view of the above, there is no merit in the petition which is therefore dismissed. Interim orders passed on 27.8.2012 and continued thereafter shall stand vacated. All pending applications stand disposed of accordingly. Parties are left to bear their own costs.