
(2016) 04 SHI CK 0177
In the High Court Of Himachal Pradesh
Case No : CWP No. 2313 of 2008

Prem Lata Thakur

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 18-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) ILRHP 1204

Hon'ble Judges : Sureshwar Thakur, J.

Bench : Single Bench

Advocate : Ms. Bhawna Dutta, Advocate, for the Petitioner; Mr. Vivek Singh Attri and Mr. Pankaj Negi, Deputy Advocates General, for the Respondent Nos. 1 and 3; Mr. J.L. Bhardwaj, Advocate, for the Respondent No. 2; Mr. K.D. Sood, Senior Advocate with Mr. Mukul Sood

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J.—The petitioner claims in the instant writ petition for a direction being rendered to the respondents to give her appointment against the post of Assistant Librarian from the date of her appointment as a Librarian Clerk i.e. 9.10.1997. Moreover, she prays for the consequential relief of the pay scale attached to the post of Assistant Librarian being afforded to her. Apart there-from, a relief is claimed from this Court of the respondents being directed to give her promotion to the post of Assistant Librarian in consonance with Annexure P-11.

2. The petitioner had through various representations made to the authorities concerned as stands comprised in Annexures appended to the writ petition ventilated therein a grievance of the respondent concerned not affording to her the benefit of appointment to the post of Assistant Librarian from her hitherto assignment of a Librarian Clerk. Despite her representing to the respondent concerned for begetting an appropriate amendment in her appointment letter besides her standing afforded the consequential benefit of the pay scale

attached for the post of Assistant Librarian the respondent concerned declined to afford in her favour the reliefs ventilated by her in her representations. In sequel she stands constrained to institute the instant writ petition before this Court with a prayer made therein of the aforesaid reliefs encapsulated therein being standing directed by this Court for theirs standing afforded to her by the respondent concerned.

3. The respondents filed a detailed reply to the writ petition wherein they contested the entitlement of the petitioner to seek appointment against the post of Assistant Librarian. Also the respondents in their response to the writ petition contested the entitlement of the petitioner to avail the benefit of the pay scale attached to the post of Assistant Librarian.

4. The name of the petitioner stood sponsored by the Employment Exchange/Sub Employment Exchange, Sri Naina Devi Ji for enabling her to participate in the interview to be held by the respondent concerned for adjudging her suitability for selection besides her appointment against the post of Assistant Librarian at Shri Shakti Sanskrit College, Sri Nainadevi Ji, District Bilaspur. Her participation standing elicited by the respondent concerned for adjudging her suitability for selection and appointment against the post of Assistant Librarian is lent sustenance by Annexure P-3/T a perusal whereof depicts of the Principal, Shri Shakti Sanskrit College, Sri Nainadevi Ji, District Bilaspur thereunder requisitioning her to participate in an interview for the post of Assistant Librarian. Thereupon the counsel for the petitioner contends of her standing subsequently appointed by the respondent concerned against the post of Librarian Clerk is in open conflict with the manifestations of Annexure P-3/T. She also contends of hence the respondent concerned untenably denying to her appointment to the post of Assistant Librarian besides the respondent concerned unwarrantedly refusing to afford to her the pay scale attached to the post of Assistant Librarian.

5. Be that as it may, the vigour of the contention of the learned counsel for the petitioner anvilled upon Annexure aforesaid stands blunted by the factum (a) of the Principal, Shri Shakti Sanskrit College, Sri Nainadevi Ji, District Bilaspur, under Annexure R-4/2/T manifestly prepared on a date subsequent to the preparation of Annexure P-3/T intimating all the aspirants seeking theirs being considered for selection and appointment against the post of Assistant Librarian as previously stood intimated to each under Annexure P-3/T to be available for being filled up qua portrayals in Annexure P-3/T arising from an error necessitating the issuance of a corrigendum comprised in Annexure R-4/2/T with a depiction therein of the post of Librarian Clerk in the pay scale of Rs.950-1800 being rather available for its being filled up. Moreover, a communication stands displayed in Annexure R-4/2/T of a requisition being made to all the aspirants inclusive of the petitioner for participating in an interview to be held for filling up the post of Library Clerk. The petitioner has not placed on record any material in display of the factum of hers not receiving Annexure R-4/2/T. Consequently, the ensuing conclusion is of hers standing apprised by the respondent concerned qua

her participation standing elicited by it in an interview to be conducted/held for the post of Library Clerk. Necessarily hence the petitioner cannot contend of the respondent concerned interviewing her for filling up the post of Assistant Librarian. Moreover, with Annexure R-4/2/T standing transmitted besides received by the petitioner on a date prior to the holding of the interview by the respondent concerned for filling up the vacancy of Library Clerk as marked in Annexure R-4/2/T saps the strength of the contention of the counsel for the petitioner herein of the respondent concerned as stands established by Annexure P-3/T requisitioning her participation in an interview to be held for filling up the post of Assistant Librarian and it/theirs in conflict therewith offering her appointment to the post of Library Clerk nor it gives any fillip to the contention of hence the respondent concerned rearing an apposite legitimate expectation in her mind for concomitantly vesting in her right if any to claim appointment against the post of Assistant Librarian with all consequential benefits (b) with a vivid portrayal in Annexure P-4/T of the respondent concerned offering her appointment to the post of Library Clerk a copy whereof stood transmitted and received by her besides also she stood interviewed for adjudging her suitability for selection besides appointment against the post of Librarian Clerk, also when in pursuance whereof she under Annexure P-5/T stood directed to take over the charge of the Library being a Library Clerk from Murari Lal, Library Superintendent, apart therefrom when she under Annexure R-4/2/T in pursuance to her appointment letter comprised in Annexure P-4/T submitted her joining with the respondent concerned as a Library Clerk sequels an inference of hers acquiescing to her standing appointed against the post of Library Clerk carrying a pay scale of Rs.950-1800 with the concomitant effect of hers standing estopped from calling upon the respondent concerned to make an amendment in the nomenclature of the post depicted in her appointment letter besides also estops her to claim the consequential benefits attached to the post of Assistant Librarian, (c) Annexure R-4/4 while unveiling the strength of posts in each category available with Shri Shakti Sanskrit College, Sri Nainadevi Ji also preeminently marks therein the pivotal fact of a post of Library Clerk alone standing borne on the establishment of Shri Shakti Sanskrit College, Sri Nainadevi Ji. Obviously the holding of an interview by the respondent concerned for filling up the post of Library Clerk hence the petitioner's standing appointed against it apart therefrom hers joining as a Library Clerk, is in tandem with and in consonance with the markings in Annexure R-4/4 of the aforesaid post and not the post of Assistant Librarian whereto the petitioner untenably claims an appointment besides the benefit of the pay scale attached to it being available to be filled up in the college concerned. In sequel, the grievance as ventilated by the petitioner through various representations to direct the respondents concerned to appoint her against the post of Assistant Librarian and to afford the pay scale of Rs.10,000-15,200/- cannot come to be countenanced by this Court.

6. The reliance placed by the petitioner upon Annexure P-11 embodying the Recruitment & Promotion Rules for the post of Assistant Librarian, Class III,

Technical Education Department, Himachal Pradesh, for on its analogy stake a claim for the respondents being directed to appoint her against the post of Assistant Librarian, is misconceived as the post of Assistant Librarian embodied in Annexure P-11 is available in the Technical Education Department of the Government of Himachal Pradesh whereas Shri Shakti Sanskrit College, Sri Nainadevi Ji is managed by respondents No. 5 and 6 hence with the nomenclature of both the aforesaid being contra-distinct the respondent concerned herein cannot hence be construed to be a part of the Department of Technical Education Government of Himachal Pradesh for hence applying qua their staff/employee the Recruitment & Promotion Rules embodied in Annexure P-11 with a manifestation therein of a post of Assistant Librarian standing borne on its establishment. Moreover, with Annexure R-4/4/T enunciating the factum of the post of only of Library Clerk being available on the establishment of Shri Shakti Sanskrit College, Sri Nainadevi Ji undermines the efficacy besides overcomes the reliance if any as untenably placed by the petitioner upon Annexure P-11 (d) the petitioner has relied upon Annexure D-5 comprising a communication purveyed to her by the District Employment Officer and Public Information Officer, in the month of September 1997 of one post of Pustakalaya Adhyaksha standing advertised for being filled up, for contending of the post as advertised in the month of September, 1997 by the respondent concerned for being filled up was not of a Library Clerk rather was of a Assistant Librarian. However, the information purveyed in Annexure D-5 to the petitioner of a post of Pustakalaya Adhyaksha standing advertised by the respondent concerned for its being filled up, cannot at all lend any sustenance to the contention of the learned counsel for the petitioner of it carrying a parlance equivalent to the one borne by Assistant Librarian. As a sequitur, no reliance can be placed by the learned counsel for the petitioner upon the information purveyed to her under Annexure D-5 of hence the post of Assistant Librarian standing advertised by the respondent concerned besides gives no empowerment to her to contend of hers participating in an interview to fill up the post aforesaid. Contrarily in the face of the aforesaid discussion, unfolding the prima donna factum of only a post of Library Clerk standing borne on the establishment of the college concerned for its being filled up in consonance whereof apposite communications stood addressed to the petitioner prior to hers facing an interview for the post of Library Clerk besides on hers standing declared successful by the Interviewing Board concerned she stood appointed against the post of Library Clerk by the respondent concerned also when she put in her joining in the college concerned as a Library Clerk divests her to at all contend mainly on Annexure D-5 with a communication therein of the post of Pustakalaya Adhyaksha standing advertised to be filled up in the college concerned which nomenclature is contra-distinct to the parlance borne by the term Assistant Librarian besides hence not equitable to it, to also debar her to contest the efficacy of all the aforesaid Annexures palpably displaying of hers standing appointed as a Library Clerk.

7. In view of the above discussion, the writ petition stands dismissed along with

all pending applications. No costs.