
(2009) 01 PAT CK 0091
In the Patna High Court
Case No : CWJC No. 16279 of 2008

Renu Kumari and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-01-2009

Acts Referred:

Citation : (2009) 2 PLJR 662

Hon'ble Judges : Chandramauli Kr. Pd, Acting C.J.;S.K. Sharma, J

Bench : Division Bench

Advocate : Nityanand Mishra, for the Appellant; Lalit Kishore and Ravindra Kr. Priyadarshi, for the Respondent

Final Decision : Dismissed

Judgement

1. Petitioners hold diploma in Library Science from a recognized technical institution of Government of Bihar and intend to offer their candidature for appointment to the post of Librarian and being not eligible in terms of sub-rule (vii) of Rule 4 of Bihar Zila Parishad Madhyamik Awam Uchchttar Madhyamik Shikshak (Niyojan Awam Seva Shart) Niyamawali, 2006, which provides for qualification of degree in Library Science as the basic qualification, have questioned its validity. Rule 4(vii) of the Rules reads as follows:-

2. Mr. Nityanand Mishra, appearing on behalf of the petitioners submits that qualification of degree for appointment to the post of Librarian is arbitrary.

3. We do not have the slightest hesitation in rejecting the said submission. Rule 4(vii) has prescribed the qualification of degree from a recognized institution for appointment to the post of Librarian. It is primarily within the discretion of the employer to fix the minimum qualification required for appointment and this court in exercise of its power of judicial review will not substitute that, unless the decision taken is palpably arbitrary. The case in hand does not come within the exception aforesaid.

4. Mr. Mishra, then contends that the Principal of the Government Polytechnic,

from where the petitioners obtained diploma, had written to the State Government to consider the diploma holders in Library Science for appointment to the post of Librarian. This itself will not make the diploma obtained by the petitioner in Library Science to be equivalent to the degree in Library Science. Degree in Library Science is certainly a higher qualification than diploma. Rule provides for higher qualification for appointment. It has nexus with the post on which appointment is to be made. This does not any way is in teeth of any constitutional provision. We do not find any merit in the writ application and it is dismissed in limine, accordingly.