

(2011) 08 DEL CK 0359
In the Delhi High Court
Case No : W. P. (C) 1933 of 1999

Shashi Bala Gaur

APPELLANT

Vs

Union Of India (UOI) and Others

RESPONDENT

Date of Decision : 23-08-2011

Acts Referred:

Citation : (2011) 08 DEL CK 0359

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : Somyajeet Pani and Kartikey Hari Gupta, for the Appellant; B. V. Niren, CGSC for R 1 and R 5 and Vishal Bhatnagar, for R 2 and R 3, for the Respondent

Final Decision : Dismissed

Judgement

S. Muralidhar, J.—Non-appointment to the post of Lecturer in Sarvadarshan with the Rashtriya Sanskrit Sansthan, New Delhi, (Respondent No. 2) has led the Petitioner to file the present petition.

2. The Petitioner states that she is a qualified Sanskrit scholar having done her Acharya degree from the Sampuranand Sanskrit University ("SSU") securing 68% marks. She is stated to have obtained an M.A. degree from the Kashi Hindu University in second class securing 50% marks and a Ph. D. from SSU in 1984 in Darshan as well as a bachelor's degree in Library Science from SSU in 1980. She was appointed on 12th December 1997 as a part-time lecturer in Sarvadarshan at Shree Sada Shiva Kendriya Sanskrit Vidyapeetha ("SSSKSV") at Puri in Orissa. The SSSKSV is functioning under Respondent No. 2 and has been established under the auspices of the Ministry of Human Resources Development ("HRD"), Government of India, New Delhi. Her part-time lecturership came to an end on 31st March 1998.

3. An advertisement was issued by Respondent No. 2 in the Hindustan Times dated 6th January 1998 inviting applications for the post of lecturer in

Sarvadarshan. The essential qualifications were (i) consistently good academic record with post-graduate degree in first or high second class (55% marks or above), an Acharya or master's degree in the subject concerned from a recognized examining body and (ii) ability to teach Sanskrit subject through the medium of Sanskrit/Hindi/English. The desirable qualification was (i) doctorate or evidence of research work of equivalent standard and (ii) teaching experience of degree/post-graduate classes. It was also stated that preference would be given to those candidates who, besides fulfilling the above qualifications, have cleared the National Eligibility Test ("NET") conducted by the UGC. The age limit was 35 years as on the date of the advertisement.

4. The Petitioner applied for the said post and also attended an interview on 18th May 1998. The Petitioner states that she was interviewed by a Selection Committee. According to the Petitioner, the Selection Committee prepared a panel of two suitable persons for appointment. One was the Petitioner and the other was Shri Santosh Kumar Shukla. The panel was sent for approval to the Chairman of Respondent No. 2 and the Ministry of HRD on 18th May 1998. The Petitioner states that she learnt of the above development from Dr. N.N. Mishra, Respondent No. 5, on 29th May 1998 at about 5.15 pm. The Petitioner alleges that Respondent No. 5 demanded a bribe for getting her appointed. The Petitioner states that after some time she met Dr. K.K. Mishra, the then Director of Respondent No. 2, who has been impleaded Respondent No. 4 in the present petition, to enquire about the result of her appointment as two other persons who had attended interviews had already joined similar posts in other institutions. He informed the Petitioner that Respondent No. 5, Dr. N.N. Mishra, who was the then Deputy Education Advisor (Sanskrit) in the Department of Education, Ministry of HRD, had raised objections; one was that she was over age, i.e., had crossed the prescribed age limit of 35 years. The Petitioner states that she clarified to Respondent No. 5 that at the time when she applied, she was a lecturer at the SSSKSV in Orissa which was an institute under Respondent No. 2 and therefore, the criteria of age limit did not apply in terms of the UGC Guidelines. She pointed out that one Shri N.N. Shukla had joined the post of Assistant Director (Exam) in Respondent No. 2 and one Shri P. Upendra Rao had joined as lecturer in the Institution at Puri on the basis of the same advertisement. Meanwhile, the Petitioner again worked in the SSSKSV between September and December 1998. She made representations to the HRD Minister who was also the Chairman of Respondent No. 2 on 10th March 1999 complaining about bias and prejudice of Respondent No. 5. When her representations did not elicit any positive response, she filed the present petition.

5. Notice was issued in this writ petition on 6th April 1999 and in response thereto a counter affidavit was filed on behalf of the HRD Ministry on 10th August 1999. Inter alia, it was stated that Respondent No. 2 is an autonomous body under the HRD Ministry established in October, 1970 for the development and promotion of Sanskrit and is fully funded by the Government of India. It is stated that the advertisement issued in the Employment News on 17-23 January 1998

was itself contrary to the Recruitment Rules ("R Rs") which permit relaxation of age only by three years for employees of Respondent No. 2. The Petitioner was almost 45 years at the time of submitting her application. The Petitioner was working only on a part-time basis at the SSSKSV for the two short periods: first between 12th December 1997 and 31st March 1998 and thereafter from 17th September 1998 to 31st December 1998. The Petitioner was never an employee of Respondent No. 2 and therefore could not avail of the benefit of age relaxation. At the maximum she could be given age relaxation of three years and that too with the prior approval of the Chairman of the Governing Council of Respondent No. 2. Such prior approval had never been sought by her or granted by Respondent No. 2. It is further submitted that the interview was conducted by a Screening Committee, the constitution of which did not have approval of either the Selection Committee or the Chairman/Vice-Chairman of Respondent No. 2. It is stated that this unauthorised Screening Committee shortlisted the applications received and did not apply the essential qualification criteria provided under the R Rs. It is pointed out that the Petitioner did not satisfy even the criteria fixed by the Screening Committee i.e. (a) BA/Shastri with 55% or more marks (b) MA (Sanskrit) with Darshan group/Acharya (Sarvadarshan) with 55% or more marks, and (c) Ph. D. or NET. It is pointed out that the Petitioner had only 49% marks in her BA and 49.9% marks in her MA and obtained the Acharya Degree in Darshan (and not in Sarvadarshan) with first class.

6. In its counter affidavit, Respondent No. 2, i.e., Rashtriya Sanskrit Sansthan and Respondent No. 3, the Director of Respondent No. 2, have countered the allegations regarding the Petitioner's talk with Respondent No. 4 and submitted that this cannot be adjudicated in the present petition. It is pointed out that the Screening Committee is not the final authority. It is reiterated that the Petitioner could not have the benefit of age relaxation as she was only a part-time lecturer with the SSSKSV at Puri. The discretion in this regard was with the Competent Authority, and was never exercised. It is further reiterated that the non-selection as envisaged under the R Rs was undertaken. The Screening Committee constituted by the Director was without the approval of the Chairman of the Governing Council and therefore its decision had no legally binding effect.

7. In the additional affidavit filed on 13th July 2000, the Petitioner has sought to clarify that her degree in Acharya (Darshan) is the same as Acharya (Sarvadarshan). Her stand appears to be that the Respondents are estopped from assailing that the advertisement issued in the newspaper or questioning the validity of the Screening Committee. In her written arguments, the Petitioner reiterates the conversation with Respondent No. 5 and alleges that her non-selection was for mala fide reasons.

8. Having considered the above submissions, this Court is of the view that the writ petition is without merit. The advertisement in question indicates the upper age limit for the post in question as 35 years as on the date of the advertisement. From the counter affidavit of Respondent No. 2, it is apparent

that the age limit was relaxable, if at all, only by three years and that too only with the approval of the Chairman of the Governing Council. In the present case, the Petitioner was over 45 years when she applied for the post. The second difficulty in her way is that the constitution of the Screening Committee which shortlisted her was also of doubtful validity. It was not envisaged under the R Rs. There had to be a Selection Committee, which obviously did not get constituted in terms of the R Rs in the instant case.

9. The above fundamental defects preclude the Petitioner from insisting that she should be appointed to the post of lecturer. As regards the allegations made by her against Respondent No. 5, it appears from the counter affidavit filed on behalf of Respondent Nos. 1 and 2 that the non-selection of the Petitioner as lecturer did not turn on what Respondent No. 5 said or did. In any event, they give rise to disputed questions of fact that cannot be examined in the present petition. For the aforementioned reasons, the reliefs prayed for in this writ petition cannot be granted. The writ petition is dismissed.