

(2012) 07 DEL CK 0672

In the Delhi High Court

Case No : Writ Petition (C) No. 1144 of 1998

Smt. Prabha Lama

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

Date of Decision : 11-07-2012

Acts Referred:

Citation : (2012) 07 DEL CK 0672

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : M.K. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petitioner employed as Semi-Professional Assistant in the library of respondent no.2 Daulat Ram College affiliated to respondent no.1 University of Delhi, filed this petition impugning the communications dated 9th November, 1996 and 14th January, 1998 of the respondents rejecting the representations of the petitioner for consideration for promotion to the post of Professional Assistant in the library and informing the petitioner that the petitioner does not fulfill the prescribed qualifications for promotion and is thus not eligible for the said post. Notice of the petition was issued and on the application of the petitioner for interim relief it was directed that any appointment made to the post of Professional Assistant in the respondent no.2 College shall be subject to the result of the petition. Pleadings have been completed and additional affidavits have also been filed by the respondents pursuant to the queries raised by the Court from time to time. On 17th July, 2000 the following order as passed:-

The petitioner has asked for two reliefs, firstly that she should be promoted to the post of Professional Assistant. According to her, she has the necessary essential qualifications for promotion.

It is pointed out in the counter affidavit that as per the Recruitment Rules for

promotion to the post of Professional Assistant, the requirement is, inter alia, of B.A. Degree as well as a degree of B.Lib. and experience in a library. In the present case, the Petitioner has a degree of Prabhakar which is not recognized as a B.A. Degree by the Delhi University. The Petitioner, therefore, did not possess the necessary qualification for promotion. To this extent, the writ petition is dismissed.

In so far as the second prayer is concerned, namely, that the Petitioner is entitled to relaxation because she has put in 35 years of service, learned counsel for the Petitioner seeks some time to place on record Office memorandum dated 9th September, 1999. He may do so alongwith an additional affidavit within four weeks with advance copy to learned counsel for the Respondent who may file his response within two weeks thereafter.

2. Vide subsequent orders dated 19th November, 2001 and 11th December, 2001 the respondent was directed to report whether the petitioner's case was considered in light of the Office Memorandum dated 9th August, 1999 (supra) and if so the result thereof. Rule was issued in the petition on 28th April, 2003. Thereafter the petition was dismissed for non prosecution but was restored. None has been appearing for either of the parties for the last two dates on 3rd January, 2012 and 13th April, 2012. Today also none has appeared for the petitioner inspite of the matter having been kept pending for long. Considering that the writ petition is of the year 1998, it is not deemed appropriate to await the petitioner further and though the writ petition is again liable to be dismissed for non-prosecution but with the assistance of the counsel for the respondent the record has been perused.

3. The petition as aforesaid now survives only qua the claim of the petitioner, though not eligible for promotion, for relaxation of the eligibility conditions. The petitioner as aforesaid in this regard relies only on the Office Memorandum dated 9th August, 1999 copy of which was filed pursuant to the order dated 17th July, 2000 (supra). The said Office Memorandum however is of Assured Career Progression (ACP) Scheme for Central Government Civilian Employees and of financial upgradation and not of relaxation of eligibility conditions for promotion as contended by the petitioner during the hearing on 17th July, 2000. The claim of the petitioner in the present petition is for promotion and the petitioner has not filed this petition with the grievance of having been denied, if at all eligible, the benefits of the ACP Scheme which indeed is of a date after filing of this writ petition. Thus strictly speaking the argument on the basis of said Office Memorandum is outside the ambit of the writ petition.

4. The respondent no. 2 College, in response to the directions contained in the orders dated 19th November, 2001 and 11th December, 2001 (supra) has informed that though the respondent no.1 University had vide its letter dated 18th October, 2001 informed the respondent no. 2 College of the approval by the University of the ACP Scheme but before the said Scheme could be implemented by the respondent no. 2 College, the respondent no. 2 College received the letter

dated 5th November, 2001 from the University Grants Commission (UGC) to the effect that the UGC was the funding agency of the Govt. of India and had been financially supporting the respondent no. 2 College; that the approval and implementation of the ACP Scheme to non-teaching employees of the University was not in consonance with the directions of the UGC and calling upon the respondent no.2 College to refrain from implementing the said ACP Scheme. Though the petitioner has filed a response to the aforesaid additional affidavit of the respondent no. 2 College contending that the ACP Scheme is binding on UGC but a perusal of Office Memorandum dated 9th August, 1999 (supra) shows the same to be applicable only to Central Government Civilian Employees in all Ministries/Departments. The employees of the University and the University affiliated colleges cannot be said to be Central Govt. Civilian Employees and thus the Office Memorandum by itself does not show the same to be applicable to the University. The respondent no. 2 College is undoubtedly financed by the UGC and without the petitioner being able to show that the said ACP Scheme was adopted by the UGC also, no benefit thereof also can be directed to be given to the petitioner. Moreover, this question as aforesaid is also outside the ambit of the petition. No merit also is therefore found in the petition; the same is dismissed. No order as to costs.