
(1995) 08 CAL CK 0043
In the Calcutta High Court
Case No : C.O. No. 13740 (W) of 1995

Smt. Sima Bhattacharya alias Chakraborty	APPELLANT
Vs	
State of West Bengal and Others	RESPONDENT

Date of Decision : 22-08-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 1 CALLT 21

Hon'ble Judges : Gitesh Ranjan Bhattacharjee, J

Bench : Single Bench

Advocate : L.C. Behani and Suchandra Mukherji, for the Appellant; S.K. Banerjee, A.K. Moitra and T.P. Halder for Respondent Nos. 4 and 6, for the Respondent

Judgement

Gitesh Ranjan Bhattacharjee, J.—In this writ petition the petitioner's grievance is that although in response to an advertisement she applied for appointment to the post of librarian in a non-Government college, she has not been called for interview in spite of the fact that she has necessary qualifications for being appointed as a librarian. The petitioner has a number of qualifications. I am however only mentioning here the qualifications relevant for the present purpose. She obtained M.A. degree (Master of Arts) in Rabindra Sangeet from Rabindra Bharti University and was placed in the first class. She also obtained the degree of Bachelor of Library and Information Science from the Rabindra Bharati University and obtained 408 marks out of total 800, and was thus placed in the second class. Evidently she scored 51% marks in the Bachelor of Library and Information Science Examination.

2. The petitioner applied for the post of Librarian in the concerned college, namely, Sree Chaitanya College of Commerce, Habra. She was however not called for interview. Her grievance is that she should have been called as she is qualified for the post of Librarian. On the other hand it is submitted on behalf of the college authorities that in view of the norms as communicated by the Govt.

of West Bengal. Education Department to the Directorate of Public Instruction, West Bengal under No. 959/Edn./(C.S) dated the 27th June, 1991, annexure-K to the writ petition, the petitioner is not qualified for consideration of appointment to the post of Librarian in a non-Govt. College. In that letter it is inter alia stated thus:-

".....On the recommendation of the University Grants Commission the Governor is pleased to Direct the minimum essential qualification to the post of Librarian including Deputy Librarian and Assistant Librarian in non-Govt. Colleges for the purpose of recruitment to be made henceforth should be as indicated below:-

(I) Master's Degree in Library Science or an equivalent professional degree with at least 55% marks or its equivalent grade plus a consistently good academic record.

OR

(II) master's degree in Arts/Science/Commerce or equivalent degree with at least 55% marks or its equivalent grade with Bachelor's degree in Library Science or an equivalent professional degree with at least 55% marks or its equivalent grade plus a consistently good academic record."

The respondents' contention is that the petitioner has not been called for interview as she is not qualified in terms of the above mentioned prescribed norms for appointment to the post of Librarian in a non-Govt. College. The petitioner on the other hand contends that she is qualified for appointment to the post of Librarian under Clause (II) of the, above mentioned prescribed norms. It is submitted by the learned Advocate appearing for the petitioner that the petitioner holds a Master's degree in Arts and also a Bachelor's degree in Library Science and therefore she satisfies the conditions of aforesaid Clause (II) and accordingly she should have been called for interview. On the other hand it is contended on behalf of the respondents that although the petitioner holds a Master's degree in Arts and has scored more than 55% marks in M.A. yet she is not qualified because the other required condition is that the candidate must have scored at least 55% marks in the examination for Bachelor's degree in Library Science or equivalent professional degree whereas the petitioner has scored only 51% marks in the examination for the degree of Bachelor of Library and Information Science.

3. Clause (II) of the prescribed norms consists of three parts. The first part relates to Master's degree in Arts/Science/Commerce or equivalent degree. The second part relates to Bachelor's degree in Library Science or equivalent professional degree. The third part relates to the requirement of consistently good academic record. On a consideration of the matter I am however clearly of the opinion that the requirement of 55% marks or its equivalent grade as prescribed in the second part of Clause (II) is a requirement in respect of the Bachelor's degree in Library Science also and this requirement is not confined in

its application only to the equivalent professional degree as argued by the learned Advocate for the petitioner. Similarly, the requirement of at least 55% marks or its equivalent grade as mentioned in the first part of the said Clause (II) also, is a requirement which is equally applicable on a plain reading, to the Master's degree in Arts/Science/Commerce also and this requirement likewise is not confined only to the case of equivalent degree as sought to be argued by the learned Advocate for the petitioner. It is plain logic that there cannot be any undue discrimination between a Master's degree or a Bachelor's degree, as the case may be, and an equivalent degree of the respective category. If in respect of equivalent degrees, in one case 55% of marks is required in the minimum to be the qualifying marks while in the case of the other degree of equivalent worth mere pass level of marks which obviously will be at a much lower level then 55% is made the minimum qualifying marks, then there will be patently an undue discrimination between the equivalent degrees and therefore the court cannot put such a construction on the language used as can lead to a highly inequitable and unduly discriminatory results amongst equals or equivalents. Therefore even apart from the plain meaning of the language used in the concerned Clause, by logic also it has to be held that the requirement of 55% marks as the minimum qualifying marks as mentioned in the second part of Clause (II) is applicable to the holder of a Bachelor's degree in Library Science as well as to the holder of an equivalent professional degree, that is, equivalent to the Bachelor's degree in Library Science. In the circumstances I hold that the second part of the clause (II) requires that the person holding Bachelor's degree in Library Science must also have scored 55% marks or its equivalent grade in obtaining the Bachelor's degree in Library Science so as to qualify for appointment to the post of Librarian in a non-Govt. college in terms of the prescribed qualification noted above, in addition to the other requirements mentioned therein. Since the petitioner unfortunately does not have 55% marks in connection with her bachelor's degree in Library Science she is not qualified for appointment to the post of a Librarian in a non-Govt. College in terms of the norms prescribed by the Government. That being so, the petitioner cannot make any grievance for not being called for interview.

4. The petitioner however made a representation in the matter to the Principal of the concerned college on 1.8.1995 which is annexure-M to the writ petition wherein she made a grievance that others having inferior academic qualifications compared to the petitioner have been called for interview. The petitioner of course is an M.A. with more than 55% marks. She is also the holder of a Bachelor's degree in Library Science but with 51% marks only. Had she obtained 55% marks in respect of the Bachelor's degree in Library Science she would have been certainly qualified for consideration of appointment to the post of Librarian and in that case she would have been entitled to be called for interview and consideration. But unfortunately that is not the case and consequently she cannot claim for interview or consideration as a matter of right.

5. Since the petitioner has made a grievance in her representation that others

having inferior qualifications have been called for the interview the respondent No. 4, the Principal, Sree Chaitanya College of Commerce is however directed to check up the connected records whether any one having lesser marks than 55% or equivalent grade in Library Science or equivalent professional degree has been called for interview. If it appears as a result of such checking up that any one below 55% marks or equivalent grade in Library Science or its equivalent professional degree has been called in the interview in the Clause (II) category, in that case the petitioner shall also be called for interview and shall be considered for the post along with the other candidates whose interview might have been taken in the mean time. At any rate, the result of such checking up by the Principle shall be communicated to the petitioner within a week. The writ petition stands disposed of accordingly. No cost is ordered.