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WP-6226-2016

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 28th OF SEPTEMBER, 2026WRIT PETITION No. 6226 of 2016

CNR No.: MPHC010178182016

*DR. KRISHNA KUMAR KESHARWANI**Versus**THE VICE CHANCELLOR AND OTHERS*

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Appearance:

*Shri Shivam Hazari - Advocate for the petitioner.**Smt. Shobha Menon - Senior Advocate assisted by Shri Rahul**Choubey - Advocate for the respondents-University.**Shri Aviral Vinayak - Advocate for the respondent No.3.*
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ORDER

This writ petition is filed by the petitioner being aggrieved of the order dated 13.12.2012 passed by the respondent No.2 - The Registrar, Dr. Hari Singh Gour Central University, Sagar, as contained in Annexure P-7, whereby the private respondent No.3 - Dr. Anurag Shrivastava has been given appointment as Assistant Librarian in the Pt. Jawahar Lal Nehru Library of the said Central University in the Pay Band-3 of Rs.15600-39100 with AGP Rs. 6,000/- with effect from the date of joining.

2. The petitioner's contention is that he was also one of the candidates for selection to the post of Assistant Librarian. The petitioner has raised several issues, including one regarding the validity of Ph.D degree of the private



respondent, inasmuch as, according to him, the certificate for Ph.D. degree was issued in the year 2013, whereas the last date to fill the application form was in January, 2012.

3. Another issue which has been raised by the petitioner referring to Annexure P-6, is that the private respondent did not possess the desirable qualification of possessing PGDCA related to Library Science, whereas the petitioner was having that diploma.

4. The third issue which has been raised by the petitioner in regard to the private respondent is in regard to his experience as a Librarian or of working in a supervisory capacity as a Librarian. Thus, it is submitted that the private respondent was not eligible and yet he has been selected, giving preference to the private respondent over the petitioner, who was equally qualified and was having the desirable qualification.

5. Smt. Shobha Menon, learned Senior counsel for the respondents-University, in her turn, supports the impugned order.

6. Shri Aviral Vinayak, learned counsel for the respondent No.3, submits that the private respondent was having experience of working in an autonomous Government institution as Assistant Librarian for a period of 2 years and 4 months i.e. at Kendriya Vidyalaya, Delhi. It is, thus, submitted that if a comparative analysis is carried out of the qualifications possessed by the petitioner and those possessed by the private respondent and the degree of proficiency as is reflected from the marks obtained, then the private respondent was certainly more suitable.

7. At this stage, Shri Shivam Hazari raises another issue that the post of



Assistant Librarian in Dr. Hari Singh Gour Central University, Sagar, was required to be filled through promotion, but an advertisement was issued for direct recruitment. It is also submitted that the petitioner had experience of working of about 4 years and 1 month, as is evident from Annexure P-14 and, therefore, the petitioner should have been given preference.

8. After hearing learned counsel for the parties and going through the record, it is an admitted fact that as far as the private respondent is concerned, he was given a notification in regard to the completion of Ph.D on 28.04.2011. The last date to submit the applications in response to the advertisement was 10.01.2012. Prior to 10.01.2012, the private respondent had completed his Ph.D. Therefore, this argument cannot be accepted and is hereby rejected.

9. A comparative study of the marks obtained by the petitioner as well as the private respondent reveals that the petitioner obtained lesser marks in comparison to the private respondent in 12th Class, in the Under Graduation examination, in the B.Lib examination as well as in the M.Lib examination.

10. As far as the private respondent is concerned, he had worked as a Librarian at KVS, New Delhi and KV, Madhopur and was having experience of 2 years and 7 months, whereas the petitioner had admittedly worked as a Cataloguer. The petitioner's contention is, and as is admitted by him by referring to Annexure P-15, that he officiated as Assistant Librarian since 17th January, 2011. Therefore, as far as the desirable qualification is concerned, that is of having supervisory experience in a Library, the experience of Cataloguer cannot be counted. Therefore, in fact, the petitioner



was not having even 1 year of experience on the closing date of the advertisement, as he had admittedly officiated as an Assistant Librarian for less than 1 year on the date of the closing of the advertisement.

11. As far as the issue of the post being promotional or direct recruitment is concerned, Smt. Shobha Menon, learned Senior counsel, submits that for promotion, 8 years experience was required and as per the UGC norms, the post of Assistant Librarian is to be filled through direct recruitment.

12. In this regard, it will not be out of context to refer to the judgment of the Hon'ble Supreme Court in the case of **Madras Institute of Development Studies and another Vs. Dr. K. Sivasubramaniyan and other**, (2016) 1 SCC 454, wherein it is held that a candidate having participated in the selection process without demur cannot turn back and challenge the same on becoming unsuccessful.

13 Thus, the issue of whether the post was required to be filled through direct recruitment or through promotion, is no more open to the petitioner after having participated in the selection process, though unsuccessful.

14. It is evident that desirable qualifications will not supersede the essential qualifications. As far as essential qualifications are concerned, on the date of notification, the private respondent had completed his Ph.D. Therefore, the petitioner's submission that the private respondent was not possessing Ph.D on the last date of submission of the application, is not made out.

15. As far as desirable qualifications are concerned, the private respondent had 2 years and 7 months experience, whereas the petitioner only had the experience of less than 1 year as Incharge, Assistant Librarian, as is evident



from Annexure P-15.

16. When comparative merit is seen, the Selection Committee has already taken care of the comparative merits and, therefore, it is no more open to the High Court to assess the comparative merits of the petitioner vis-a-vis the private respondent because that work has already been completed by an expert body.

17. It is equally well settled that the High Court cannot sit as an appellate authority over the decision of the Selection Committee, unless the parties are able to demonstrate that the selection is vitiated with gross irregularity or mala fide. In this context, the Hon'ble Supreme Court in the case of **M.V. Thimmaiah and others Vs. Union Public Service Commission and others**, (2008) 2 SCC 119, has held in paragraph 21 as under:-

"21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine the recommendations of the Selection Committee like the court of appeal. This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine the selection of the candidates nor is the business of the court to examine each candidate and record its opinion."

18. In the present case, the petitioner has failed to point out any gross



irregularity or mala fide; therefore, the petition deserves to be dismissed and is hereby **dismissed**.

19. At this stage, Shri Shivam Hazari, learned counsel for the petitioner, submits that some officiating pay and allowances are pending with the respondent-University.

20. Smt. Shobha Menon, learned Senior counsel, submits that if the petitioner makes a fresh representation before the concerned authorities within a period of 30 days from today, then she will direct the Registrar and the Vice-Chancellor to look into that representation and decide the same through a speaking order, in accordance with law, within a further period of 30 days.

21. Accordingly, the aforesaid relief is disposed of.

22. In the above terms, the present writ petition is disposed of.

(VIVEK AGARWAL)
JUDGE

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