

Ct. 05
Item No.15
16.09.2021
(suvendu)

WPA 14274 OF 2021

(VIA VIDEO CONFERENCE)

Minati De
Vs.
The State of West Bengal & Ors.

Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Mr. Arkadeb Biswas
Mr. Arka Nandi
Mr. Saikat Sutradhar
.....for the petitioner

Mr. Supriyo Chattopadhyay
Ms. Itti Dutta
.....for the State

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
.....for the WBCSSC

The writ petitioner is a Para Teacher and has applied for appointment in the post of Assistant Teacher in Upper Primary section in Government aided recognised secondary school pursuant to the notification dated 23rd September, 2016 issued by the West Bengal Central School Service Commission (for short, "Commission").

It has been submitted by Mr. Banerjee, learned advocate appearing on behalf of the writ petitioner, that as per parent notification dated 23rd September, 2016, ten percent vacancies were reserved for Para Teachers of Upper Primary

section. It is contended that in terms of the said notification there is no upper age limit prescribed by the Commission for Para Teachers, who are desirous to offer their candidatures for selection. It is submitted that vide subsequent notification dated 2nd November, 2016, an opportunity was given to the applicants for editing their applications upon logging in on the website of the Commission within a particular period and in connection thereto, a notification was issued on 8th November, 2016 whereby a Clause, being Clause – 9, was incorporated providing no relaxation of upper age for Para Teachers, who have applied for the post of Assistant Teachers in Upper Primary section. The writ petitioner is aggrieved by incorporation of the said Clause –9 in the notification dated 8th November, 2016, at page 99 of the writ petition. It is submitted on behalf of the writ petitioner that since the parent notification dated 23rd September, 2016 is silent with regard to fixation of upper age limit of Para Teachers, who made applications for their appointments in the posts of Assistant Teachers, by a subsequent notification dated 8th November, 2016 the bar in relaxation of upper age limit of the Para Teachers cannot be invoked.

Mr. Sutanu Kumar Patra, learned advocate appears on behalf of the Commission and submits that the notification dated 23rd September, 2016 has been issued in terms of the West Bengal School Service Commission (Selection for Appointment to the Posts of Teachers for Upper Primary Level of Schools) Rules, 2016 (for short, “said Rules of 2016”), wherein Rule 4 specifically provides for upper age limit and in the proviso to Sub-rule (2) of Rule 4, it is specifically provided that the relaxation of age limit has been extended to a particular class of teachers. As per said Rule 4 eligibility criteria has been fixed in the notification dated 23rd September, 2016 and from column –4 of Table –1 of the said notification it appears that upper age limit has been fixed as forty years for the applicants with certain exceptions in favour of some categories of candidates, writ petitioner does not come within such category. Therefore it is contended on behalf of the Commission that since the notification dated 23rd September, 2016 has been issued in terms of the said Rules of 2016, there is no requirement to give age relaxation in favour of the Para Teachers, who have applied pursuant to the said notification dated 23rd September, 2016.

This Court has considered the rival contentions of the respective parties to this writ petition and also scrutinized the notification dated 23rd September, 2016, which has been issued pursuant to the said Rules of 2016. On careful reading of Rule 4 of the said Rules of 2016, it is clear that proviso to Sub-rule (2) of Rule 4 specifically provides for upper age limit for the applicants save an exception being carved out in favour of a particular categories of teachers and non-teaching staff. In consonance with the said proviso to Sub-rule (2) of Rule 4 the notification has been issued on 23rd September, 2016 whereunder in the eligibility criteria in Clause -9 a table has been set out and Table -1 and column -4 (Age limit) contains specific provisions for fixation of upper age limit which is forty years for applicants except few categories of candidates as provided therein. On reading relevant part of the Table -1, it appears that the writ petitioner is not coming under the exception carved out in Table -1 on grant of benefit of relaxation of upper age limit. Therefore, there is no infirmity in incorporation of Clause -9 in the notification dated 8th November, 2016, at page 99 of the writ petition, and this has been done in consonance with the said Rules of

2016 read with relevant part of the parent notification dated 23rd September, 2016.

In view of the above observations, the writ petition does not merit consideration and the same is dismissed without any order as to costs.

All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)