

16.12.2021
SL No. 17
Court No. 24
(P.M.)

WPA 19220 of 2019

**Md. Ali Hasan
Vs
The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Sakti Pada Jana
... for the petitioner

None appears on behalf of the respondents.

The petitioner intends to be recruited as Assistant Superintendent of senior Madrasah. His case was taken up for consideration in compliance of the order passed by this Court and a reasoned order has been passed by the Director of Madrasah Education on 6th August, 2019 rejecting the prayer of the petitioner. The reasoned order of the Director of Madrasah Education, West Bengal is impugned in the instant writ application.

The ground for rejection of the petitioner's candidature is that the petitioner does not fit to the guideline prescribed in G.O. No. 1175-MD dated 12th August, 2009 as he has done his post graduation in distance mode and not in regular mode.

The order further records that from the testimonials submitted by the petitioner at the time of hearing it transpires that the petitioner completed his three years Honours Course as Kamil from Aliah

University in the year 2010 and thereafter on 26th July, 2011 he was appointed as Assistant Teacher in Advance Arabic / Theology in K.M.D.S. Senior Madrasah.

According to the petitioner the academic qualification as prescribed in the Government Order date 12th August, 2009 requires the candidate to possess regular Honours/Post Graduate degree. The petitioner has a regular Honours degree and he is eligible for appointment as Assistant Superintendent.

After perusal of the Government Order No. 1175-MD dated 12th August, 2009 it appears that the academic qualification that is required for being appointed as Assistant Superintendent is regular Honours / post graduate degree.

The petitioner holds a regular Honours degree from the Aliah University. He completed his three year Honours Course as Kamil from Aliah University in 2010.

From the aforesaid Government Order it does not appear that a candidate for the purpose of recruitment of Assistant Superintendent is required to possess a regular Post-graduate degree. A candidate may possess either a regular Honours degree or Post Graduate degree.

The Government Order under reference also does not mention that the Post Graduate degree is required to be obtained in regular Course or there is a bar for taking into consideration the degree which has been obtained in the distance mode. No document has been placed before this Court in support of the bar of acceptance of Post-Graduate degree obtained in the distance mode.

The Government Order clearly mentions that either of the two degrees is essential for the purpose of recruitment of Assistant Superintendent. A candidate has to possess either regular Honours or Post Graduate degree. The petitioner possesses regular Honours degree and also Post Graduate degree however in the distance education mode. None of the qualification of the petitioner appears to be contrary to the academic qualification that is prescribed for recruitment.

In view of the above, the impugned order passed by the Director of Madrasah Education, West Bengal cannot stand in the eye of law. The same is accordingly set aside and quashed.

The Director of Madrasah Education is directed to reconsider the prayer of the petitioner, strictly in accordance with the Government Order No. 1175-MD dated 12th August, 2009 and in the light of the

observation made herein above, at the earliest but positively within a period of eight weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

In the event the Director of Madrasah Education is of the opinion that the relief sought for by the petitioner may be granted, then all necessary consequential steps shall be taken by the Director in accordance with law.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)