

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 2298 of 2019
(Via Video Conference)

**Ranjit Sarkar
Vs.
The State of West Bengal & Ors.**

Mr. Dibyendu Chatterjee
..for the petitioner

**Dr. Sutanu Kr. Patra
Mr. Kanak Kiran Bandopadhyay**
...for the WBCSSC

**Mr. Subrata Ghosh
Mr. Rajaram Banerjee**
...for the State

Heard on: 02.02.2022

Judgement on: 02.02.2022

Saugata Bhattacharyya, J.

The writ petition has been preferred by one Ranjit Sarkar questioning the acts and actions of the West Bengal Central School Service Commission (hereinafter referred to as WBCSSC) in not selecting him as an eligible candidate for appointment in the post of Assistant Teacher in Physical Education in Government aided recognised High School.

The facts of the case revolves around a Notification dated 16th December, 2016 issued on behalf of the West Bengal Central School Service Commission whereby applications were sought for from the eligible candidates for being appointed in the post of Assistant Teachers in Physical Education and Work Education for upper primary level in Government aided secondary schools. The case made out by the writ petitioner being one of the desirous candidates to be appointed in the post of Assistant Teacher in Physical Education is that the petitioner applied under the said Notification dated 16th December, 2016 having passed senior secondary examination which is Class-XII or its equivalent and the petitioner participated in sports/games in School/College/District Level competitions.

It has also been submitted on behalf of the petitioner that all the relevant documents relating to academic qualifications including mark sheets as well as certificates relating to his participation in sports and games were submitted before the concerned authority of the WBCSSC. On scrutinizing the documents submitted by the petitioner WBCSSC issued admit card in his favour and accordingly written test was held on 4th June, 2017 wherein petitioner participated and he qualified in the said written test. Thereafter, verification process was started by the Commission and during such verification process petitioner submitted credentials including certificates relating to sports and games but ultimately after the result was published by the Commission on 12th December, 2018, petitioner was found not to have been selected for the post of Assistant Teacher in Physical Education. Being aggrieved petitioner has preferred this writ application wherein following prayers have been made:-

“a) A writ of and/or in the nature of Mandamus commanding the respondent authorities and each one of them their men, agents,

assigns and subordinates to give appointment letter in favour of the petitioner immediately in the post of Assistant Teacher in Physical Education in terms of the notification dated 16th December, 2016;

b) A writ of and/or in the nature of Mandamus directing the respondent authorities and each one of them their men, agents, assigns and subordinates to rescind, cancel, withdraw and set aside the rejection of petitioner's candidature on the ground of insufficient qualification and to appoint the petitioner in the post of Assistant Teacher in Physical Education in terms of the notification dated 16th December, 2016;"

The question arises for consideration is whether the petitioner is eligible to be appointed in the post of Assistant Teacher in Physical Education considering his academic qualification of senior secondary examination pass candidate and having certificates relating to his participation in sports/games, such certificates are annexed to this writ petition from pages 42 to 44.

In order to arrive at a conclusion relating to eligibility of the writ petitioner to be appointed in the post of Assistant Teacher in Physical Education, this Court requires examination of these certificates at pages 42 to 44 on the anvil of the provisions relating to eligibility of the candidate as contained in the Notification dated 16th December, 2016 issued by the Commission. This Court finds it apposite to quote relevant part of the said Notification dated 16th December, 2016 which is as follows:-

15) **Eligibility:**

[A] Educational qualification including professional qualifications for selection of Assistant Teachers for Physical Education and Work Education in Upper Level Classes of Schools.

Sl No.	Name of posts	Educational qualification including professional qualifications	Age li AgeAge limit
4	Assistant Teacher for Physical Education in Upper Level Classes of Schools	Senior Secondary (Class XII) or its equivalent) with at lest 50% marks from recognized Board. or <u>Candidates who have passed the Senior Secondary Examination (+2) or its equivalent and have participated in sports/games at least school/College/district level in accordance with the National Council for Teacher Education(Recognition norms and procedure) Regulations 2007 notified on 10.12.2007.</u> or Senior Secondary (Class XII or its equivalent) with at lest 45% marks from recognized Board in accordance with the National Council for Teacher	Minimum 20 years and maximum 40 years. Upper age limit is however relaxable by 5 years for Scheduled Caste/Scheduled Tribe candidates, 3 years for Backward

		education (Form of application for recognition, the limit of submission of application, determination of norms and standards for recognition of Teacher Education Programmes and permission to start new course or training) regulations 2002 notified on 13.11.2002. AND b) Certificate/Diploma in Physical Education duration not less than 2 years (or its equivalent) from any National Council for Teacher Education recognized Institution.	Class candidates and years for the Physically Handicapped Candidate.
--	--	--	---

(emphasis supplied)

The writ petitioner participated in the selection process in terms of the eligibility criteria as contained in Clause-15[A] of the Notification dated 16th December, 2016 which permits a candidate to apply for appointment in the post of Assistant Teacher in Physical Education and Work Education Group notwithstanding the candidate has obtained less than 45% marks in senior secondary examination provided the candidate has participated in sports/games at least in School/College/ District Level in accordance with the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2007 notified on 10th December, 2007.

It is an admitted position that the petitioner has secured less than 45% marks in senior secondary examination but the contention of the petitioner is that he is to be adjudged as an eligible candidate since he is having certificates relating to his participation in sports/games which are in pages 42, 43 & 44 of the writ petition.

This Court has considered the certificates annexed by the writ petitioner to this writ petition at pages 42, 43 & 44 but neither of these three certificates show that the writ petitioner participated in any competition of sports/games at School/College/District Level. Page 42 reveals that the petitioner joined one workshop from 1st March, 2006 to 15th March, 2006 which was organised by “Banglar Bratachari Samity” and such workshop was on teachers training. Page 43 reveals participation of the petitioner in a Kabaddi competition which was organised

by Nakashipara Kabaddi Association and page 44 shows participation of the writ petitioner in an interval athletic meet of a school in the year 1999.

It has been rightly pointed out on behalf of the Commission by Dr. Sutanu Patra, learned advocate that these three certificates do not show that the petitioner participated in sports/games at School/College/District Level. According to the Commission, in order to be eligible under Clause 15 of the Notification dated 16th December, 2016 the candidate has to participate in a competition representing school in a meet of several schools or representing district in a meet of several districts or representing colleges in a meet of several colleges. This Court finds substance in the submission of the learned advocate of the WBCSSC.

In view of such submissions being made on behalf of the parties as well as taking note of the relevant provisions relating to eligibility as contained in Notification dated 16th December, 2016 it appears that the petitioner is not eligible to offer his candidature for appointment in the post of Assistant Teacher in Physical Education on the strength of these three certificates.

Mr. Dibyendu Chatterjee, learned advocate in support of the case of the petitioner has drawn attention of this Court to paragraph 6 of the exception which has been filed by the petitioner wherein it has been stated that candidature of another candidate was considered by the WBCSSC on the strength of similar certificates. It has been submitted on behalf of the WBCSSC that the case of the candidature of the candidate as referred to in paragraph-6 of the exception was not considered on the basis of the certificates of sports/games, since the said candidate was found to have obtained more than 45% marks in senior secondary (Class XII or its equivalent) examination as a result whereof the said candidate was found eligible. The point

relating to eligibility of another candidate as stated in paragraph-6 of the exception has not been raised in the writ petition and for the first time it has been stated in the exception filed on behalf of the writ petitioner which goes to show that the same is afterthought.

Accordingly this Court does not find any merit in the writ petition and the same stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Saugata Bhattacharyya, J.)

adeb