

WPA 8587 of 2022

Partha Shaw & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Mousumi Hazra

...For the Petitioners

Mr. Pulak Ranjan Mondal,
Ms. Bandana Mondal,
Mr. Subhrangsu Panda

...For the West Bengal College Service Commission

Ms. Chaitali Bhattacharya,
Ms. Sanjukta Samanta

...For the State

The College Service Commission, West Bengal, published an advertisement inviting applications for the posts of Assistant Professor. In the said advertisement the date of commencement of online application was mentioned as December 31, 2020, while the last date for the submission of online application was fixed on February 15, 2021. It was, inter alia, mentioned in the said advertisement that the cut-off date for all items of qualification and experience, including publication, would be February 15, 2021.

By a subsequent notification dated November 12, 2021, the last date for submission of online application was extended upto November 22, 2021. Thereafter another notification dated February 19, 2021, was published and the last date of filing the application was further extended

till March 15, 2021.

The petitioners are aspirants for the said post of Assistant Professor. Petitioner no. 1 obtained Ph.D degree on March 10, 2021, while petitioner no. 2 got his Ph.D. degree on March 8, 2021.

It has been submitted by the learned advocate appearing for the petitioners that since the last date for filing the application was extended till March 15, 2021, and both the petitioners obtained their Ph.D degrees within the date, the College Service Commission should have considered the said qualification.

Mr. Mondal, learned advocate appearing for the College Service Commission on the other hand submits that in the advertisement, the cut-off date for qualification was mentioned as February 15, 2021. The petitioners having obtained their Ph.D qualification subsequent to the cut-off date as mentioned in the advertisement, cannot ask the College Service Commission to consider the said qualification.

Mr. Mondal further submits that the College Service Commission never extended the cut-off date, it always remained as February 15, 2021, only the last date of application was extended till March 15, 2021. Therefore, Ph.D degree of the petitioners has not been considered by the College Service Commission.

The issue involved in this writ petition is no more res integra, in view of the judgment reported at **(1997) 4 SCC 18 (Ashok Kumar Sharma – Vs. – Chander Shekhar)**. The relevant paragraph of the said judgment is quoted

below:

“6. ... The proposition that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is a well-established one. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it. One reason behind this proposition is that if it were known that persons who obtained the qualifications after the prescribed date but before the date of interview would be allowed to appear for the interview, other similarly placed persons could also have applied. Just because some of the persons had applied notwithstanding that they had not acquired the prescribed qualifications by the prescribed date, they could not have been treated on a preferential basis. Their applications ought to have been rejected at the inception itself. This proposition is indisputable and in fact was not doubted or disputed in the majority judgment. This is also the proposition affirmed in *Rekha Chaturvedi v. University of Rajasthan*. The reasoning in the majority opinion that by allowing the 33 respondents to appear for the interview, the recruiting authority was able to get the best talent available and that such course was in furtherance of public interest is, with respect, an impermissible justification. It is, in our considered opinion, a clear error of law and an error apparent on the face of the record. In our opinion, R.M. Sahai, J. (and the Division Bench of the High Court) was right in holding that the 33 respondents could not have been allowed to appear for the interview.”

The law is, therefore, very clear. If in the advertisement, no cut-off date for qualification is mentioned, the relevant date would be the last date of filing the application but where the advertisement

mentions a cut-off date, a qualification obtained subsequent thereto cannot be considered.

In this case, the cut-off date, as has been rightly pointed out by Mr. Mondal, was never altered, it remained the same as February 15, 2021.

For that reason, petitioners' Ph.D degrees could not be considered on the basis of the extension of the last date for filing the application.

In that view of the matter, there is no merit in this writ petition.

Accordingly, WPA 8587 of 2022 is dismissed.

Let urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Kausik Chanda, J.)