

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 15687 of 2022**

Anup Kumar Das  
Vs.  
Secretary, West Bengal Municipal  
Service Commission & Ors.

Mr. D.N. Ray  
Mr. Sundar Gopal Bhattacharyya  
... For the petitioner

Ms. Chaitali Bhattacharya  
Mr. Kartik Chandra Kapas  
... For the respondents no.2 & 5

Mr. Sanjay Saha  
... For the respondents no.3 & 4

Leave is granted to the petitioner to add West Bengal Essential Commodities Supply Corporation Limited as party respondent.

Learned advocate for the petitioner is permitted to correct the cause title in course of the day.

The petitioner participated in a recruitment process conducted by West Bengal Municipal Service Commission at the instance of West Bengal Essential Commodities Supply Corporation Limited (in short "WBECSCL") in terms of Advertisement No.16 of 2020 of the said Commission. The petitioner submitted his candidature for the post of Deputy General Manager (Finance) under the Scheduled Caste category and was successful in the recruitment examination. The petitioner's name was recommended to

WBECSCL for completing the necessary formalities and to give the petitioner appointment.

In the experience column of the advertisement, the following is provided:-

“3 years post qualification working experience.”

The petitioner’s candidature was cancelled by WBECSCL by a memo dated 22<sup>nd</sup> June, 2022. The principal ground for cancellation as appears from the said memo is as follows:-

“Whereas, the Board of Directors also took cognizance of the fact that your post qualification experience being submitted in a piece-meal manner is contrary to just and fair selection.”

The cancellation of petitioner’s candidature was on a ground contrary to the experience required under the advertisement. The advertisement does not speak about any comprehensive experience in one organisation for three years or of piece-meal experience. For example, if the petitioner has three years experience in three different companies for 12 months each, the experience of the petitioner has to be construed as three years in terms of the advertisement wherein disqualification for piece-meal experience is not provided.

On behalf of WBECSCL, it is submitted that the petitioner did not possess three years experience and, in fact, possessed only two years and four months experience.

This, according to WBECSCL, will appear from the reply to demand for justice. The reply to demand for justice cannot supplement the findings in the main order for cancellation/rejection of candidature. If the petitioner did not possess the requisite three years working experience, the same ought to have been spelt out clearly in the cancellation memo dated 22<sup>nd</sup> June, 2022. Nothing has been stated in the rejection memo regarding non-fulfilment of three years working experience which is subsequently stated in the reply to demand for justice.

In the facts and circumstances as stated above, the cancellation memo dated 22<sup>nd</sup> June, 2022 is set aside and/or quashed.

It is submitted by the learned advocate for WBECSCL that the vacancy under the subject advertisement for which the petitioner applied for has not been filled up as yet and no appointment letter for the post of Deputy General Manager (Finance) under the Scheduled Caste category in WBECSCL has yet been issued.

In the aforesaid facts and circumstances, I direct WBECSCL to consider the petitioner's case afresh by taking into account the experience certificate that has been already provided or may be provided by the petitioner in support of his three years post qualification working experience on the date of the advertisement as mentioned therein. The petitioner should be called for fresh consideration of his candidature by a 15 days' prior notice.

The petitioner shall be permitted a personal hearing to satisfy his working experience in terms of the subject advertisement.

Until the petitioner's case is considered, WBECSCL shall not fill up the vacancy of Deputy General Manager (Finance) under the Scheduled Caste category or give appointment to anyone to such post.

The parties, including WBECSCL, shall act on the basis of a server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

**(Arindam Mukherjee, J.)**