

03     **17.05.**  
**2022**  
Ct. No. 04

**MAT 1122 of 2021**  
**With**  
**IA No. CAN 1 of 2021**

**Ab**

**West Bengal College Service Commission and others.**  
**Vs.**  
**Koushik Goswami and others.**

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**Mr. Pulak Ranjan Mondal,**  
**Ms. Bandana Mondal,**  
**Mr. Subhrangsu Panda.**  
**... for the appellants.**

**Mr. Arobinda Chatterjee,**  
**Mr. Biswarup Biswas.**  
**... for the respondent no. 1.**

**Mr. Supriyo Chattopadhyay,**  
**Mr. Suman Dey..**  
**... for the State.**

West Bengal College Service Commission resisted the claim when the respondent no. 1 raised the grievance that despite the certificate of experience having produced at the time of interview, the requisite marks have not been awarded in terms of the conditions enshrined in the advertisement and the other documents.

It is all along the stand of the appellant/Commission that such documents were not produced at the time of interview and, therefore, there is no question of awarding any marks thereupon. Even the learned Advocate for the State has gone to the extent that the moment the Commission denies the production of the documents at the time of interview, which has been disputed by the respondent no. 1, such disputed fact cannot be gone into under the writ jurisdiction.

The matter pertains to the recruitment to the post of Assistant Professors in different subjects in the

several State Aided Colleges (General Degree) within the State of West Bengal. By an advertisement being no. 1 of 2018 the applications were invited from the aspiring candidates through online portal, who have the minimum eligibility qualification in relevant subject. It is not in dispute that the respondent no. 1 applied and uploaded the application online indicating that apart from the minimum eligibility qualification he has acquired a Postdoctoral experience working as Postdoctoral Associate in Florida Atlantic University from 19<sup>th</sup> August 2013 to 13<sup>th</sup> June 2014 and as Dr. D.S. Kothari Postdoctoral Fellow in the University of Kalyani between the period from 22<sup>nd</sup> July 2015 to 31<sup>st</sup> August 2017. Paragraph 3 of the said application indicates that the print out of the online registration slip along with the documents in the given order to be submitted at the time of interview.

Our attention is drawn to the general instructions issued by the competent authority that the said print out of the application with other relevant documents pertaining to eligibility, qualification, teaching experience, research and publication etc. shall be produced on the date of the interview at the Commission's office with a rider that such documents shall not be received after the date of interview.

The respondent no. 1 claimed to have produced the certificate issued by the University of Kalyani, Faculty of Science on 24<sup>th</sup> July 2019 in support of his experience gained as Postdoctoral Fellow between the aforementioned period at the time of interview. The said document is also annexed with the application for stay.

As indicated above, the Commission has taken a plea that the same was not produced at the time of interview. The trial court disbelieved the stand of the Commission that the said certificate was not produced

at the time of interview after perusing the report submitted by the Chairperson of the Commission in terms of the order passed in the said writ petition. It is categorically observed that the said report contains the document i.e. the certificate issued by the University of Kalyani evincing the engagement of the respondent no. 1 as Postdoctoral Fellow between the period from 22<sup>nd</sup> July 2015 to 31<sup>st</sup> August 2017.

It is inconceivable that the person, who has a certificate in his custody and possession before the date of interview, shall not produce the same, as non-production may act detrimentally to his candidature. There is no explanation offered in the report how such certificate has been annexed and when such certificate was produced before the authority. The matter can be proceeded by raising a presumption against the Commission once such document is produced along with the report before the court and it is improbable that such document could not be produced at the time of interview.

There is no fetter at least from the advertisement and the instructions issued from time to time by the competent authority that such documents are required to be produced at the time of interview and, therefore, we find falsity in the statement of the Commission in saying that the said document was not produced at the time of interview.

The trial court has directed the authority to take a decision with regard to the prayer of the petitioner/respondent no. 1 in awarding the marks on the basis of the aforesaid documents and, therefore, we do not find any illegality and/or infirmity in the said decision.

The appeal sans merit and the same is dismissed.

Since the time stipulated in the impugned order

has been elapsed because of the pendency of the appeal, such time is extended for a period of four weeks from date.

In view of dismissal of the appeal itself, the connected application being CAN 1 of 2021 has become infructuous and the same is also dismissed.

**(Harish Tandon, J.)**

**(Rabindranath Samanta, J.)**