

21.11.2022  
Item No.19  
Crt. No.22.  
KB

**W.P.A. 18556 of 2022**

**Dr. Shambhu Nath Saha**  
**-Vs-**  
**The State of West Bengal & Ors.**

Mr. Firdous Samim  
Ms. Gopa Biswas  
Ms. Payel Shome  
... For the Petitioner.

Mr. Swapan Kumar Datta  
Mr. Subhabrata Das  
... For the State.

Mr. Pulak Ranjan Mondal  
Mrs. Bandana Mondal  
Mr. Subhrangsu Panda  
... For the College Service Commission.

Affidavit of Service filed in Court, is taken on record.

The writ petitioner claims to be an aspiring candidate for the post of Assistant Professor at an engineering college.

Pursuant to the advertisement issued by the West Bengal College Service Commission at page 56 of the writ petition, and specifically in terms of **Clause 5(i)** thereof an upper age limit was fixed as on the 1<sup>st</sup> January of the year of advertisement. The advertisement was dated December 24, 2020.

The petitioner admittedly did not qualify the said age limit in terms **Clause 5(i)** of the advertisement.

Ms. Gopa Biswas, Learned Advocate appearing for the writ petitioner drew attention of this Court to **Clause 5(ii)** at page 59 of the writ petition and submitted, *inter alia*, that **exceptionally qualified over aged candidates having Ph.D. degree may be qualified for interview and may be called for interview at the discretion of the Respondent No.3 only in the rarest case.** Under the said **Clause 5(ii)**, it is the State Government who at its discretion may decide the issue.

Learned Advocate for the petitioner submitted that necessary representation was made by the petitioner dated February 22, 2021 before the Respondent No.2 and the same had not receive any attention by such authority.

In view of the above, the Respondent No.2 is directed to consider the said representation of the petitioner **dated February 22, 2021** at page 79 to the writ petition upon giving a hearing notice of at least seven days to the petitioner and the appropriate authority of the Respondent No.3 and after giving them an opportunity of hearing, the Respondent No.2 shall decide the issue with its reasoned order/decision strictly in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the Respondent No.2

positively within a period of four weeks from the date of communication of this order and the Respondent No.2 shall communicate his reasoned decision/order to the petitioner and the Respondent No.3 within a further period of two weeks from the date of said reasoned order to be passed.

This Court has not gone into the merits of the claim of the petitioner in any manner.

The petitioner shall be at liberty to urge whatever points it wishes to urge before the Respondent No.2 relying upon whatever records it wishes to rely upon before the Respondent No.2 .

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the Respondents.

This order shall, however, not create any equity in favour of the petitioner, if he is found not to be eligible to his claim strictly in accordance with law.

On the above terms, this writ petition, **W.P.A. 18556 of 2022** stands **disposed of**, without any order as to costs.

**(Aniruddha Roy, J.)**