

10.04.2023
DL-11
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4399 of 2023

Sandip Das
Vs.
The State West Bengal & Ors.

Mr. Md. Imtiaz Akhtar
.....for the petitioner.

Mr. Debanjan Mukherjee
.....for WBSEDCL.

Mr. Md. Galib,
Mr. Anubrata Santra
.....for the State.

The petitioner participated in a recruitment process for the post of Office Executive, Class – III (Non-Technical) pursuant to a recruitment notification dated December 22, 2018 passed by the West Bengal State Electricity Distribution Company Limited (in short “WBSEDCL”). The petitioner was successful in the written examination. In the pre employment medical check-up, the petitioner’s refractive error in right eye was found to be -6 D sph and left eye was -7 D sph which was beyond the permissible limit as per the guidelines of the company. The petitioner got his eye sight checked at Dristi Disha Eye Care. There again, the petitioner’s right eye was detected to have refractive error of –6 Dry, spherical and left eye refractive error of -6.50 Dry, spherical.

Mr. Akhtar, learned counsel appearing on behalf of the petitioner submits that he can perform his duties with the help of spectacles in spite of the fact that total amount of myopia exceeded the prescribed limit as per the recruitment notification.

Mr. Mukherjee, learned counsel appearing on behalf of WBSEDCL submits that even by way of examination at a private clinic the petitioner's eye sight was not found to be within the prescribed limits and the rules of recruitment cannot be bent.

Considering the submissions of the parties and the materials placed on record, this Court is of the view that an employer is best suited to decide the recruitment rules/policies considering the need/requirement in respect of a particular job. The view of this Court finds support in a decision of the Apex Court reported in (2021) 12 SCC 80 (**Chief Manager, Punjab National Bank and another vs. Anit Kumar Das**). It was held that even an overqualified employee may not be considered a candidate, suitable for the post in terms of the recruitment notification. It is not for the Courts to consider and assess. In a judgment reported in (2019) 2 SCC 404 (**Zahoor Ahmad Rather and Others vs. Sheikh Imtiyaz Ahmad and Others**) it was held that the State as an employer was entitled to

prescribe the qualifications as a condition of eligibility. The Judiciary is not to expand such qualifications/eligibility criteria.

The petitioner was found ineligible since the total myopia exceeded –6.00 D sph in his left eye in the pre-employment medical check-up. Even in the private medical check-up the amount of myopia exceeded –6.00 D sph which was the prescribed limit as per the guidelines.

This Court sees no reason to bend the recruitment criteria of the employer/WBSEDCL. Such is an administrative decision of the employer and the employer is best suited to decide the requirements of the eligibility criteria in relation to a particular job.

In the light of the discussions above, **WPA 4399 of 2023 is dismissed.**

Since no affidavits have been directed to be exchanged in the writ petition, the allegations contained therein are deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)