

WPA 25883 of 2022**Sanoyara Khatun
Vs.
West Bengal Power Development Corporation Limited
& Ors.**

Mr. P.S. Deb Burman
Mr. Biswaroop Bhattacharya
Mr. Golam Mohiuddin

.....for the petitioner

Mr. Ranjay De
Mr. Basabjit Banerjee
Mr. A.A. Bose

.....for the respondent Nos. 1, 2 & 3

Mr. Nilotpal Chatterjee
Mr. Sourabh Sengupta
Mr. Satyaki Banerjee

.....for the University of Calcutta

Written instructions handed over in Court today on behalf of the University of Calcutta is retained with the records. It clearly appears from the said written instructions that a compulsory language paper cannot be equated with a pass subject paper. Marks obtained in the compulsory language paper are not taken into account for the purpose of calculation of aggregate marks to determine the class/division of a candidate. Such information is also clearly mentioned in the mark sheet of the candidates.

From the perusal of the mark sheets it also appears that a candidate has to sit for a compulsory language paper of 50 marks, whereas a

candidate has to sit for a pass subject paper of 300 marks.

The petitioner's claim is that she should have been selected for the post of Assistant Teacher (Work Education), in a High School under the control of West Bengal Power Development Corporation Limited (in short, WBPDC). It is her grievance that despite the respondent authorities being aware of the fact that the other 4 selected candidates in the panel were '*ineligible*' candidates, since they did not fulfil the eligibility criteria as per the recruitment notice dated August 30, 2022 vide Office Order No. 145 of 2022, still the authorities created a confusion by raising a question whether qualifying in the compulsory language paper could be equated with a pass subject paper, thereby seeking to negate the vested right of the petitioner.

The eligibility criteria clearly stipulated that a candidate for being appointed as an Assistant Teacher (Work Education) had to be an honours graduate with either English, Bengali, History, Geography as the honours subject in graduation with at least 50% marks and had to have a combination of pass subject of either Bengali or English at graduation level. Furthermore, the candidate had to have the necessary qualification of B.Ed./PGBT with work education as a subject in B.Ed./ PGBT recognised by NCTE.

A panel was prepared for personal interview by WBPDCCL. The said panel contained names of 5 candidates. The petitioner was placed as the 5th candidate. All the 4 candidates did not have the requisite qualification of passing English/Bengali paper, as a pass subject.

Despite the aforesaid 4 candidates not having the requisite qualification, they were empanelled since the WBPDCCL purportedly claimed that there was a confusion with regard to the eligibility of the aforesaid candidates as they sat for a compulsory paper in Bengali or English. WBPDCCL called for clarification from the universities concerned on the issue whether the said compulsory papers could be equated with pass subjects taught at the graduation level.

Mr. Deb Burman, learned counsel appearing for the petitioner submits that there was no legitimate reason for frustrating the petitioner's right by the arbitrary action on the part of the respondent authorities.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the authorities which have laid down the recruitment qualification should have known that the passing compulsory language papers (English/Bengali) could not be equated with passing (English/Bengali) papers as pass subjects.

To the mind of this Court there could have been no confusion on that score.

Just because the authorities were under a confusion and sought for clarification from the Universities concerned and the Universities concerned could not/did not respond within the stipulated time, now the petitioner's vested right cannot be negated by arguing that the period of panel has expired.

The authorities who framed the eligibility criteria are also required to know whether a candidate holding an honours degree with more than 50% in the Hons. subject in which she has qualified is an eligible candidate or not, after considering the pass subjects which he/she passed. If the authorities were in doubt they should have sought for a clarification prior to setting down such eligibility criteria. Furthermore, the recordings in the mark sheets including the number out of which the pass papers are required to be cleared are also clear indicatives of the fact that qualifying in a compulsory language paper cannot be treated at par with passing a pass subject paper.

Accordingly, this Court finds no reason for non-consideration of the petitioner's eligibility to the post of Assistant Teacher (Work Education). This Court finds perversity in the decision making

process of WBPDCCL by allowing the panel to expire due to such purported confusion.

Accordingly, it directs the respondent authorities to consider the candidature of the petitioner upon compliance of all the necessary formalities within a period of two months from the date of this order, without raising any issue regarding the expiry of the panel.

With the directions aforesaid **WPA 25883 of 2022** is **disposed of**.

All parties are to act on a server copy of this order downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)