

25.09.2023
Item No.9
Ct. No.5
CHC
(dismissed)

WP.ST 575 of 2010
IA NO: CAN/2/2023

Amar Mondal & ors
Vs.
The State of West Bengal & ors.

Mr. Kamalesh Bhattacharya,
Mr. Anindya Bhattacharya
...for the writ petitioners

Mr. Tapan Kr. Mukherjee, Sr. Advocate & A.G.P.
Ms. Sangeeta Roy
...for the State

In Re: CAN/2/2023

CAN/2/2023 is an application for restoration.

For the ends of justice and in view of the pleadings made in the application for restoration, the order dated August 22, 2023 is recalled.

CAN/2/2023 is allowed.

WP.ST 575 of 2010 is restored to its file and number.

In Re: WP.ST 575 of 2010

The writ petitioners are aggrieved by an order dated September 24, 2010 passed by the West Bengal Administrative Tribunal in O.A.1237 of 2009.

Learned advocate appearing for the writ petitioners submits that, the writ petitioners participated in a selection process for the post of Live

Stock Development Assistant undertaken by a notification dated September 21, 2004. He refers to the qualification required. He submits that, one of the essential qualifications required for the recruitment was one year certificate course of Prani Sampad Bikash Prashikshan conducted by the Board of Veterinary Education, Directorate of Animal Resources & Animal Health, Department of Animal Resources Development, Government of West Bengal or its equivalent. He submits that the writ petitioners put in at least 12 years in service in the department they were appointed on the basis of one month certificate course which they undertook. According to him, the equivalence of one year certificate course prescribed in the notification, should be the one month certificate possessed by the writ petitioners coupled with 12 years of experience of the petitioners.

Learned advocate appearing for the writ petitioners draws attention of the Court to an order dated June 15, 2007 passed by the West Bengal Administrative Tribunal in O.A.3060 of 2007. He submits that by such order, the Tribunal permitted the writ petitioners to participate in the interview, in the event, the petitioners were otherwise eligible for such appointment. Since the authorities permitted the writ petitioners to participate at the interview, therefore, it is to be held that, the writ petitioners

qualified the essential requirement of the recruitment process.

Referring to the order of rejection dated July 14, 2008 passed by the authorities, learned advocate appearing for the writ petitioners submits that, the authorities did not take into consideration the order dated June 15, 2007 passed by the Tribunal in its true spirit and effect. Moreover, the authorities did not take into consideration the equivalence of the essential requirement prescribed in the selection process. The authorities failed to take into account the one month certificate course held by the writ petitioners along with their 12 years experience.

Learned Senior Advocate appearing for the State submits that, the selection process was undertaken by the notification dated September 21, 2004 which provided for the essential qualifications a candidate must possess. Admittedly, according to him, none of the writ petitioners possessed one year certificate course as prescribed. Their one month certificate course coupled with 12 years experience cannot be treated as equivalent to the essential qualification prescribed by the notification dated September 21, 2004 and therefore, both the authorities as well as the learned Tribunal were correct in rejecting the candidature of the writ petitioners.

As noted above, the writ petitioners participated in the selection process of Livestock Development Assistant initiated by the notification dated September 21, 2004 by the Animal Resource Development Department of the State of West Bengal.

Bone of contention is the qualification prescribed in the selection process which is as follows:-

- “4. Qualification for direct recruitment
- : i. Passed Madhyamik Examination or its equivalent.
 - ii. Must have one year Certificate Course on Prani Sampad Bikash Prashikshan conducted by the Board of Veterinary Education, Directorate of Animal Resources & Animal Health, Department of Animal Resources Development, Govt. of West Bengal Or its equivalent.
 - iii. Must be physically fit and capable of hard work and cycling.
 - iv. Must be able to read, write and speak in Bengali/Nepali.”

The writ petitioners approached the Tribunal earlier by way of O.A.3060 of 2007 in which, an order dated June 15, 2007 was passed. The relevant portion of which is as follows:

“In the meantime having heard the Id.advs. representing the parties, we direct the respondent authorities specially respondent No.2 & 3 to allow the petitioners to appear at the **selection process/interview** which is going to be held on and from **18.06.07 to 19.06.07** or any other deferred date, if any, and not thereafter for the post of

“Livestock Development Assistant” under Animal Husbandary and Veterinary Services, Government of West Bengal provided said interview is not already over and provided further the petitioners are otherwise eligible for such appointment and also provided further it is a civil post of the Government.”

The writ petitioners were allowed to participate in the selection process. However, by an order dated July 24, 2008, their candidature were rejected by the authorities. Relevant portion of the rejection order is as follows:

“WHEREAS the respondents permitted the petitioners to participate in the selection test in true compliance of Hon’ble Tribunal Order dtd. 15.06.2007. But doing so there minimum eligibility criteria for appointment to the post of Livestock Development Assistant as stipulated by Animal Resources Development Department Notification vide No. 1987-AR & AH, dtd. 21.09.2004 was not considered.

-And-

WHEREAS respondents considered the candidature of the petitioners with the recruitment rules vide No. 1987-AR & AH, dtd. 21.09.2004 along with their performance was also considered.

-And-

WHEREAS considering all, it is found that the petitioners did not possess the minimum qualification to be appointed as Livestock Development Assistant. So, having no alternative, the candidature of the petitioners for appointment to the post of Livestock Development Assistant was rejected. The matter is thus disposed of.”

The Tribunal by the impugned order, construed the order of the Tribunal dated June 15, 2007 permitting participation of the petitioners to be subject to the essential qualification prescribed by the selection process. The Tribunal found that, the writ petitioners did not possess the essential qualification prescribed.

As noted above, one of the essential qualifications is one year certificate course to be undertaken of the prescribed subject. Admittedly, none of the petitioners possessed such certificate. They seek to substitute such a prescription with one month certificate course which they undertook at the time of their appointment and 12 years experience in their respective post.

The notification dated September 21, 2004 requires one year certificate course or its equivalent. Equivalence of one year certificate course cannot be construed to mean that experience in any post will be equivalent to a certificate course. The certificate course is an educational qualification while the writ petitioners seek to rely upon their experience at a post. Both cannot be placed at on the same level.

In such circumstances, we find no merit in the present writ petition.

WP.ST 575 of 2010 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)