

WPA 9623 of 2019

**Munmun Khatun
Vs.
State of West Bengal & Ors.**

**Mr. Md. Younush Mondal.
... for the petitioner**

**Mr. Jahar Lal Dey,
Mr. Benazir Ahmed.
... for the State**

1. Affidavit-in-opposition and affidavit-in-reply filed in Court today, are taken on record.
2. The writ petitioner is aggrieved that her candidature has been turned down by dint of the impugned letter dated 03.05.2019 issued by the Law Officer and Ex-officio Deputy Secretary (Law), Law Department, Government of West Bengal, on the ground that necessary eligibility criteria of working knowledge in computer is not available to the writ petitioner, in absence of any supporting documents as to the same.
3. The writ petitioner states that pursuant to the notification dated 13.08.2015, when she applied for the post of “Non-Official Marriage Officer”, before the District Selection Committee, she has enclosed all the relevant credentials in support of her qualification as well as experience.
4. According to the writ petitioner, certificate showing her working knowledge in computer has been a part of the bunch of credentials submitted by her before the

District Authority. The names of two candidates were forwarded by the District Authority, subsequent to an interview and empanelment of those names as successful candidates.

5. Subsequently, the appointment was made on the basis of the panel prepared by the District Level Selection Committee, thereby appointing the other person and rejecting candidature of the present writ petitioner.

6. In reference to the writ petitioner's letter dated 26.04.2019 the concerned authority informed vide the impugned letter dated 03.05.2019 the following reasons:-

“It further appears that you have not submitted documents in support of your knowledge in computer application and the State Government accorded approval in favour of Manjur Alam.”

7. Mr. Md. Younush Mondal, learned counsel for the writ petitioner has submitted that in spite of due submission of the relevant credentials by his clients, the respondent authority has acted discriminatory and without application of mind by rejecting writ petitioner's prayer for appointment. He has alleged that the respondent authority has treated the writ petitioner in an arbitrary and unfair manner.

8. Mr. Mondal, learned counsel for the writ petitioner has sought for adequate relief.

9. Mr. Jahar lal Dey, learned counsel is appearing for the State respondent.

10. Mr. Dey, learned counsel submits on the basis of the affidavit affirmed on behalf of the State respondent, that the writ petitioner had not submitted a certificate as

regards her computer knowledge, at the time of applying for the post. He says that the same has been a mandatory requirement, which the writ petitioner did not comply.

11. He further states that the District Authorities have forwarded the name of the writ petitioner in the panel, on the basis of an interview conducted and not on the basis of any credentials.

12. Mr. Dey, learned counsel says that in absence of the necessary credentials for computer knowledge, the candidature of the writ petitioner could not have been accepted, pursuant to the specifications in the employment notification dated 13.08.2015 and thus, according to him, the rejection of candidature was proper. He insists that the writ petition be dismissed.

13. Record reveals that pursuant to the employment notification dated 13.08.2015, the candidates including the present writ petitioner, have submitted applications along with credentials. The necessary criteria for being appointed for the post, was mentioned in the said notification in the manner as follows:-

“2. The applicant must have passed Higher Secondary (10+2) or the equivalent examination from a recognized Board/Council/Madrasah of the State Government/Central Government/Union Territory and must have workable knowledge of Computer and well conversant with the language of the area which he/she likes to apply.”

14. Admittedly, an interview was conducted after the candidates filed their application. On consideration of the

submissions made before this Court by the writ petitioner as well as respondent authority it appears that the respondent authority even if having undertaken interview of the candidates, has not considered the credentials submitted by them along with their applications forms. This is an unimaginable and unconceivable proposition, when the State authorities are making endeavour to suggest that the applicants have been called for and interviewed, without their credential having been examined.

15. Subsequently, the higher authority at the State level had found no computer knowledge certificate of the writ petitioner available, in spite of her name being forwarded by the District Level Authority, in a panel.

16. Record reveals that an application of the present writ petitioner dated 15.05.2019 along with the copy of relevant certificate regarding computer knowledge, is still pending for consideration of the State Authorities.

17. Empanelment of a candidate is a process, resulting from the satisfaction of the authority as regards fulfillment of all eligibility criteria by the said candidate. Empanelment of the petitioner also suggests about her satisfactory performance in the interview process. Without fulfillment of these two processes, the District Level Selection Committee could not have forwarded the name of the petitioner for consideration by the higher authority. Also that previously at no point of time, the respondent authorities have indicated about non-availability of the essential documents of the petitioner, in the process of selection. Under such circumstances, the

reasons noted by the respondent authority in its letter dated 03.05.2019 does not appear to be based on proper appreciation of the circumstances of the case. It appears to be belated and afterthought. The entire process undertaken is found to be unreasonable, arbitrary and liable to be vitiated, being contrary to fairplay and law.

18. It is further noted that the next vacant posts, as above with the respondent authorities are yet to be filled up by publication of an advertisement for recruitment for the same. Since those are not advertised as yet, petitioner may be accommodated in the same, subject to satisfaction of the concerned respondent authority.

19. On the grounds as discussed above, the impugned letter of the respondent authority dated 03.05.2019 is set aside.

20. The writ petition no. 9623 of 2019 is allowed and disposed of with the following directions:-

(i). The respondent authority is directed to take immediate steps for consideration of the entire credentials submitted by the writ petitioner along with her application as well as the representation dated 15.05.2019, being the original copies thereof produced before the authority, by the writ petitioner.

(ii). Upon being satisfied, the respondent no. 2 shall issue an order of appointment of the writ petitioner as against a vacant post of Non-Official Marriage Officer.

(iii). The entire exercise as above shall be concluded within a period of six weeks time from the date of service of copy of this order to the office of the respondent no. 2. The Authority shall afford opportunity

of hearing to the writ petitioner for production of the original copies of the essential credentials.

21. With the above discussions, the writ petition is disposed of along with the pending applications, if any.

22. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Rai Chattopadhyay, J.)